



Ministry of  
**JUSTICE**



SCOTLAND OFFICE



Swyddfa Cymru - Wales Office

# Fees for the Marked Register of Electors produced at UK Elections

**Consultation Paper**

CP 17/07

26/07/2007

This consultation will end on 18/10/2007



Ministry of  
**JUSTICE**



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## **Fees for the Marked Register of Electors produced at UK Elections**

**A consultation produced by the Ministry of Justice, Scotland Office and  
Wales Office. This information is also available on the Ministry of Justice  
website at [www.justice.gov.uk](http://www.justice.gov.uk)**

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**Fees for the Marked Register of Electors produced at UK Elections**

## Executive summary

This consultation document contains the following:

- An introduction and background to the consultation, including:
  - A brief description of the marked register of electors, and its use to political parties and other groups.
  - A description of the system of charging fees for the marked register, prior to the coming into force of the Electoral Administration Act 2006 and resulting amendments made to the Representation of the People Regulations 2001
  - What effect the changes to the fee charging system have had, and the subsequent concerns raised by local political parties and Members of Parliament.
- Proposals to amend the current level of fees to produce copies of the marked register, and the system by which fees are calculated, including:
  - Removing the current rules that require candidates, political parties and elected representatives to purchase copies of the marked register of electors, entitling these groups to receive a copy free of charge.
  - Retaining the power for the Government to set fees centrally, but setting fees at a lower level than at present.
  - Asking local authorities to provide information on the costs they incur when producing copies of the marked register, in order that this is taken into account in any decision made resulting from this consultation.
  - How any fees should be calculated, taking into account the fees charged for copies of the unmarked register, the way in which different authorities produce paper copies of the marked register, the difference between the cost of production of paper copies and copies in data format, and the administration fee currently charged for producing copies.
  - Whether any changes to the current rules should apply to the Electoral Commission and other Government Departments, who are also entitled to receive copies of the marked register.
  - Whether Regulations should be amended to allow the use of laptops to manually key in information recorded on the marked registers, where individuals choose to inspect the registers in person.

**Fees for the Marked Register of Electors produced at UK Elections**

## Introduction

1. This paper sets out for consultation proposals about the fees for the supply of the marked register of electors, following representations made by a number of local political parties and Members of Parliament to the Government. The consultation is aimed at political parties, local authorities and local electoral officers in the UK.
2. This consultation is being conducted in line with the Code of Practice on Consultation issued by the Cabinet Office and falls within the scope of the Code. The Consultation Criteria, which are set out on page 22 have been followed.
3. An initial Regulatory Impact Assessment does not indicate that any groups are likely to be particularly affected. The proposals are unlikely to lead to additional costs and savings for businesses, charities or the voluntary sector. There is the possibility that there will be an impact on local government finances. However, this paper is aimed at obtaining information about the scope of this from local authorities and other stakeholders. Consequently, this paper does not contain a Partial Regulatory Impact Assessment. If you disagree with this conclusion you are invited to send your reasons as part of your overall response to this paper.

4. Copies of the consultation paper are being sent to:

The Association of Electoral Administrators

Electoral Registration Officers in England, Wales, and Scotland.

Political parties

Members of Parliament

Members of the Scottish Parliament

Scottish Executive

Scottish Courts Service

Members of the National Assembly for Wales

Welsh Assembly Government

The Electoral Commission

Communities and Local Government

## **Fees for the Marked Register of Electors produced at UK Elections**

HM Treasury

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

**Concerns raised about levels of new fees for the marked electoral register at local elections in England May 2007**

5. At UK elections, the electoral register of parliamentary and local government electors used in polling stations for the election is marked to indicate that a ballot paper has been issued to an elector. The marked electoral register has been made available for electoral purposes after the election to political parties, elected representatives and candidates. They find the marked register a useful tool for campaigning purposes, as it enables them to see if their supporters voted, to judge the effectiveness of their campaigning, and to focus their future campaigns and encourage electors to use their right to vote during election campaigns. The Government believes that it is important to maximise election turnout, and that every opportunity to encourage voters to use their right to vote should be taken.
6. A new framework governing supply of marked registers came into force in England and Wales at the elections on 3 May 2007.
7. Following these elections, a number of electoral administrators have contacted the Ministry of Justice to pass on concerns expressed by local political parties and candidates about the new fee structure for supply of the marked register. In addition, a number of MPs approached Bridget Prentice MP, Elections Minister, Ministry of Justice to express concern that there had been a significant increase in the fees. An Early Day Motion (1628) has been put down by Joan Walley MP on Fees for Marked electoral register which states that:

