

Allegations of electoral malpractice in England and Wales 2000-2006

Interim findings

1. The Electoral Commission has monitored issues around electoral malpractice since our first election report in 2001. We have no direct statutory mandate to act in this area, but rather our interest in this area is covered by overarching powers to keep electoral law and practice under review¹ and to report on major elections².

2. The Commission has often been asked how many cases or allegations of electoral malpractice or fraud have been reported in the UK. Electoral malpractice is investigated by the police and prosecuted by the relevant prosecution service. However, there is no one central database of allegations of electoral malpractice and breaches of electoral legislation in the United Kingdom and no requirement on police and prosecutors to notify any central body of allegations.

3. Some Parliamentary time has recently been devoted to exploring a definition of electoral fraud. Electoral fraud is not defined in law, and the term is not helpful in either explaining the behaviour at hand or in pursuing prosecutions. Electoral offences are set out in the Representation of the People Acts and related enactments. In addition, we are aware that actions against electoral malpractice have been pursued in the courts under other more generic law, such as that relating to conspiracy and forgery, as this has in the past sometimes appeared to offer a better prospect of conviction than some archaically termed electoral provisions. Many electoral offences also had a relatively short twelve month time limit for proceedings to commence until the Electoral Administration Act 2006.

4. On 15 January 2007, in a speech to an elections conference entitled *Elections: new thinking, new standards*, Sir Alistair Graham³ reported that during the review of the Electoral Commission the Committee on Standards in Public Life had been told that there were only a “few reported cases” of electoral fraud. He announced that he was aware that since 2001, 342 “cases of electoral malpractice” have been reported to the Crown Prosecution Service (CPS).

5. On 21 January 2007 *The Times* published a comment piece by Dr Michael Pinto-Duschinsky suggesting that he had been notified of statistics by the CPS that “revealed that there were no fewer than 390 cases of alleged electoral offences in the past seven years⁴.” We have subsequently confirmed

¹ Section 6, Political Parties, Elections and Referendums Act 2000 (PPERA)

² Section 5, PERA

³ <http://www.solaceenterprises.com/elections/ppt/Sir%20Alistair%20Graham%20Speech.pdf>

⁴ Michael Pinto-Duschinsky, ‘Postal voting is a giant fiddle’, *The Times*, 21 January 2007, available at <http://www.timesonline.co.uk/tol/comment/article1294927.ece>

that these are the same statistics provided to the Committee on Standards in Public Life.

6. Following these comments the Commission was able to make arrangements with the CPS to examine these files and categorise them. The CPS' cooperation in making these files available and assisting with our categorisation is appreciated, as is the support of the Department for Constitutional Affairs.

6. This paper sets out the interim findings of the Commission's examination of these files. We will continue to examine our findings and will publish further analysis after the May 2007 elections in Great Britain.

7. We have confined our analysis to breaches of the Representation of the People Acts, as these are specific to electoral law. We acknowledge that any such list will not cover all law enforcement action in respect of electoral matters.

The electoral environment

8. Table 1 shows the number of scheduled elections held since 2000 in England and Wales. This includes only those held as part of a scheduled round of May or June elections or as part of UK Parliamentary general elections – by-elections are not included.

Table 1: Scheduled elections in England and Wales 2000-2006				
Year	Number of elections ⁵	Number of candidates	Number of electors	Number of votes cast ⁶
2000	2,746	9,887	17,503,240	4,876,228
2001 locals	2447	7843	18,910,579	11,695,825
2001 UK Parliamentary	569	2,812	39,227,923	23,243,308
2002	3,342	17,890	22,046,708	7,200,891
2003	6,581	26,540	28,657,272	10,002,997
2003 NAW	45	469	2,229,545	1,700,909
2004 locals	3,453	17,608	18,377,513	7,677,033
2004 European Parliamentary	10	605	39,244,646	15,281,786
2005 locals	2,217	8050	18,326,514	11,705,150
2005 Parliamentary	569	3,067	39,266,046	24,097,021
2006 locals	3,123	15,230	21,684,046 ⁷	7,812,732
Totals	25,057	109,532	262,660,422	123,592,971

⁵ Depending on type of election, each ward, division, constituency or region is a separate elections

⁶ Please note that figures for numbers of votes cast may not be directly comparable across years, as some figures may exclude invalid votes while others include them. In addition some figures will be references to ballot papers that allowed electors to vote for more than one candidate.

