

Electoral observation at United Kingdom elections

November 2009

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1 Purpose

1.1 The Electoral Commission is an independent public body, established on 30 November 2000 under the Political Parties, Elections and Referendums Act 2000 (PPERA). Following the passage of the Electoral Administration Act 2006 (EAA), the Commission is required to establish and administer a scheme for the accreditation of electoral observers in the United Kingdom. Section 6F of PERA also requires the Commission to produce a Code of Practice to regulate the processes involved in applying for accreditation and gaining access as an observer, as well as the behaviour of those giving access and observing.

1.2 The purpose of this document is to open the current Code of Practice for consultation and seek views on proposed changes designed to assist observers with the application process. Following the introduction of the observer provisions in Northern Ireland we are also taking this opportunity to include in the Code references to the Chief Electoral Officer for Northern Ireland.

1.3 In addition, the revised Code will also clarify the process we will follow on receipt of a note from a Presiding Officer, Returning Officer or Counting Officer explaining that they have had to remove an observer from a specific proceeding.

1.4 By virtue of Section 6F(8) of PERA the Commission may revise the Code at any time. Before publishing a revised Code, the Commission must consult the Secretary of State for Justice. This consultation fulfils that requirement. We would also like to obtain the views of Commission-accredited observers and observer organisations along with Returning Officers, Electoral Registration Officers, the UK and devolved governments, political parties, interested individuals and international organisations. The Code in its current form was approved by Commissioners at their meeting on 23 November 2006 and is reproduced in Appendix A.

1.5 For ease of reference, the proposed new Code in Section 4 contains the current Code with the suggested revisions highlighted.

1.6 If you would like to comment on the proposed changes, or on any other matter related to the Code, please send in your response by **Monday, 4 January 2010**. All responses should be sent to:

Margaret Lavery
The Electoral Commission
Seatem House
28-32 Alfred Street
Belfast BT2 8EN
Tel: 028 9089 4022
Fax: 028 9089 4026
Email: mlavery@electoralcommission.org.uk

2 Background

2.1 In 2006 PPERA was amended to:

- allow representatives of the Commission to attend electoral or referendum proceedings so that they can observe and subsequently report on them
- allow representatives of the Commission to observe the working practices of Electoral Registration Officers, Returning Officers¹ and Counting Officers
- allow for observers, whether individuals or organisations, to be accredited by the Commission so that they can attend, or for their members to attend, and observe certain proceedings at an election or a referendum
- require the Commission to produce a Code of Practice to regulate the attendance of all observers at such proceedings

Attendance by accredited observers

2.2 The observer provisions for relevant elections in Great Britain were commenced in January 2007. In Northern Ireland the observer provisions came into force on 1 July 2008.

2.3 Once accredited by the Commission, observers may observe specified proceedings at UK Parliamentary and European Parliamentary elections, including by-elections; elections to the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly, including by-elections; local government elections in England, Wales and Northern Ireland; and referendums conducted under Part 7 of PPERA.

2.4 The specified proceedings are:

- the issue and receipt of postal ballot papers
- the poll
- the counting of votes

Commission attendance

2.5 Representatives of the Commission are entitled to attend electoral proceedings at a range of elections and referendums. Section 6B of PPERA also provides for representatives of the Commission to observe the working practices of an Electoral Registration Officer, a Returning Officer, or a Counting Officer, as well as the working practices of any person acting under their direction.

¹ References to the Electoral Registration Officer and Returning Officer include references to the Chief Electoral Officer for Northern Ireland.

Accredited individuals

2.6 Section 6C of PPERA provides for any individual over the age of 16 to apply to the Commission to be accredited as an observer at elections or referendums. It further specifies the proceedings to which such accredited persons can have access. These are:

- the issue and receipt of postal votes
- the poll
- the count

2.7 The section also provides for accredited persons to be permitted to attend proceedings at a particular election or referendum. It provides for the Commission to refuse or revoke accreditation and requires the Commission to give reasons in writing for doing so. It specifies that all applications for accreditation must be made in accordance with the Code of Practice published by the Commission.

Accredited organisations

2.8 Section 6D of PPERA provides for organisations to apply to the Commission to be accredited for the purpose of nominating members of that organisation to attend relevant electoral proceedings. These are:

- the issue and receipt of postal votes
- the poll
- the count

2.9 It further provides for an organisation so accredited to then nominate members to attend electoral proceedings at a particular election or referendum. It again provides that the Commission may refuse or revoke accreditation and must give written reasons for doing so. Again, it specifies that all applications must be made in accordance with the Code of Practice.

3 Structure of the Code of Practice

3.1 The Code of Practice must meet all the requirements set out above. As the Code can be divided into parts, the Commission has divided it into four parts, which contain the following:

Code Part A: Individual observers

- the manner in which accreditation applications are to be made to the Commission
- the criteria that the Commission will take into account when determining accreditation applications
- the process for the receipt and handling of applications and notification of decisions, including indicative timeframes
- the mechanism for advising Returning Officers and Counting Officers of the individual observers so accredited
- guidance to the accredited individual observers on the exercise of their observation rights

Code Part B: Observer organisations

- the manner in which accreditation applications are to be made to the Commission
- the criteria that the Commission will take into account when determining accreditation applications
- the process for the receipt and handling of applications and notification of decisions, including indicative timeframes
- the mechanism for advising Returning Officers and Counting Officers of the observer organisations so accredited and their nominated observers
- guidance to the accredited observers on the exercise of their observation rights

Code Part C: Guidance to Returning Officers, Counting Officers and Presiding Officers

- guidance on allowing for attendance of observers and the observation rights of such observers
- guidance on limiting the number of observers present at proceedings
- guidance on defining and dealing with misconduct by observers

Code Part D: Commission representatives

- the system for appointing representatives to attend sessions under 6A and 6B
- the mechanism for advising Electoral Registration Officers, Returning Officers and Counting Officers of the representatives so appointed
- guidance to its representatives on the exercise of their observation rights.

4 Revised Code

Introduction

The United Kingdom is a party to a number of international instruments that endorse electoral observation as an important verification method to assess electoral arrangements against internationally accepted norms and standards. In 2006 the United Kingdom Parliament made rules to open up United Kingdom elections to electoral observation, for international and domestic groups and individuals. The Electoral Commission is responsible for accrediting electoral observers,² and this booklet outlines the process for accreditation, as well as the rights and obligation of observers at UK elections.

In October 2005 a number of intergovernmental and international organisations endorsed a *Declaration of principles for international election observation and Code of conduct for international election observers*.³ A number of organisations of which the UK or UK institutions are members have endorsed the Declaration and the Code including the Commonwealth Secretariat, the Council of Europe, the European Commission, the Inter-Parliamentary Union, the Organisation for Security and Co-operation in Europe's Office for Democratic Institution and Human Rights and the United Nations.

While the Declaration and accompanying Code are specifically applied to international electoral observation, the Commission believes that they provide a robust basis for all observation of elections in the UK. Accordingly we have adapted this Code for use in the United Kingdom.

This booklet forms the Code of conduct the Commission must prepare under Section 6F of the Political Parties, Elections and Referendums Act 2000 (PPERA).

² Except for electoral proceedings or working practices that are wholly concerned with a local government election in Scotland.

³ See www.un.org/News/Press/docs/2005/hq645.doc.htm, www.ndi.org/node/13494 and www.cartercenter.org/peace/democracy/des_declaration.html (all accessed 27 September 2009).

Part A: Individual observers

Applications for accreditation

The Commission is enabled under section 6C of the Political Parties, Elections and Referendums Act 2000 to accredit individuals who are then entitled to observe specified proceedings at relevant electoral and referendum events throughout the United Kingdom.⁴ The specified proceedings are:

- the issue or receipt of postal ballot papers
- the taking of the poll
- the counting of votes

Applicants for accreditation are required to apply to the Commission for accreditation on forms supplied by the Commission for this purpose. The forms will be available through the Commission's website and on request from any Commission office. All forms will be available in English and Welsh and on request in alternative formats.

The Commission will receive applications at any time and potential observers are recommended not to wait until an election is imminent or underway before applying.

Under section 6C the Commission can grant accreditation to any individual over the age of 16.