“That this House notes that the effect of Regulation 120 in respect of Fees Re Marked Registers and Lists has effectively been to increase the cost of purchase of a marked register from £10 to in the region of £50 to £60 per ward; and asks the Government to discuss with the Association of Electoral Administrators what effect this charge has had on local democracy and what scope there might be for its reconsideration.”
8. To date, 53 MPs, drawn from the main political parties, have signed up to this Early Day Motion.
9. As stated above, the Government believes that the marked register is an important campaigning tool for candidates, political parties and elected representatives. The Government is concerned that though the new standardised fee structure has brought greater clarity and consistency, it could deter candidates, political parties and elected representatives from obtaining the marked register after elections which could adversely affect their campaigning at future elections and their efforts to maximise voter turnout.

10. Bridget Prentice wrote to all MPs on 19 June 2007, to make the Government's own concerns known and suggesting that Members consult their relevant local authorities about the change in fees, and what effect this has had. To date, six responses have been received from Members, raising a number of concerns regarding both the marked and unmarked registers. The response from Gwyneth Dunwoody MP includes information provided by Crewe and Nantwich Borough Council, who state that under the previous system, their costs were covered by a 4.5p per page charge, which amounted to around £3.10p for the purchase of a typical 3 member ward. However, the changes have required them to raise this to a minimum charge of £35 for the service.
11. Consequently, the Government has set out a number of proposals within this document, on which it would welcome the views of electoral administrators, political parties and representatives, other interested stakeholders and members of the public.
12. Following the consultation, we will give careful consideration to the responses received. The Government will then decide whether to make any changes to the fees for supply of the marked register. Any changes resulting from the consultation requiring amendments to the Representation of the People Regulations will be subject to the affirmative resolution procedure and will need to be debated and approved by each House of Parliament before they can come into force. Our intention is to have any changes in place for the elections in May 2008, subject to finding suitable time for the necessary debates, and the approval of Parliament to the draft Regulations.
13. We do not think it would be practical to apply any changes retrospectively to the copies of the marked register from the 2007 elections (the originals of which must be destroyed by local authorities in May 2008), and any changes will apply to future elections only.
14. The concerns that have been expressed about the new level of fees have arisen in respect of local elections in England. However, the aim of the Electoral Administration Act 2006 is to introduce consistent arrangements for access to marked registers for all UK elections, and to standardise fees for all elections across the UK. Therefore, if any changes to the fees for local elections in England and Wales result from the consultation, consideration will be given to extending them to marked registers at other elections in the UK.

## Fees for the marked electoral register within the UK

15. Prior to the Electoral Administration Act 2006, at parliamentary elections access to the marked registers was the responsibility of the Clerk to the Crown, or in Scotland, the Sheriff Clerks. At elections to the National Assembly for Wales (NAW), it was the responsibility of NAW. And in the case of local government elections it was kept with local council records. The Clerk to the Crown, NAW, Sheriff Clerks or the local authority storing the marked register were empowered to charge a fee for supply of copies of the marked electoral register. There was no standard set of fees, and the level of fees for local elections was at the discretion of the local authority responsible for retaining these documents. This led to variations in the level of fees across local authorities. Most authorities charged a fee, though some local authorities produced copies free of charge. Those local authorities that charged a fee, tended to charge a fee on the basis of sheets of electors - one sheet would typically contain in the region of 200 electors. The fee per sheet of electors varied, and we are aware that a range of fees were charged. On the basis of 20p per sheet, the fee for a ward of say 10,000 electors would be £10.
16. The Electoral Commission's 2005 February report "The marked electoral register" made a number of recommendations in respect of access to and supply of the marked electoral register. The report recommended, in particular, that a fee should be charged for the supply of the marked register and that the level of fees should be more standardised (paragraph 4.3, page 54 of the Commission's report).
17. The Electoral Administration Act 2006 included in sections 41 and 42 (except for the purposes of local elections in Scotland and Northern Ireland), provisions on access to election documents, including the marked electoral register. The overarching aim was to ensure access and supply arrangements in respect of marked registers and other election documents were consistent with data protection and human rights principles. The Act established the marked register of returned postal votes. The Act specifically provided for political parties and candidates at an election to be entitled to be supplied with the marked register and marked register of returned postal votes by the relevant registration officer holding those records for the specified one year period post elections. The Act included a power for a fee to be charged for supply of the marked register.
18. Subsequently, Regulations 116 to 120 were added to the Representation of the People (England and Wales) Regulations 2001 (the RP Regulations), made under sections 41 and 42 of the Electoral Administration Act 2006. Regulations 116 to 120 were also added to the Representation of the People (Scotland) Regulations. These new regulations set out details of the new system for

access to and supply of marked electoral registers and marked postal voters lists. The new arrangements put in place a consistent and uniform procedure at elections across the country, that are in line with data protection and human rights law. In particular, the regulations specify that access is limited to research and electoral purposes. These Regulations govern UK Parliamentary, and local elections in England and Wales. The fees for the marked register for local government elections in Scotland is a devolved matter and the responsibility of the Scottish Executive.