⁷ Figure is for contested wards only

The CPS records

9. What we present here is an initial analysis of which sections of the RPA were alleged to have been breached. The following points should be made in respect of the data presented here:

- a) The number of 'cases' quoted is actually the number of files the CPS held, not cases or allegations. In some instances allegations of breaches involving numerous possible defendants may appear on one file, and in others each defendant may have their 'own' file
- b) Some files contained alleged breaches of more than one section of the RPA, either in respect of the same or different facts
- c) These allegations relate only to England and Wales, as this is the extent of the remit of the Crown Prosecution Service
- d) The files examined relate to specific provisions of electoral legislation. This does not include allegations made under other statutes or pursued as common law offences. We understand that the statistics provided may have included non-electoral law offences
- e) We have not sought access to 'open' files where matters are currently under consideration by Crown Prosecutors or are the subject of legal proceedings. This is likely to mean that further allegations from 2006 in particular will need to be added to the totals contained here
- f) Some files were opened in relation to election petitions, rather than in response to allegations or police investigations. Under the Election Petition Rules 1960 the DPP must be notified of any petition. In some instances these files represent allegations that have not been investigated by police and/or would not be pursued to prosecution
- g) Some 16 files are not currently available, and we would hope to include these in future analyses. Nine files from the list used to create the statistics provided have been destroyed according to CPS records management practice.

10. We have classified the allegations according to the section of the Representation of the People Act that is alleged to have been infringed. All tables and graphs are grouped into four broad types of legislative provisions:

Electoral administration: those provisions relating to the duties and responsibilities of those administering the process

Electoral registration: provisions relating to the process of registering to vote.

Election campaigning: provisions relating to the rules on election campaigns, such as nominations, imprint requirements, candidate expense limits.

Voting: provisions relating to the voting process, including absent voting.

12. Table 2 is a summary of the type of allegation made. We have also broken down the numbers by year and this is provided in tables 3 and 4. The appendix contains graphs of the information provided in these tables.

Table 2: Summary of allegations 2000-2006		
RPA 1983 section ⁸	Description	
Electoral administration		
63	Breach of official duty	13
Electoral administration subtotal		13
Electoral registration		
4	Entitlement to be registered	1
12	Right to be registered	2
49	Effect of registers	2
RPR ⁹ 23	Power to require information	1
RPR 96 & 108	Restriction on supply and use of register	1
Electoral registration subtotal		7
Election campaigning		
65	Tampering with nominations etc	3
65A	False statements in nominations etc	21
75	Unauthorised electoral expenses	34
76	Election expense limits	10
78	Time for payment of expense claims	2
80	Election agent's claims	1
81	Election expense returns	26
82	Election expense declarations	26
84	Penalty for expense related failures	17
85	Sitting without returns/declarations	2
93	Broadcasting	1
94	Imitation poll cards	1
106	False statements as to candidates	46
107	Corrupt withdrawal	1
108	Use of premises as committee rooms	2
110	Imprint on election material	96
111	Prohibition of paid canvassers	2
Election campaigning subtotal		291
Voting		
60	Personation	40
61	Other voting offences	9
66	Requirement of secrecy	6
113	Bribery	3
114	Treating	7
115	Undue influence	22
Sch4(8) ¹⁰	False information in AV	4
Voting subtotal		91

⁸ or equivalent, such as the European Parliamentary Elections Regulations

⁹ Representation of the People Regulations

¹⁰ This refers to an offence created in the RPA 2000

Table 3: Number of allegations 2000-2006	
2000	50
2001	66
2002	59
2003	90
2004	59
2005	59
2006	19