Process for applying

Applicants are required to:

- complete the Commission's form *Application for accreditation as an electoral observer for individuals* in English or Welsh
- supply to the Commission a contact address, telephone number and email address that applies for the duration of their accreditation. If their contact details are outside the UK, a UK or reachable overseas mobile number will be required
- submit a photograph of themselves in electronic format, e.g. via email or on a CD, for use on an identification badge,⁵ or attend a designated Commission office to have their photograph taken

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The photograph must:

- be submitted electronically, e.g. via email or on a CD
- be of the applicant facing the camera
- include their full head, which must be clearly visible
- be taken with the applicant's eyes open

⁴ Except for electoral proceedings or working practices that are wholly concerned with a local government election in Scotland.

⁵ JPEG, BMP and TIFF are all acceptable formats. Applicants should ensure that the image is not copy protected, so it can be transferred to their identification badge.

- supply a legible copy of either their passport, driver's licence, national identity card or Northern Ireland electoral identity card at the time of application that confirms their name and age⁶
- consent to their name appearing on the Commission's register of observers
- declare that they have read and understood the Commission's Code of Practice for individual electoral observers and agree to abide by the guidance contained in it
- declare that they have been provided with a copy of section 66 of the Representation of the People Act 1983 or its corresponding provision, that they understand its provisions and that they will aid in maintaining the secrecy of the ballot

Deleted: be prepared to produce supporting photographic identification to the Commission

Applications may be emailed to observers@electoralcommission.org.uk.

The Commission will also receive applications at any of its offices⁷ during normal business hours, or by post. Applicants will be notified in writing of the Commission's decision to accept or reject their application, and reasons will be given for any decision to reject an application. The Commission will endeavour to process all applications within 10 days of receipt of a completed application form. Accreditation will not come into effect until three days after issue and the inclusion of the observer on the register of accredited observers.

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Granting applications

The Commission will grant an application for accreditation provided that all administrative steps in the application are complied with. An applicant must:

- meet the requirements of the application process set out in this Code
- not have been reported guilty (under the Representation of the People Act 1983) or found guilty of a corrupt or illegal electoral practice anywhere in the United Kingdom in the five years previous to the date of application

The Commission may refuse an application for accreditation if the requirements of the application process set out in this Code are not met. The Commission may also refuse an application if the applicant is a person whose status in the United Kingdom as an accredited observer or nominated individual of an accredited organisation was revoked by the Commission in the five years previous to the date of application. If the Commission refuses an application for accreditation, we will provide reasons in writing.

The Commission will maintain a register of observers that will be available for public inspection at any Commission office and on the Commission's website.

⁶ Applicants who do not own any such photographic identification should contact the Commission for advice.

⁷ Contact details are provided at the end of this part.

All individuals entered on the register will be issued with identification from the Commission. Unless a shorter accreditation period is requested on the application form, such identification will be valid until 31 December of the year of issue; this will be specified on the identification card.

Deleted: The identification will contain a photograph and will clearly indicate that the individual is an individual observer. Such identification will be valid until 31 December of the year of issue; this will be specified on the identification card.

The Commission does not require applicants to specify the electoral area or process they seek access to.

Revoking accreditations

The Commission may revoke accreditation if the observer:

1. fails to abide by the standards of behaviour set out in the guidance section of this Code
2. is found or reported guilty (under the Representation of the People Act 1983) of a corrupt or illegal electoral practice anywhere in the United Kingdom

If, as a result of misconduct, a relevant officer has had an observer removed from a particular electoral proceeding, the Commission will only revoke their accreditation if the Commission considers that the individual was not abiding by this Code and the guidance contained in it. Misconduct is defined in 'Part C: Guidance to Returning Officers, Counting Officers and Presiding Officers' as:⁸

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- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the electoral proceeding
- asking electors about their voting preference while observing at polling stations

On receipt of a report from the relevant officer, the Commission will contact the observer concerned and give them an opportunity to submit, in writing, their version of events. The Commission will consider all submissions received and any other information available to it before making its decision.

If the Commission revokes an individual's accreditation, we will provide reasons in writing.

Deleted: The Commission can only revoke an individual's accreditation for the reason set out in point 3 above if, on receipt of a report from the relevant officer, the Commission considers that the individual was not abiding by this Code and the guidance contained within it. ¶

⁸ The power of relevant officers to remove observers for misconduct is in addition to their power to keep order at the relevant electoral proceeding. Observers are subject to the lawful directions of relevant officers and the Police in terms of public order.

Guidance for individual electoral observers

All individuals accredited as electoral observers must abide by this guidance for the period of their accreditation. Observers who fail to abide by the standards of behaviour set out in this section will have their accreditation revoked by the Commission.

Respect sovereignty and international human rights

Election observers must respect the sovereignty of the United Kingdom as well as the human rights and fundamental freedoms of its people.

Respect the laws of the United Kingdom and the authority of electoral bodies

Observers must respect the laws of the United Kingdom and the authority of the Returning Officers⁹, Counting Officers and the Commission. Observers must follow any lawful instruction from the UK's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election related rights guaranteed by law, constitution or applicable international instruments.

Maintain strict political impartiality at all times

Observers must maintain strict political impartiality at all times during the period of their accreditation, including during their leisure time. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referendum issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the United Kingdom, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.

Secrecy requirements

Observers will maintain and aid in maintaining the secrecy of the ballot and will sign an agreement that they have been provided with a copy of section 66 of the Representation of the People Act 1983 or its corresponding provision and understand its provisions. Observers must comply with all directions on the use of mobile phones, cameras and the like.

Do not obstruct election processes

Observers must not obstruct any element of the election process, including pre-election processes, the issue and opening of postal ballots, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this would contravene the secrecy requirements, and must do so in a non-obstructive manner.

⁹ Throughout this part, references to the 'Returning Officer' or 'Returning Officers' include references to the Chief Electoral Officer for Northern Ireland.

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Observers must maintain strict political impartiality at all times during the period of their accreditation, including during their leisure time. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referendum issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the United Kingdom, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.¶

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Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

Provide appropriate identification

Observers must display identification provided by the Commission, and must present it to electoral officials and other interested national authorities when requested.

Maintain accuracy of observations and professionalism in drawing conclusions

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgements must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely.

Maintain proper personal behaviour

Observers must maintain proper personal behaviour and respect others, including exhibiting sensitivity for United Kingdom cultures and customs, exercise sound judgement in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

Agree to follow this guidance

Every person who participates in election observation in the United Kingdom must read and understand this guidance and must sign an agreement to follow it.

Electoral Commission contact details

Individuals applying to become accredited observers must submit the following to the Commission:

- a completed application form
- a copy of photographic identification
- a photograph

The photograph **must** be submitted in an electronic format, for example as a picture file via email. However, applicants may also email the Commission their application form and suitable photographic identification. All email communications should be sent to the following email address:

observers@electoralcommission.org.uk

Applicants who wish to post a copy of their photographic identification, their completed application form, or those who wish to send in their photograph on electronic media, such as on a CD, can post these to any of our offices:

Northern Ireland

The Electoral Commission
Seatem House
28-32 Alfred Street
Belfast BT2 8EN

Scotland

The Electoral Commission
38 Thistle Street
Edinburgh EH2 1EN

Wales

The Electoral Commission
Caradog House
1-6 Saint Andrews Place
Cardiff CF10 3BE

Head Office / London / Eastern and South East

The Electoral Commission
Observers
Trevelyan House
30 Great Peter Street
London SW1P 2HW

Midlands

The Electoral Commission
Midlands Office
No 2 The Oaks
Westwood Way
Westwood Business Park
Coventry CV4 8JB

North of England

The Electoral Commission
North of England Office
York Science Park
IT Centre
Innovation Way
Heslington
York YO10 5DG

South West

The Electoral Commission
South West Office
Regus
1 Emperor Way
Exeter Business Park
Exeter EX1 3QS

For any questions on the status of an application, applicants should email observers@electoralcommission.org.uk or call 0207 271 0500.

Part B: Observer organisations

The Commission is enabled under section 6C of the Political Parties, Elections and Referendums Act 2000 to accredit observer organisations who are then entitled to observe specified proceedings at relevant electoral and referendum events throughout the United Kingdom.¹⁰ The specified proceedings are:

- the issue or receipt of postal ballot papers
- the taking of the poll
- the counting of votes

Applicants for accreditation are required to apply to the Commission for accreditation on forms supplied by the Commission for this purpose. The forms will be available through the Commission's website and on request from any Commission office. All forms will be available in English and Welsh and on request in alternative formats.