19. The RP Regulations set out the fees payable for supply of the marked electoral register. The Regulations introduced a standard scale of fees that apply in all authorities in England and Wales and Sheriff Clerks in Scotland. Under regulation 120, the fees for supply of the marked register are the same as those for supply of the unmarked full electoral register of parliamentary and local government electors to those entitled under the regulations to purchase the full register and use it for regulated purposes, namely the Credit Reference Agencies and Government Departments. The fee structure is set out at regulation 111 of the Representation of the People (England and Wales) (Amendment) Regulations 2001 and regulation 110 of the equivalent Scottish regulations. There is no fee for persons wishing to inspect the marked register at the offices of the local authority retaining the document. The fees are as follows:
  20. The marked register in printed form - £10 administration fee plus £5 for each 1,000 entries.
  21. The marked register in data form - £20 administration fee, plus 1.50 for each 1,000 entries.
  22. The full register of parliamentary and local government electors is fundamentally the same record as the marked register used at polling stations. The only distinction between the two is that the latter shows the mark placed by the polling station clerk which shows that the elector voted at the election. The rationale for the decision to mirror the fee charging structure applicable to the full register was that what was being supplied was the same record. Furthermore, the purposes for which the marked register may be used are more tightly circumscribed by the new Regulations than those which are applicable to the full register. If the relevant registration officer determines that the purposes for which the person requests supply of the marked register are outside the specified purposes of research or electoral purposes, he can treat it as a request for supply of or access to the full register. The information provided with the request for supply will equally disclose whether the purchaser comes within the scope of those entitled to regulated supply of the full electoral register.

23. For all these reasons, it was thought to be consistent to base the fee for the marked register on that charged for supply of the unmarked electoral register. However, as a result of the new fees, there has been a general increase in the cost of marked electoral registers. For example, it is understood that in Wigan the average cost of the marked register for a typical ward was formerly £12.50p though under the new fee arrangements the average cost has risen to £50. At Lewisham, it is calculated that the new fees broadly double the cost of the marked register. For example, it is calculated that the cost of the marked register in the Lewisham Central ward rises from £27 to £65. At Mid Devon, it is calculated that the average cost of the marked register has risen from approximately £4 to £25 per ward.
24. It should be noted that the new fees are not the only change that could have contributed to the rise in cost of purchasing copies of prescribe election documents. Specifically, the marking of the postal voters list to record the return of postal votes is a new addition to the marked register information that was previously available and may have added to the overall cost of obtaining the marked register documents.
25. The Representation of the People (National Assembly for Wales) (Access to Election Documents) Regulations 2007 apply regulation 120 of the RP Regulations to fees for the marked register at Assembly elections. Any change to regulation 120 will therefore automatically apply to NAW elections.
26. Legislation is currently being drafted to bring the fees for the marked register at Scottish Parliament elections into line with the regulations.

## The proposals

27. In light of concerns about the new fees for the marked register, the Government has drawn up a number of possible options for change upon which views are invited. The Government will not decide what changes, if any, to make until it has obtained the views of interested stakeholders so that it consider properly the implications of the different approaches. Views are therefore sought on the following options:

### **OPTION 1: No fees for supply of the marked electoral register for candidates, political parties and elected representatives.**

28. Formerly, some local authorities or Sheriff Clerks did not charge a fee and under this option this would be the case in all areas. It could be argued that given the importance that political parties, candidates and elected representatives attach to the marked register and the important role it can play in helping to encourage voter participation at elections, no fee should be payable. The new regulations do allow for any person, including political parties and elected representatives, to inspect the marked register free of charge and to make handwritten notes. This provision will allow party workers to record which voters have voted - they could do this on a copy of the unmarked register which they are entitled to obtain. It is recognised that that this may be a laborious and time consuming process but it does provide a way for political parties to obtain the information from the marked register free of charge. Removal of the fee would have cost implications for local authorities and Sheriff Clerks which are explored later on this consultation document.