Table 4: Number and type of allegations by year									
RPA 1983	Description	Number of allegations							
		2000	2001	2002	2003	2004	2005	2006	Total
Electoral administration									
63	Breach of official duty	3	1	2	4	1		2	13
Electoral administration subtotal		3	1	2	4	1		2	13
Electoral registration									
4	Entitlement to be registered						1		1
12	Right to be registered	1	1						2
49	Effect of registers						2		2
RPR ¹¹ 23	Power to require information						1		1
RPR 96 & 108	Restriction on supply and use of register					1			1
Electoral registration subtotal		1	1			1	4		7
Election campaigning									
65	Tampering with nominations etc			2	1				3
65A	False statements in nominations etc	1	1	3	7	4	4	1	21
75	Unauthorised electoral expenses	4	6	3	13	4	3	1	34
76	Election expense limits	2	2	3	2		1		10
78	Time for payment of expense claims		2						2
80	Election agent's claims					1			1
81	Election expense returns	4	6	4	5	5	1	1	26
82	Election expense declarations	7	4	4	6	2	2	1	26
84	Penalty for expense related failures	2	4	4	5	2			17
85	Sitting without returns/declarations				1	1			2
93	Broadcasting		1						1
94	Imitation poll cards	1							1
106	False statements as to candidates	4	7	9	9	8	6	3	46
107	Corrupt withdrawal			1					1
108	Use of premises as committee rooms		2						2
110	Imprint on election material	14	19	13	20	12	14	4	96
111	Prohibition of paid canvassers				1		1		2
Election Campaigning subtotal		37	56	46	70	39	32	11	291