The Commission will receive applications at any time and potential observer organisations are recommended not to wait until an election is imminent or underway before applying.

Under section 6D of PPERA the Commission can grant accreditation to any organisation. Once accredited, an organisation is then able to nominate observers to attend electoral and referendum proceedings.

Process for applying

Applicant organisations are required to:

- complete the Commission's form *Application for accreditation as an electoral observation organisation* in English or Welsh
- supply to the Commission a contact address, telephone number and email address that applies for the duration of their accreditation. If their contact details are outside the UK, a UK or reachable overseas mobile number will be required
- consent to the name of the organisation and its list of nominated observers appearing on the Commission's register of observers
- specify a period of up to three years for which they seek accreditation as an organisation
- declare that they have read and understood the Commission's Code of Practice for electoral observation organisations and agree to abide by the guidance contained in it
- declare that they will provide their nominated members with a copy of section 66 of the Representation of the People Act 1983 (RPA) or its

¹⁰ Except for electoral proceedings or working practices that are wholly concerned with a local government election in Scotland.

corresponding provision and that they will aid in maintaining the secrecy of the ballot

Applications may be emailed to observers@electoralcommission.org.uk.

The Commission will also receive applications at any of its Commission offices¹¹ during normal business hours, or by post. Applicants will be notified in writing of the Commission's decision to accept or reject their application, and reasons will be given for any decision to reject an application. The Commission will endeavour to process all applications within 10 days of receipt of a completed application form. Accreditation will not have any effect until three days after its issue and the inclusion of the organisation on the register of accredited observers.

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Granting applications

The re is no limit on the number of observers any one organisation can nominate.

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Provided that all administrative steps in the application are complied with, the Commission will not apply any other criteria in determining the application.

The applying organisation must:

1. meet the requirements of the application process set out in this Code
2. not include on their list of nominated individuals anyone who has been reported guilty (under the Representation of the People Act 1983) or found guilty of a corrupt or illegal electoral practice anywhere in the United Kingdom in the five years previous to the date of application, or who to the knowledge of the organisation has been found guilty of an electoral offence anywhere in the world in the five years previous to the date of application
3. not include on their list of nominated individuals anyone whose status in the United Kingdom as an accredited observer or nominated individual of an accredited organisation was revoked by the Commission

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If an organisation's application is refused the organisation may submit a further application which complies with the requirements of this Code.

Revoking accreditations

The Commission may revoke an organisation's accreditation if the organisation:

1. fails to abide by the standards of behaviour set out in the guidance section of this Code
2. includes on their list of nominated individuals an observer who is found or reported guilty of a corrupt or illegal electoral practice anywhere in the

¹¹ Contact details are provided at the end of this part.

United Kingdom at any time between the five years prior to their inclusion on the list and the end of their period of accreditation

3. includes on their list of nominated individuals anyone who has been removed for misconduct from a specific electoral proceeding by a relevant officer.

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Misconduct is defined in 'Part C: Guidance to Returning Officers, Counting Officers and Presiding Officers' as:¹²

- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the electoral proceeding
- asking electors about their voting preference while observing at polling stations

The Commission will only revoke an organisation's accreditation for the reason set out in point 2 above if, on notification, the organisation refuses to promptly remove such an observer from their list of nominated individuals.

The Commission will only revoke an organisation's accreditation for the reason set out in point 3 above if the following two conditions are met:

- a. on receipt of a report from the relevant officer, the Commission considers that the relevant individual was not abiding by this Code and the guidance contained within it. On receipt of a report from the relevant officer, the Commission will contact the observer concerned and give them an opportunity to submit, in writing, their version of events. The Commission will consider all submissions received and any other information available to it before making its decision.
- b. the organisation refuses to promptly remove an observer found in breach of the Code from their list of nominated individuals

If the Commission revokes an organisation's accreditation, we will provide reasons in writing.

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If an organisation's accreditation

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Deleted: revoked the organisation may submit a further application and list of nominated individuals that meets the requirements of this Code. ¶

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Nominating members

An accredited organisation must submit to the Commission a list of members nominated to act as observers. This list can be submitted at the time of application for accreditation or at any time. The list must:

- be in the form supplied by the Commission
- be accompanied by a photograph of each nominated observer, submitted in electronic format¹³ for use on an identification badge, or indicate a willingness to attend a designated Commission office to have such a photograph taken

¹² The power of relevant officers to remove observers for misconduct is in addition to their power to keep order at the relevant electoral proceeding. Observers are subject to the lawful directions of relevant officers and the Police in terms of public order.

¹³ JPEG, BMP and TIFF are all acceptable formats. The organisation should ensure that the image is not copy-protected, so that it can be transferred to their identification badge.



The photograph must:

- be submitted in an electronic format, e.g. via email or on a CD
- be of the nominated observer facing the camera
- include their full head, which must be clearly visible
- be taken with the applicant's eyes open

- be accompanied by legible copies of either their passport, driver's licence, national identity card or Northern Ireland electoral identity card that confirms their name, or an agreement to produce this at a designated Commission office
- include for each nominated observer a declaration that they have read and understood the Commission's Code of Practice for electoral observation organisations and agree to abide by the guidance contained in it
- include for each nominated observer a declaration that they have been provided with a copy of section 66 of the Representation of the People Act 1983 or its corresponding provision, that they understand its provisions and that they will aid in maintaining the secrecy of the ballot

The Commission will maintain a register of observer organisations and nominated observers that will be available for public inspection at any Commission office and on the Commission's website. The Commission will provide contact details (including out of hours details) at each Commission office in case of query or concern.

The Commission will issue a photographic identification card for each nominated observer. Unless a shorter accreditation period is requested on the application form, such identification will be valid until 31 December of the year of issue; this will be specified on the identification card.

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The Commission does not require organisations or nominated observers to specify the electoral area or process they wish to access.

Guidance for electoral observation organisations and their nominated observers

All organisations accredited as electoral observers, and all individuals nominated by such accredited organisations must abide by this Code for the period of their accreditation. The Commission will require any organisation to remove observers found in breach of this guidance from their list of nominated individuals.

Respect sovereignty and international human rights

Election observers must respect the sovereignty of the United Kingdom as well as the human rights and fundamental freedoms of its people.

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Respect the laws of the United Kingdom and the authority of electoral bodies

Observers must respect the laws of the United Kingdom and the authority of the Returning Officers¹⁴, Counting Officers and the Commission. Observers must follow any lawful instruction from the United Kingdom's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election related rights guaranteed by law, constitution or applicable international instruments.

Maintain strict political impartiality at all times

Observers must maintain strict political impartiality at all times for as long as they are included on the observer organisation's list of nominated observers. This also applies to their leisure time. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referendum issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the United Kingdom, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.

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Maintain strict political impartiality at all times¶

Observers must maintain strict political impartiality at all times, including leisure time. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referendum issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the United Kingdom, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.¶

Secrecy requirements

Observers will maintain and aid in maintaining the secrecy of the ballot and will sign an agreement that they have been provided with a copy of section or its corresponding provision 66 of the RPA and understand its provisions. Observers must comply with all directions on the use of mobile phones, cameras and the like.

Do not obstruct election processes

Observers must not obstruct any element of the election process, including pre-election processes, the issue and opening of postal ballots, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this would contravene the

¹⁴ Throughout this part, references to the 'Returning Officer' or 'Returning Officers' include references to the Chief Electoral Officer for Northern Ireland.

secrecy requirements, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

Provide appropriate identification

Observers must display identification provided by their organisation, as well as identification required by the Commission, and must present it to electoral officials and other interested national authorities when requested.

Maintain accuracy of observations and professionalism in drawing conclusions

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgements must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely.

Maintain proper personal behaviour

Observers must maintain proper personal behaviour and respect others, including exhibiting sensitivity for United Kingdom cultures and customs, exercise sound judgement in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

Agree to follow this guidance

Every person who participates in observation within the UK must read and understand this guidance and must sign an agreement to follow it.