**Q1. Do you think there should be no fee payable by candidates, elected representatives and political parties for supply of the marked electoral register?**

### **OPTION 2: Set fees at a lower level centrally**

29. Under this proposal, a reduced level of fees would still be set centrally, which would ensure a consistent and uniform approach across the country. However, this option will have cost implications for local authorities and Sheriff Clerks.

30. The fees are designed to cover the cost to local authorities or Sheriff Clerks of producing a copy of the marked register. In considering any changes to the

new level of fees we will have to take into account that any significant reduction of the fees – and certainly a complete removal of the fee - would create a new financial burden for electoral administrators and their local authorities/Sheriff Clerks. This would make the Government (and ultimately the general taxpayer) liable to make up the resulting short fall in income.

31. Therefore an important aim of this consultation is to establish the cost to local authorities and Sheriff Clerks of providing copies of the marked register to candidates, elected representatives and political parties, and the impact on them of any changes to the fee structure.
32. Therefore, we also wish to invite views on the new fees introduced under the Electoral Administration Act 2006, the impact they have had and what is thought to be a reasonable level of fee to charge for a copy of the marked register.
33. Information received will be used in determining any changes to the fee structure.

**Q2. Do you support the current level of the new fees or do you think they are too high given the work involved?**

**Q3. What impact has the change in the fees structure had?**

**Q4. What do you think would be a reasonable cost for the marked register for a ward of say 10,000 electors?**

**Q5. Local authorities are asked to comment on the costs to them of producing marked registers. What is the cost for producing the marked register for a ward of say 10,000 electors?**

**Q6. Should the fees for supply of the marked register continue to be set centrally, but at a lower level?**

**Additional considerations: Basis of calculation of fee for supply of marked register**

34. Formerly, many local authorities and Sheriff Clerks that charged a fee, calculated the fee with reference to “sheets” of electors. Under the new fee structure, the new fee is calculated per 1,000 entries on the electoral register. There is also an administration fee.
35. If any change is made to the level of fees we will wish to consider on what basis the fee should be calculated. If we move to the position previously adopted by many local authorities/Sheriff Clerks of charging per sheet, we

would have to devise a definition of “sheet” for the Regulations which may be problematic given that the number of entries on a sheet of the electoral register is likely to vary across different areas.

36. The fee could continue to be calculated on the basis of specific entries on the electoral register. This will help to ensure there is consistency in the arrangements and clarity as to how the fees are calculated.
37. As has been indicated, the fee structure for the marked register is directly linked to the fees charged to Credit Reference Agencies and Government Departments for supply of the unmarked register. In considering any changes to the new fee structure, an option is to break the link between the fees for the marked register and those for the unmarked electoral register, and have the fees set out separately in the regulations that govern access to and supply of the marked register.
38. Under the new fee structure, there is a higher fee for printed copies of the marked register than for copies in data format. This reflects that marked registers from polling stations are only available in paper format, and photocopying costs are incurred by the authority in making copies available. The marked register of returned postal votes can be produced in data form at less cost to local authorities and this is reflected in the level of fee for data copies of the marked register. We will wish to consider if there should continue to be different fees for printed marked registers and those in data form.
39. Under the new fee structure there is an administration charge of £20 for data copies and £10 for printed copies. We wish to invite views on whether the administration charge should continue to be levied.

**Q7. On what basis do you think the fee for copies of the marked register should be calculated?**

**Q8. Should the fees for copies of the marked register mirror those for supply of the unmarked full electoral register?**

**Q9. Should there be different fees for printed and data copies of the marked register?**

**Q10. Do you think there should be an administration fee for supply of the marked register?**

### **OPTION 3: Make no change to fee levels**

40. Making no change to the fees is unlikely to be supported by persons concerned with the new level of fees and the impact this could have on encouraging

participation in the electoral process. However, as stated in the introduction, the fees do reflect those charged for the unmarked register, and may reflect the true cost of producing copies of the marked register for some local authorities and Sheriff Clerks.

**Q11. Do you think there should be any changes to the new fees for supply of the marked register introduced under the Electoral Administration Act 2006, or should they remain the same?**

### **Supply of marked register to Electoral Commission and Government Departments**

41. The RP Regulations allow the Electoral Commission and Government Departments to be supplied with the electoral register for specified purposes. The fee payable is the same as that paid by candidates, elected representatives and political parties. It is understood that requests by them for the marked register are not common, and we have not had any complaints from the Electoral Commission or any Government Departments about the new fee structure. Consideration will need to be given as to whether any changes arising from this consultation should apply to the Electoral Commission and Government Departments or if the existing fees should continue to apply to any requests made by them for supply of the marked register.