Electoral Commission contact details

Organisations applying to become accredited observers must submit the following to the Commission:

- a completed application form, including signed declarations from each nominated observer
- copies of photographic identification for each nominated observer
- a photograph of each nominated observer

The photographs **must** be submitted in an electronic format, for example as a picture file via email. However, organisations may also email the Commission their application form and copies of suitable photographic identification. All email communications should be sent to the following email address:

observers@electoralcommission.org.uk

Organisations that prefer to post their application form or the copies of their nominated individuals' photographic identification, or organisations who wish to submit the photographs of their nominated individuals on a CD, can post all these items to any of our devolved or English regional offices:

Northern Ireland

The Electoral Commission
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The Electoral Commission
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For any questions on the status of an application, applicants should email observers@electoralcommission.org.uk or call 0207 271 0500.

Part C: Guidance to Returning Officers, Counting Officers and Presiding Officers

Section 6F of the Political Parties, Elections and Referendums Act 2000 (PPERA) not only requires the Commission to produce guidance for observers, but also requires it to issue guidance to Returning Officers¹⁵, Counting Officers and Presiding Officers on the exercise of section 6E. Section 6F(7) requires Returning Officers, Counting Officers and Presiding Officers to have regard to this guidance.

Guidance¹⁶

Section 6E of PERA allows a Returning Officer, Counting Officer or Presiding Officer (relevant officers) to limit the number of individual observers or nominated observers who may be present at any one time during the conduct of the poll, the issue and receipt of postal ballot papers and the count. Relevant officers may not limit the number of Commission representatives who may be present at an electoral proceeding.

The Commission advises that relevant officers use caution in exercising this power. Electoral observation is a legitimate and valuable part of the electoral process and care should be taken to not hinder or obstruct the conduct of observation. It is important to note that no officer is entitled to bar **all** observers from an entire proceeding, only to limit the number of observers present at **any one time**.

The provisions allowing for attendance of Commission representatives and observers do not derogate from the duty and responsibility of relevant officers to keep public order and promote the secrecy of the ballot at any election proceedings. Commission representatives and accredited observers must follow all lawful directions from relevant officers and the police.

Officers are not required to proactively notify observers of the time and place of relevant proceedings, however this information should be supplied to accredited observers and the Commission on request.

The poll

In regard to a polling station,¹⁷ Presiding Officers should only seek to limit the number of electoral observers present when the presence of observers – or a

¹⁵ Throughout this part, references to the 'Returning Officer' or 'Returning Officers' include references to the Chief Electoral Officer for Northern Ireland.

¹⁶ PPERA specifies that this Code must contain guidance for relevant officers on their power to limit observer numbers and to cancel an observer's entitlement to attend a specific proceeding. Guidance on providing observers access to specific election proceedings is given in the Commission's various manuals for Returning Officers and handbooks for polling station staff. These are all available for download from the Commission's website at www.electoralcommission.org.uk.

¹⁷ Or equivalent term.

number of observers – is hindering the conduct of the poll or jeopardising the secrecy of the ballot. A direction as to the number of observers that may be present within a polling station should only be given for a specified time – such as for 30 or 60 minutes – or when specified circumstances exist – such as ‘x’ number of electors waiting to vote or ‘y’ number of agents being present. No officer is entitled to bar all observers from a polling station for the entire duration of the poll, only to limit the number of observers present at any one time. Accordingly, Returning Officers will need to ensure that polling stations are large enough and suitably arranged to provide for efficient and secret polling in the presence of polling agents and observers.

The Commission will provide Returning Officers and Counting Officers with a log for use by Presiding Officers to note any occasions when they are required to limit the number of observers in a polling station. This will assist the Presiding Officer to notify the Returning Officer of the imposition of such limits. The Returning Officer should ensure that a copy of the log is supplied to the Commission following polling day if limits are applied.

Presiding Officers are only permitted to have an observer removed from a polling station for the remainder of the poll in the event of misconduct by the observer. Misconduct is defined as:

- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the polling process
- asking electors about their voting preference

Any observer removed for misconduct is not entitled to re-enter that polling station for the remainder of the poll. The Commission will provide a proforma for use by Presiding Officers who seek to have an observer removed from a polling station. This will require the Presiding Officer to notify observers in writing of why they are being removed and provide a record of the removal and the reasons for the removal. A copy of this statement should be supplied to the Commission as soon as possible.

A Presiding Officer maintains the power to keep order at a polling station and any observers are subject to lawful directions of Presiding Officers and Police Officers in terms of public order.

The issue and receipt of postal ballot papers

In regard to the issue and receipt of postal ballots,¹⁸ Returning Officers and Counting Officers should only seek to limit the number of electoral observers present when the presence of observers – or a number of observers – is hindering the conduct of the proceeding or jeopardising the secrecy of the ballot. A direction as to the number of observers that may be present at proceedings for the issue or receipt of postal ballots should only be given for a

¹⁸ Under the 2001 regulations the ‘receipt of postal ballot papers’ refers to the entire process of opening and checking returning postal ballots. Observers are entitled to attend such opening sessions in a manner similar to that of candidates and agents.

specified time – such as for 30 or 60 minutes. No officer is entitled to bar all observers from proceedings for the entire conduct of the session, only to limit the number of observers present at any one time. Accordingly, Returning Officers and Counting Officers will need to ensure that premises used for proceedings at the issue of postal ballots are large enough and suitably arranged to provide for efficient processes in the presence of observers and at the receipt of postal ballots, for candidates and agents as well.

If the issue or receipt of postal ballots is outsourced the contract must contain provision for the attendance of observers at the proceedings, and the Returning or Counting Officer will need to make relevant arrangements with their contractors to ensure this can be achieved safely.

The Commission will provide Returning Officers and Counting Officers with a log for use when limiting the number of observers present at the issue or receipt of postal ballot papers. This will assist the Returning Officer in noting any occasions on which a limit is imposed and for how long. The Returning Officer should ensure that a copy of the log is supplied to the Commission following polling day if limits are applied.

Returning Officers and Counting Officers are only permitted to have an observer removed from the issue or receipt of postal ballots in the event of misconduct by the observer. Misconduct is defined as:

- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the postal voting process

Any observer removed for misconduct is not entitled to re-enter that proceeding for the remainder of the election. The Commission will provide a proforma for use by Returning Officers and Counting Officers who seek to have an observer removed from the issue or receipt of postal ballot papers. This will require the Returning Officer or Counting Officer to notify observers in writing of why they are being removed and provide a record of the removal and the reasons for the removal. A copy of this statement should be supplied to the Commission as soon as possible.

A Returning Officer or Counting Officer maintains the power to keep order at postal ballot proceedings and any observers are subject to lawful directions of Presiding Officers and Police Officers in terms of public order.

The count

In regard to the count Returning Officers and Counting Officers should only seek to limit the number of electoral observers present when the presence of observers – or a number of observers – is hindering the conduct of the proceeding or jeopardising the secrecy of the ballot. A direction as to the number of observers that may be present at the count should only be given for a specified time – such as for 30 or 60 minutes. No officer is entitled to bar all observers from the count for the entire duration of the count, only to limit the number of observers present at any one time. Accordingly, Returning

Officers and Counting Officers will need to ensure that premises used for the count are large enough and suitably arranged to provide for efficient processes in the presence of observers and counting agents.

The Commission will provide Returning Officers and Counting Officers with a log to assist in recording any instances when the number of observers present at the count is limited. This will assist the Returning Officer or Counting Officer in noting why the limit is being imposed and for how long. The Returning Officer or Counting Officer should ensure that a copy of the log is supplied to the Commission following polling day if limits are applied.

Returning Officers and Counting Officers are only permitted to have an observer removed from the count in the event of misconduct by the observer. Misconduct is defined as:

- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the count process

Any observer removed for misconduct is not entitled to re-enter the count. The Commission will provide a proforma for use by Returning Officers and Counting Officers who seek to have an observer removed from the count. This will require the Returning Officer or Counting Officer to notify observers in writing of why they are being removed and provide a record of the removal and the reasons for the removal. A copy of this statement should be supplied to the Commission as soon as possible.

A Returning Officer or Counting Officer maintains the power to keep order at the count and any observers are subject to lawful directions of Presiding Officers and Police Officers in terms of public order.

Part D: Commission representatives

Authorisation

The Electoral Commission is enabled under sections 6A and 6B of the Political Parties, Elections and Referendums Act 2000 (PPERA) to appoint representatives to attend relevant electoral and referendum proceedings and relevant working practices throughout the United Kingdom.¹⁹

Under section 6A these representatives may be Commissioners, Commission staff members or a person appointed by the Commission to act as a Commission representative under these sections.

The Commission will not appoint as a Commission representative any individual who does not meet the political neutrality requirements required of Commission staff by Schedule 1 to PERA.

The Commission will authorise relevant persons from time to time as required. A Commission appointment is valid for any proceeding and the Commission's authorisations will cover all relevant elections and referendums.

In the case of a representative who is a Commissioner or Commission staff member the appointment will lapse when they cease to be a Commissioner or Commission staff member or when the appointment is otherwise revoked or expires.

In the case of any other person appointed by the Commission to act as a Commission representative under these sections the appointment will be for a specified period of time.

Register of authorised persons

The Commission will maintain a register of persons authorised under these sections and will make this register available for public inspection at the Commission's offices and through the Commission website.

All persons entered on the register will be issued with identification from the Commission. The Commission will advise Electoral Registration Officers, Returning Officers²⁰ and Counting Officers of the form of this identification and provide contact details (including out of hours details) at each Commission office in case of query or concern. The identification will contain a photograph and will clearly indicate that the individual is a Commission representative.

¹⁹ Except for electoral proceedings or working practices that are wholly concerned with a local government election in Scotland.

²⁰ Throughout this part, references to the 'Returning Officer' or 'Returning Officers' include references to the Chief Electoral Officer for Northern Ireland.

Guidance to Commission representatives

All Commission representatives will observe the following when exercising powers under section 6A and 6B of PPERA:

- Commission representatives will respect the independence and the authority of Electoral Registration Officers, Returning Officers and Counting Officers.
- No Commission representative will seek to direct an Electoral Registration Officer, Returning Officer or Counting Officer, or their staff, in the conduct of their duties.
- Commission representatives will respect lawful directions given to them by Electoral Registration Officers, Returning Officers and Counting Officers, or their staff, or by a Police Officer acting at the request of such an officer and comply with all safety directions and regulations.
- Commission representatives will act in accordance with the Commission's Code of Conduct for staff and maintain strict political impartiality at all times. They will not express or exhibit any bias or preference in relation to political parties, candidates or referendum issues.
- Commission representatives will not obstruct any element of the electoral proceedings or working practices. Commission representatives must bring any apparent irregularities or significant problems to the attention of appropriate Commission officers, who may contact the relevant Electoral Registration Officer, Returning Officer or Counting Officer.
- Commission representatives may ask questions of Electoral Registration Officers, Returning Officers or Counting Officers, or their staff, but will not do so if this would obstruct the conduct of electoral proceedings or working practices.
- Commission representatives may ask questions of candidates, agents, polling agents, counting agents and accredited observers but will not do so if this would obstruct or disturb the conduct of electoral proceedings or working practices.
- Commission representatives may ask and answer questions of electors but will not do so if this would obstruct or disturb the conduct of electoral proceedings or working practices. Commission representatives will not ask electors which candidate, party or referendum option they voted for.
- Commission representatives will maintain and aid in maintaining the secrecy of the ballot and will, before authorisation, be provided with a copy of section 66 of the Representation of the People Act 1983 or its corresponding provision and sign an agreement that they have been

provided with and understand its provisions. Commission representatives will comply with all directions on the use of mobile phones, cameras and the like.

- Commission representatives will wear at all times identification provided by the Commission and no Electoral Registration Officer, Returning Officer or Counting Officer, or their staff, will be required to admit any representative who does not have such identification. The Commission will advise Electoral Registration Officers, Returning Officers and Counting Officers of the form of identification as required.
- Commission representatives will not make any public statements about their observations or conclusions during the electoral proceedings or working practices. Public statements will only be made by authorised Commission spokespeople according to the Commission's own internal arrangements.

Appendix A – The current Code

The full text of the Commission's existing Code of Practice for electoral observation in the United Kingdom, as laid in the UK Parliament in January 2007, is provided overleaf.

Introduction

Following passage of the Electoral Administration Act 2006, the Political Parties, Elections and Referendums Act 2000 now contains provisions that:

- allow representatives of the Commission to attend electoral or referendum proceedings
- allow representatives of the Commission to observe the working practices of Electoral Registration Officers, Returning Officers and Counting Officers
- allow for observers, whether individuals or organisations, to be accredited by the Commission so that they or their nominated members can attend and observe certain proceedings at an election or a referendum
- require the Commission to produce a Code of Practice to regulate the attendance of Commission representatives and observers at such proceedings

The UK Government intends to commence these sections on 31 January 2007 for Great Britain. This code fulfils the Commission's duties under the new section 6F of PPERA.

Part A: Commission representatives

Authorisation

The Electoral Commission is enabled under sections 6A and 6B of the Political Parties, Elections and Referendums Act 2000 (PPERA) to appoint representatives to attend relevant electoral and referendum proceedings and relevant working practices throughout the United Kingdom.²¹

Under section 6A these representatives may be Commissioners, Commission staff members or a person appointed by the Commission to act as a Commission representative under these sections.

The Commission will not appoint as a Commission representative any individual who does not meet the political neutrality requirements required of Commissioners and Commission staff by Schedule 1 to PERA.

The Commission will authorise relevant persons from time to time as required. A Commission appointment is valid for any proceeding and the Commission's authorisations will cover all relevant elections and referendums.

In the case of a representative who is a Commissioner or Commission staff member the appointment will lapse when they cease to be a Commissioner or Commission staff member or when the appointment is otherwise revoked or expires.

In the case of any other person appointed by the Commission to act as a Commission representative under these sections the appointment will be for a specified period of time.

Register of authorised persons

The Commission will maintain a register of persons authorised under these sections and will make this register available for public inspection at the Commission's offices and through the Commission website.

All persons entered on the register will be issued with identification from the Commission. The Commission will advise Electoral Registration Officers, Returning Officers and Counting Officers of the form of this identification and provide contact details (including out of hours details) at each Commission office in case of query or concern. The identification will contain a photograph and will clearly indicate that the individual is a Commission representative.

²¹ Except for electoral proceedings or working practices that are wholly concerned with a local government election in Scotland.

Guidance to Commission representatives

All Commission representatives will observe the following when exercising powers under section 6A and 6B of PPERA:

- Commission representatives will respect the independence and the authority of Electoral Registration Officers, Returning Officers and Counting Officers.
- No Commission representative will seek to direct an Electoral Registration Officer, Returning Officer or Counting Officer, or their staff, in the conduct of their duties.
- Commission representatives will respect lawful directions given to them by Electoral Registration Officers, Returning Officers and Counting Officers, or their staff, or by a Police Officer acting at the request of such an officer and comply with all safety directions and regulations.
- Commission representatives will act in accordance with the Commission's Code of Conduct for staff and maintain strict political impartiality at all times. They will not express or exhibit any bias or preference in relation to political parties, candidates or referendum issues.
- Commission representatives will not obstruct any element of the electoral proceedings or working practices. Commission representatives must bring any apparent irregularities or significant problems to the attention of appropriate Commission officers, who may contact the relevant Electoral Registration Officer, Returning Officer or Counting Officer.
- Commission representatives may ask questions of Electoral Registration Officers, Returning Officers or Counting Officers, or their staff, but will not do so if this would obstruct the conduct of electoral proceedings or working practices.
- Commission representatives may ask questions of candidates, agents, polling agents, counting agents and accredited observers but will not do so if this would obstruct or disturb the conduct of electoral proceedings or working practices.
- Commission representatives may ask and answer questions of electors but will not do so if this would obstruct or disturb the conduct of electoral proceedings or working practices. Commission representatives will not ask electors which candidate, party or referendum option they voted for.
- Commission representatives will maintain and aid in maintaining the secrecy of the ballot and will, before authorisation, be provided with a copy of section 66 of the Representation of the People Act 1983 or its corresponding provision and sign an agreement that they have been

provided with and understand its provisions. Commission representatives will comply with all directions on the use of mobile phones, cameras and the like.

- Commission representatives will wear at all times identification provided by the Commission and no Electoral Registration Officer, Returning Officer or Counting Officer, or their staff, will be required to admit any representative who does not have such identification. The Commission will advise Electoral Registration Officers, Returning Officers and Counting Officers of the form of identification as required.
- Commission representatives will not make any public statements about their observations or conclusions during the electoral proceedings or working practices. Public statements will only be made by authorised Commission spokespeople according to the Commission's own internal arrangements.