**Q12. Do you think there are any justifications in favour of introducing different fees related to the identity of purchaser of the marked register? Or, should any changes arising from this consultation to the fees payable by candidates, elected representatives and political parties for supply of the marked register also apply to fees paid by the Electoral Commission and Government Departments?**

### **Inspection of marked registers: ability to manually input data onto a laptop PC or other electronic device.**

42. The Government has also been made aware that regulation 118, which concerns making notes when inspecting the marked register, and other parts in the RP Regulations concerning noting details from the full register, does not permit the use of a laptop, thereby restricting the copying of data to making handwritten notes. Inspecting the marked registers remains free of any charge, and many candidates and local parties choose to use this method of gathering information from the marked registers, rather than purchase copies.

43. While the Government would not be in favour of using laptops to scan or record documents photographically, it is of the opinion that keying in information from

the marked registers onto a laptop is no different from making notes by hand. We would, therefore, welcome the views of respondents as to whether the RP Regulations should be amended to include a form of words covering the use of a laptop or other electronic device to manually key information recorded on the marked register. Consideration could also be given to the use of audio recording devices, the use of which is also prohibited under the current rules.

**Q13. Should Regulations be amended to include a form of words covering the use of a laptop or other electronic device to manually key information recorded on the marked register?**

## Questionnaire

**Q1. Do you think there should be no fee payable by candidates, elected representatives and political parties for supply of the marked electoral register?**

**Q2. Do you support the current level of the new fees or do you think they are too high given the work involved?**

**Q3. What impact has the change in the fees structure had?**

**Q4. What do you think would be a reasonable cost for the marked register for a ward of say 10,000 electors?**

**Q5. Local authorities are asked to comment on the costs to them of producing marked registers. What is the cost for producing the marked register for a ward of say 10,000 electors?**

**Q6. Should the fees for supply of the marked register continue to be set centrally, but at a lower level?**

**Q7. On what basis do you think the fee for copies of the marked register should be calculated?**

**Q8. Should the fees for copies of the marked register mirror those for supply of the unmarked full electoral register?**

**Q9. Should there be different fees for printed and data copies of the marked register?**

**Q10. Do you think there should be an administration fee for supply of the marked register?**

**Q11. Do you think there should be any changes to the new fees for supply of the marked register introduced under the Electoral Administration Act 2006, or should they remain the same?**

**Q12. Do you think there are any justifications in favour of introducing different fees related to the identity of purchaser of the marked register? Or, should any changes arising from this consultation to the fees payable by candidates, elected representatives and political parties for supply of the marked register also apply to fees paid by the Electoral Commission and Government Departments?**

**Q13. Should Regulations be amended to include a form of words covering the use of a laptop or other electronic device to manually key information recorded on the marked register?**

**Thank you for participating in this consultation exercise**

## About you

Please use this section to tell us about yourself

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this consultation exercise (eg member of the public etc.)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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## How to respond

Please send your response by 18/10/2007 to:

**Chris Phillips**  
**Ministry of Justice**  
**Electoral Policy Division**  
**6<sup>th</sup> Floor**  
**Selborne House**  
**54-60 Victoria Street**  
**London**  
**SW1E 6QW**

**Tel: 020 7210 8227**

**Fax: 0870 739 5927**

**Email: [elections@justice.gsi.gov.uk](mailto:elections@justice.gsi.gov.uk)**

### Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.justice.gov.uk/index.htm>

### Publication of response

A paper summarising the responses to this consultation will be published within three months of the closing date of the consultation. The response paper will be available on-line at <http://www.justice.gov.uk/index.htm>

### Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## The Consultation Criteria

The six consultation criteria are as follows:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the time scale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

**These criteria must be reproduced within all consultation documents.**

## Consultation Co-ordinator contact details

If you have any complaints or comments about the consultation **process** rather than about the topic covered by this paper, you should contact the Ministry of Justice Consultation Co-ordinator, Laurence Fiddler, on 020 7210 2622, or email him at [consultation@justice.gsi.gov.uk](mailto:consultation@justice.gsi.gov.uk)

Alternatively, you may wish to write to the address below:

**Laurence Fiddler**  
**Consultation Co-ordinator**  
**Ministry of Justice**  
**5th Floor Selborne House**  
**54-60 Victoria Street**  
**London**  
**SW1E 6QW**

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given under **the How to respond** section of this paper at page 20.

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