Part B: Individual observers

Applications for accreditation

The Commission is enabled under section 6C of the Political Parties, Elections and Referendums Act 2000 to accredit individuals who are then entitled to observe specified proceedings at relevant electoral and referendum events throughout the United Kingdom.²² The specified proceedings are:

- the issue or receipt of postal ballot papers
- the taking of the poll
- the counting of votes

Applicants for accreditation will be required to apply to the Commission for accreditation on forms supplied by the Commission for this purpose. The forms will be available through the Commission's website and on request from any Commission office. All forms will be available in English and Welsh and on request in alternative formats.

The Commission will receive applications at any time and potential observers are recommended not to wait until an election is imminent or underway before applying.

Applications for accreditation by individuals

Under section 6C the Commission can grant accreditation to any individual over the age of 16.

Applicants will be required to:

- complete the Commission's form *Application for accreditation as an electoral observer for individuals* in English or Welsh
- supply to the Commission a contact address, telephone number and email address that applies for the duration of their accreditation. If their contact details are outside the UK, a UK or reachable overseas mobile number will be required
- supply a digital photograph of themselves for use on an identification badge or attend a designated Commission office to have such a photograph taken
- be prepared to produce supporting photographic identification to the Commission at the time of application that confirms their name and age
- consent to their name appearing on the Commission's register of observers
- declare that they have read and understood the Commission's Code of Conduct for individual electoral observers and agree to abide by the Code

²² Except for electoral proceedings or working practices that are wholly concerned with a local government election in Scotland.

- declare that they have been provided with a copy of section 66 of the Representation of the People Act 1983 or its corresponding provision, that they understand its provisions and that they will aid in maintaining the secrecy of the ballot

Applications must be made on the Commission form, which will be available through the Commission's website and on request from any Commission office.

The Commission will receive applications at any Commission office during normal business hours, or by post. The Commission may decide at any time to accept applications in any other format, including electronically. Applicants will be notified in writing of the Commission's decision to accept or reject their application, and reasons will be given for any decision to reject an application. The Commission will endeavour to process all applications within 10 days of receipt of a completed application form. Accreditation will not come into effect until three days after issue and the inclusion of the observer on the register of accredited observers.

Provided that all administrative steps in the application are complied with, the Commission will not apply any other criteria in determining the application.

The Commission will maintain a register of observers that will be available for public inspection at any Commission office and on the Commission's website. The Commission will provide contact details (including out of hours details) at each Commission office in case of query or concern.

All individuals entered on the register will be issued with identification from the Commission. The Commission will advise Electoral Registration Officers, Returning Officers and Counting Officers of the form of this identification and provide contact details at each Commission office in case of query or concern. The identification will contain a photograph and will clearly indicate that the individual is an individual observer. Such identification will be valid until 31 December of the year of issue; this will be specified on the identification card.

The Commission does not require applicants to specify the electoral area or process they seek access to.

The Commission may refuse an application for accreditation if the applicant:

- a. does not meet the requirements of the application process set out in this Code
- b. has been reported or found guilty of a corrupt or illegal electoral practice anywhere in the United Kingdom in the five years previous to the date of application
- c. is a person whose status in the United Kingdom as an accredited observer or nominated individual of an accredited organisation was revoked by the Commission

The Commission may revoke an application for accreditation if the applicant:

3. ceases to meet the requirements of the application process set out in this Code
4. is found or reported guilty of a corrupt or illegal electoral practice anywhere in the United Kingdom
5. is a person who has their entitlement to attend electoral proceedings cancelled by a relevant officer

The Commission can only revoke an individual's accreditation for the reason set out in point 3 above if, on receipt of a report from the relevant officer, the Commission considers that the individual was not abiding by this Code and the guidance contained within it.

Guidance for individual electoral observers

All individuals accredited as electoral observers must abide by this Guidance, which is based on the October 2005 *Code of conduct for international election observers*. Observers are bound by this guidance for the period of their accreditation.

Respect sovereignty and international human rights

Election observers must respect the sovereignty of the United Kingdom as well as the human rights and fundamental freedoms of its people.

Respect the laws of the United Kingdom and the authority of electoral bodies

Observers must respect the laws of the United Kingdom and the authority of the Returning Officers, Counting Officers and the Commission. Observers must follow any lawful instruction from the UK's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election related rights guaranteed by law, constitution or applicable international instruments.

Secrecy requirements

Observers will maintain and aid in maintaining the secrecy of the ballot and will sign an agreement that they have been provided with a copy of section 66 of the Representation of the People Act 1983 or its corresponding provision and understand its provisions. Observers must comply with all directions on the use of mobile phones, cameras and the like.

Maintain strict political impartiality at all times

Observers must maintain strict political impartiality at all times, including during their leisure time. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referendum issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the United Kingdom, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.

Do not obstruct election processes

Observers must not obstruct any element of the election process, including pre-election processes, the issue and opening of postal ballots, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this would contravene the secrecy requirements, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer

questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

Provide appropriate identification

Observers must display identification provided by the Commission, and must present it to electoral officials and other interested national authorities when requested.

Maintain accuracy of observations and professionalism in drawing conclusions

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgements must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely.

Maintain proper personal behaviour

Observers must maintain proper personal behaviour and respect others, including exhibiting sensitivity for United Kingdom cultures and customs, exercise sound judgement in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

Agree to follow this guidance

Every person who participates in election observation in the United Kingdom must read and understand this guidance and must sign an agreement to follow it.

Part C: Observer organisations

Applications for accreditation

The Commission is enabled under section 6C of the Political Parties, Elections and Referendums Act 2000 to accredit observer organisations who are then entitled to observe specified proceedings at relevant electoral and referendum events throughout the United Kingdom.²³ The specified proceedings are:

- proceedings at the issue or receipt of postal ballot papers
- proceedings at the poll
- proceedings at the counting of votes

Applicants for accreditation will be required to apply to the Commission for accreditation on forms supplied by the Commission for this purpose. The forms will be available through the Commission's website and on request from any Commission office. All forms will be available in English and Welsh and on request in alternative formats.

The Commission will receive applications at any time and potential observer organisations are recommended not to wait until an election is imminent or underway before applying.

Applications for accreditation by observer organisations

Under section 6D of PPERA the Commission can grant accreditation to any organisation. Once accredited, an organisation is then able to nominate observers to attend electoral and referendum proceedings.

Applicant organisations will be required to:

- complete the Commission's form Application for accreditation as an electoral observation organisation in English or Welsh
- supply to the Commission a contact address, telephone number and email address that applies for the duration of their accreditation. If their contact details are outside the UK, a UK or reachable overseas mobile number will be required
- consent to the name of the organisation and its list of nominated observers appearing on the Commission's register of observers
- specify a period of up to three years for which they seek accreditation as an organisation
- declare that they have read and understood the Commission's Code of Conduct for electoral observation organisations and agree to abide by the Code

²³ Except for electoral proceedings or working practices that are wholly concerned with a local government election in Scotland.

- declare that they will provide their nominated members with a copy of section 66 of the Representation of the People Act 1983 (RPA) or its corresponding provision and that they will aid in maintaining the secrecy of the ballot

Applications must be made on the Commission form, which will be available through the Commission's website and on request from any Commission office.

The Commission will receive applications at any Commission office during normal business hours, or by post. Applicants will be notified in writing of the Commission's decision to accept or reject their application, and reasons will be given for any decision to reject an application. The Commission will endeavour to process all applications within 10 days of receipt of a completed application form. Accreditation will not have any effect until three days after its issue and the inclusion of the organisation on the register of accredited observers.

Provided that all administrative steps in the application are complied with, the Commission will not apply any other criteria in determining the application.

The Commission does not intend to regulate the number of observers any one organisation can nominate.

The Commission may refuse an application for accreditation from an organisation if the organisation:

4. does not meet the requirements of the application process set out in this Code
5. includes on their list of nominated individuals anyone who has been found guilty of a corrupt or illegal electoral practice anywhere in the United Kingdom in the five years previous to the date of application, or who to the knowledge of the organisation has been found guilty of an electoral offence anywhere in the world in the five years previous to the date of application
6. includes on their list of nominated individuals anyone whose status in the United Kingdom as an accredited observer or nominated individual of an accredited organisation was revoked by the Commission

If an organisation's application is refused the organisation may submit a further application which complies with the requirements of this Code.

The Commission may revoke an organisation's accreditation if the organisation:

4. ceases to meet the requirements of the application process set out in this Code
5. includes on their list of nominated individuals anyone who is found or reported guilty of a corrupt or illegal electoral practice anywhere in the United Kingdom

6. includes on their list of nominated individuals anyone who has their entitlement to attend electoral proceedings cancelled by a relevant officer

The Commission can only revoke an organisation's accreditation for the reason set out in point 3 above if, on receipt of a report from the relevant officer, the Commission considers that the relevant individual was not abiding by this Code and the guidance contained within it.

If an organisation's accreditation is revoked the organisation may submit a further application and list of nominated individuals that meets the requirements of this Code.

An accredited organisation must submit a list of members nominated to act as observers to the Commission. This list can be submitted at the time of application for accreditation or at any time. The list must:

- be in the form supplied by the Commission
- be accompanied by a digital photograph of themselves for use on an identification badge or indicate a willingness to attend a designated Commission office to have such a photograph taken
- indicate that each nominated observer has provided supporting photographic identification that confirms their name, or an agreement to produce this at a designated Commission office
- include for each nominated observer a declaration that they have read and understood the Commission's Code of Conduct for electoral observation organisations and agree to abide by the Code
- include for each nominated observer a declaration that they have been provided with a copy of section 66 of the RPA or its corresponding provision, that they understand its provisions and that they will aid in maintaining the secrecy of the ballot

The Commission will maintain a register of observer organisations and nominated observers that will be available for public inspection at any Commission office and on the Commission's website. The Commission will provide contact details (including out of hours details) at each Commission office in case of query or concern.

The Commission will issue a photographic identification card for each nominated observer. Such identification is valid until 31 December in the year of issue; this will be specified on the identification card.

The Commission does not require organisations or nominated observers to specify the electoral area or process they seek access to.

Guidance for electoral observation organisations and their nominated observers

All organisations accredited as electoral observers, and all individuals nominated by such accredited organisations must abide by this Code. Observers are bound by this guidance for the period of their accreditation.

Respect sovereignty and international human rights

Election observers must respect the sovereignty of the United Kingdom as well as the human rights and fundamental freedoms of its people.

Respect the laws of the United Kingdom and the authority of electoral bodies

Observers must respect the laws of the United Kingdom and the authority of the Returning Officers, Counting Officers and the Commission. Observers must follow any lawful instruction from the United Kingdom's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election related rights guaranteed by law, constitution or applicable international instruments.

Secrecy requirements

Observers will maintain and aid in maintaining the secrecy of the ballot and will sign an agreement that they have been provided with a copy of section or its corresponding provision 66 of the RPA and understand its provisions. Observers must comply with all directions on the use of mobile phones, cameras and the like.

Maintain strict political impartiality at all times

Observers must maintain strict political impartiality at all times, including leisure time. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referendum issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the United Kingdom, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.

Do not obstruct election processes

Observers must not obstruct any element of the election process, including pre-election processes, the issue and opening of postal ballots, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this would contravene the secrecy requirements, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer

questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

Provide appropriate identification

Observers must display identification provided by their organisation, as well as identification required by the Commission, and must present it to electoral officials and other interested national authorities when requested.

Maintain accuracy of observations and professionalism in drawing conclusions

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgements must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely.

Maintain proper personal behaviour

Observers must maintain proper personal behaviour and respect others, including exhibiting sensitivity for United Kingdom cultures and customs, exercise sound judgement in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

Agree to follow this guidance

Every person who participates in observation within the UK must read and understand this guidance and must sign an agreement to follow it.

Part D: Guidance to Returning Officers and Counting Officers

Section 6F of the Political Parties, Elections and Referendums Act 2000 (PPERA) requires the Electoral Commission to issue guidance to Returning Officers, Counting Officers and Presiding Officers on the exercise of the new section 6E. Section 6F(7) requires Returning Officers, Counting Officers and Presiding Officers to have regard to this guidance.

Guidance

Section 6E of PERA allows a Returning Officer, Counting Officer or Presiding Officer (relevant officers) to limit the number of individual observers or nominated observers who may be present at any one time during the conduct of the poll, the issue and receipt of postal ballot papers and the count. Relevant officers may not limit the number of Commission representatives who may be present at an electoral proceeding.

The Commission advises that relevant officers use caution in exercising this power. Electoral observation is a legitimate and valuable part of the electoral process and care should be taken to not hinder or obstruct the conduct of observation. It is important to note that no officer is entitled to bar **all** observers from an entire proceeding, only to limit the number of observers present at **any one time**.

The provisions allowing for attendance of Commission representatives and observers do not derogate from the duty and responsibility of relevant officers to keep public order and promote the secrecy of the ballot at any election proceedings. Commission representatives and accredited observers must follow all lawful directions from relevant officers and the police.

Officers are not required to proactively notify observers of the time and place of relevant proceedings, however this information should be supplied to accredited observers and the Commission on request.

The poll

In regard to a polling station,²⁴ Presiding Officers should only seek to limit the number of electoral observers present when the presence of observers – or a number of observers – is hindering the conduct of the poll or jeopardising the secrecy of the ballot. A direction as to the number of observers that may be present within a polling station should only be given for a specified time – such as for 30 or 60 minutes – or when specified circumstances exist – such as ‘x’ number of electors waiting to vote or ‘y’ number of agents being present. No officer is entitled to bar all observers from a polling station for the entire duration of the poll, only to limit the number of observers present at any one time. Accordingly, Returning Officers will need to ensure that polling stations

²⁴ or equivalent term

are large enough and suitably arranged to provide for efficient and secret polling in the presence of polling agents and observers.

The Commission will provide Returning Officers and Counting Officers with a log for use by Presiding Officers to note any occasions when they are required to limit the number of observers in a polling station. This will assist the Presiding Officer to notify the Returning Officer of the imposition of such limits. The Returning Officer should ensure that a copy of the log is supplied to the Commission following polling day if limits are applied.

Presiding Officers are only permitted to have an observer removed from a polling station for the remainder of the poll in the event of misconduct by the observer. Misconduct is defined as:

- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the polling process
- asking electors about their voting preference

Any observer removed for misconduct is not entitled to re-enter that polling station for the remainder of the poll. The Commission will provide a proforma for use by Presiding Officers who seek to have an observer removed from a polling station. This will require the Presiding Officer to notify observers in writing of why they are being removed and provide a record of the removal and the reasons for the removal. A copy of this statement should be supplied to the Commission as soon as possible.

A Presiding Officer maintains the power to keep order at a polling station and any observers are subject to lawful directions of Presiding Officers and Police Officers in terms of public order.

The issue and receipt of postal ballot papers

In regard to the issue and receipt of postal ballots,²⁵ Returning Officers and Counting Officers should only seek to limit the number of electoral observers present when the presence of observers – or a number of observers – is hindering the conduct of the proceeding or jeopardising the secrecy of the ballot. A direction as to the number of observers that may be present at proceedings for the issue or receipt of postal ballots should only be given for a specified time – such as for 30 or 60 minutes. No officer is entitled to bar all observers from proceedings for the entire conduct of the session, only to limit the number of observers present at any one time. Accordingly, Returning Officers and Counting Officers will need to ensure that premises used for proceedings at the issue of postal ballots are large enough and suitably arranged to provide for efficient processes in the presence of observers and at the receipt of postal ballots, for candidates and agents as well.

²⁵ Under the 2001 regulations the 'receipt of postal ballot papers' refers to the entire process of opening and checking returning postal ballots. Observers are entitled to attend such opening sessions in a manner similar to that of candidates and agents.

If the issue or receipt of postal ballots is outsourced the contract must contain provision for the attendance of observers at the proceedings, and the Returning or Counting Officer will need to make relevant arrangements with their contractors to ensure this can be achieved safely.

The Commission will provide Returning Officers and Counting Officers with a log for use when limiting the number of observers present at the issue or receipt of postal ballot papers. This will assist the Returning Officer in noting any occasions on which a limit is imposed and for how long. The Returning Officer should ensure that a copy of the log is supplied to the Commission following polling day if limits are applied.

Returning Officers and Counting Officers are only permitted to have an observer removed from the issue or receipt of postal ballots in the event of misconduct by the observer. Misconduct is defined as:

- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the postal voting process

Any observer removed for misconduct is not entitled to re-enter that proceeding for the remainder of the election. The Commission will provide a proforma for use by Returning Officers and Counting Officers who seek to have an observer removed from the issue or receipt of postal ballot papers. This will require the Returning Officer or Counting Officer to notify observers in writing of why they are being removed and provide a record of the removal and the reasons for the removal. A copy of this statement should be supplied to the Commission as soon as possible.

A Returning Officer or Counting Officer maintains the power to keep order at postal ballot proceedings and any observers are subject to lawful directions of Presiding Officers and Police Officers in terms of public order.

The count

In regard to the count Returning Officers and Counting Officers should only seek to limit the number of electoral observers present when the presence of observers – or a number of observers – is hindering the conduct of the proceeding or jeopardising the secrecy of the ballot. A direction as to the number of observers that may be present at the count should only be given for a specified time – such as for 30 or 60 minutes. No officer is entitled to bar all observers from the count for the entire duration of the count, only to limit the number of observers present at any one time. Accordingly, Returning Officers and Counting Officers will need to ensure that premises used for the count are large enough and suitably arranged to provide for efficient processes in the presence of observers and counting agents.

The Commission will provide Returning Officers and Counting Officers with a log to assist in recording any instances when the number of observers present at the count is limited. This will assist the Returning Officer or Counting Officer in noting why the limit is being imposed and for how long. The Returning

Officer or Counting Officer should ensure that a copy of the log is supplied to the Commission following polling day if limits are applied.

Returning Officers and Counting Officers are only permitted to have an observer removed from the count in the event of misconduct by the observer. Misconduct is defined as:

- breaching or attempting to breach the secrecy of the ballot
- knowingly obstructing the count process

Any observer removed for misconduct is not entitled to re-enter the count. The Commission will provide a proforma for use by Returning Officers and Counting Officers who seek to have an observer removed from the count. This will require the Returning Officer or Counting Officer to notify observers in writing of why they are being removed and provide a record of the removal and the reasons for the removal. A copy of this statement should be supplied to the Commission as soon as possible.

A Returning Officer or Counting Officer maintains the power to keep order at the count and any observers are subject to lawful directions of Presiding Officers and Police Officers in terms of public order.

Appendix B – Statutory provisions

Extract from The Political Parties, Elections and Referendums Act 2000, as amended by the Electoral Administration Act 2006:

6A Attendance of representatives of Commission at elections etc.

(1) A representative of the Commission may attend-

- (a) proceedings relating to an election specified in subsection (5) which are the responsibility of the returning officer for the election;
- (b) proceedings relating to a referendum to which Part 7 applies which are the responsibility of the relevant counting officer.

(2) The right conferred on a representative of the Commission by this section is subject to any enactment which regulates attendance at the proceedings in question.

(3) In this section, "representative of the Commission" means any of the following-

- (a) a member of the Commission;
- (b) a member of staff of the Commission;
- (c) a person appointed by the Commission for the purposes of this section.

(4) A reference to the relevant counting officer must be construed-

- (a) if the area to which the proceedings relates is in Great Britain, in accordance with section 128(3);
- (b) if the area to which the proceedings relates is Northern Ireland, as a reference to the Chief Electoral Officer for Northern Ireland.

(5) The elections specified in this subsection are-

- (a) an election mentioned in section 5(2);
- (b) a parliamentary by-election;
- (c) an election under section 9 of the Scotland Act 1998 (constituency vacancies);
- (d) an election under section 8 of the Government of Wales Act 1998 (vacancies in constituency seats);
- (e) a local government election in England or Wales;
- (f) a local election in Northern Ireland.

6B Observation of working practices by representatives of Commission

(1) A representative of the Commission may observe the working practices of any of the following-

- (a) an electoral registration officer;
- (b) a returning officer;
- (c) a relevant counting officer;
- (d) any person acting under the direction of a person mentioned in paragraphs (a) to (c).

(2) In this section-

- (a) "relevant counting officer", and
- (b) "representative of the Commission",

must be construed in accordance with section 6A.

(3) This section does not permit the observation of working practices which relate only to a local government election in Scotland.

6C Accredited observers: individuals

(1) A person who is aged 16 or over may apply to the Commission to be an accredited observer at any of the following proceedings relating to an election specified in subsection (5) of section 6A or a referendum to which Part 7 applies-

- (a) proceedings at the issue or receipt of postal ballot papers;
- (b) proceedings at the poll;
- (c) proceedings at the counting of votes.

(2) If the Commission grant the application, the accredited observer may attend the proceedings in question.

(3) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 6F.

(4) The Commission may at any time revoke the grant of an application under subsection (1).

(5) If the Commission-

- (a) refuse an application under subsection (1), or
- (b) revoke the grant of any such application,

they must give their decision in writing and must at the same time give reasons in writing for the refusal or revocation.

(6) The right conferred on an accredited observer by this section is subject to any enactment which regulates attendance at the proceedings in question.

6D Accredited observers: organisations

(1) An organisation may apply to the Commission to be accredited for the purpose of nominating observers at any of the following proceedings relating to an election specified in subsection (5) of section 6A or a referendum to which Part 7 applies-

- (a) proceedings at the issue or receipt of postal ballot papers;
- (b) proceedings at the poll;
- (c) proceedings at the counting of votes.

(2) If the Commission grant the application the organisation may nominate members who may attend the proceedings in question.

(3) The Commission, in granting an application under this section, may specify a limit on the number of observers nominated by the organisation who may attend, at the same time, specified proceedings by virtue of this section.

(4) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 6F.

(5) The Commission may at any time revoke the grant of an application under subsection (1).

(6) If the Commission-

- (a) refuse an application under subsection (1), or
- (b) revoke the grant of any such application,

they must give their decision in writing and must at the same time give reasons in writing for the refusal or revocation.

(7) The right conferred by this section is subject to any enactment which regulates attendance at the proceedings in question.

6E Attendance and conduct of observers

(1) A relevant officer may limit the number of persons who may be present at any proceedings at the same time in pursuance of section 6C or 6D.

(2) If a person who is entitled to attend any proceedings by virtue of section 6C or 6D misconducts himself while attending the proceedings, the relevant officer may cancel the person's entitlement.

(3) Subsection (2) does not affect any power a relevant officer has by virtue of any enactment or rule of law to remove a person from any place.

(4) A relevant officer is-

- (a) in the case of proceedings at a polling station, the presiding officer;

- (b) in the case of any other proceedings at an election, the returning officer;
- (c) in the case of any other proceedings at a referendum, the relevant counting officer (within the meaning of section 6A);
- (d) such other person as a person mentioned in paragraph (a), (b) or (c) authorises for the purposes of the proceedings mentioned in that paragraph.

6F Code of practice on attendance of observers at elections etc.

(1) The Commission must prepare a code of practice on the attendance of-

- (a) representatives of the Commission,
- (b) accredited observers, and
- (c) nominated members of accredited organisations,

at elections specified in subsection (5) of section 6A and referendums to which Part 7 applies.

(2) The code must in particular-

- (a) specify the manner in which applications under sections 6C(1) and 6D(1) are to be made to the Commission;
- (b) specify the criteria to be taken into account by the Commission in determining such applications;
- (c) give guidance to relevant officers (within the meaning of section 6E) as to the exercise of the power conferred by subsection (1) of that section;
- (d) give guidance to such officers as to the exercise of the power mentioned in subsection (2) of that section as it relates to a person having the permission mentioned in subsection (1) of that section;
- (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election or referendum as it relates to a person having such permission;
- (f) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred by sections 6A, 6B, 6C and 6D.

(3) The code may make different provision for different purposes.

(4) Before preparing the code, the Commission must consult the Secretary of State.

(5) The Commission must lay the code before each House of Parliament.

(6) The Commission must publish the code (in such manner as the Commission may determine).

(7) The following persons must have regard to the code in exercising any function conferred by section 6A, 6B, 6C, 6D or 6E-

- (a) the Commission;
- (b) representatives of the Commission;
- (c) relevant officers (within the meaning of section 6E);
- (d) relevant counting officers.

(8) The Commission may at any time revise the code.

(9) Subsections (4) to (7) apply in relation to a revision of the code as they apply in relation to the code.

(10) In this section-

- (a) "accredited observer" must be construed in accordance with section 6C;
- (b) "accredited organisation" must be construed in accordance with section 6D, and "nominated member" must be construed accordingly;
- (c) "relevant counting officer" must be construed in accordance with section 6A;
- (d) "representative of the Commission" has the same meaning as in section 6A