¹¹ Representation of the People Regulations

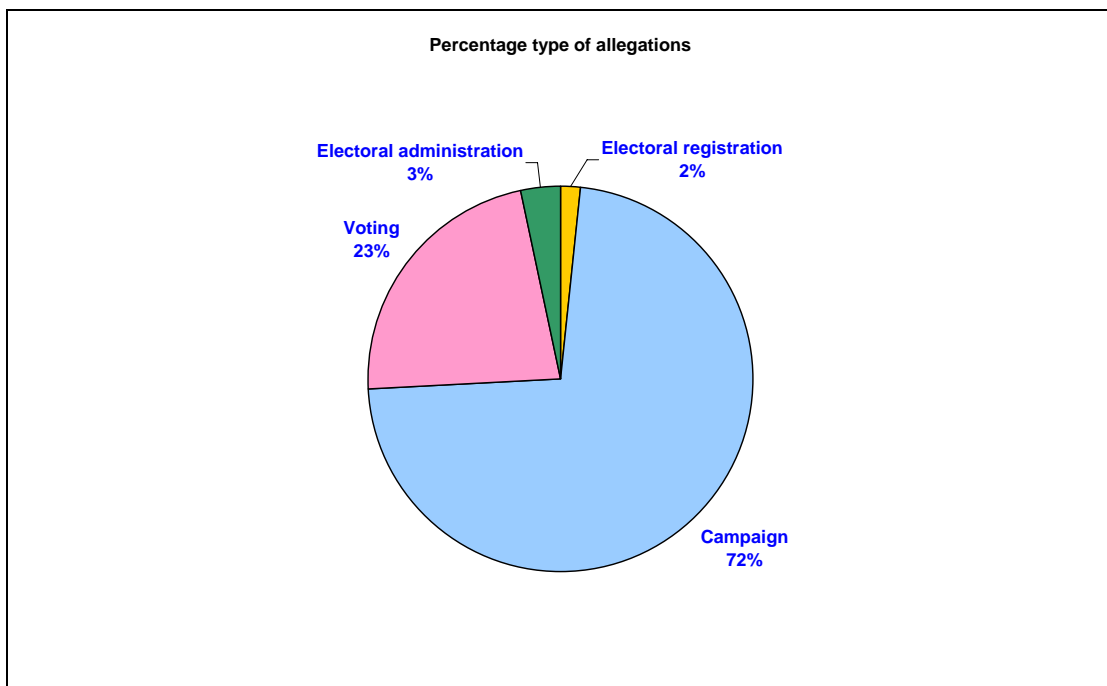
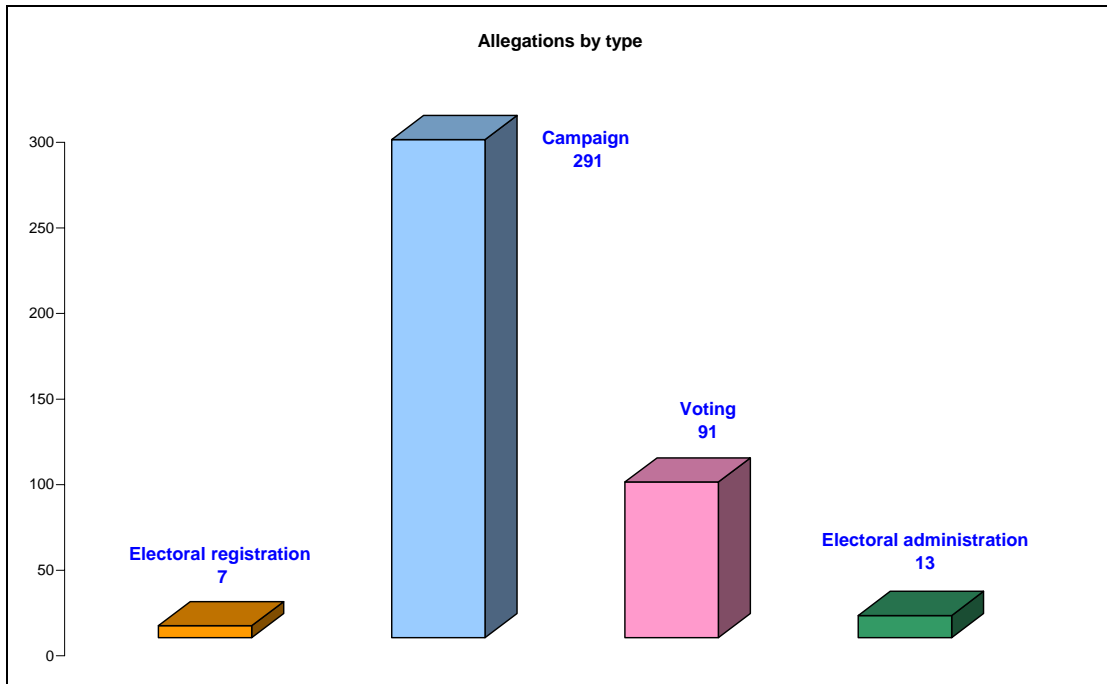
Table 4 continued: Number and type of allegations by year									
		Number of allegations							
RPA 1983	Description	2000	2001	2002	2003	2004	2005	2006	Total
Voting									
60	Personation	4	5	2	6	10	12	1	40
61	Other voting offences				3	1	3	2	9
66	Requirement of secrecy			1	2	1	1	1	6
113	Bribery		1			1	1		3
114	Treating		2	1	1	1	1	1	7
115	Undue influence	3	2	7	4	4	2		22
Sch4(8) ¹²	False information in AV						3	1	4
Voting subtotal		7	10	11	16	17	24	6	91

13. Since 2003 we have examined and proposed various methods of compiling an accurate and complete database of electoral malpractice allegations and prosecutions. However, to date, none of these initiatives has secured the ongoing support of Government and none is without practical limitations. The Commission has therefore concluded that we should attempt to collect information in the future that will provide us with the ability to consider trends in allegations and the relative volume of allegations. We will request information from police and returning officers at least twice in a calendar year. Details of any individual allegation or case will not be published – and indeed may be the subject of ongoing law enforcement activities – but we will report on any trends or patterns disclosed by this data. We are likely to begin this around the May 2007 elections in Great Britain.

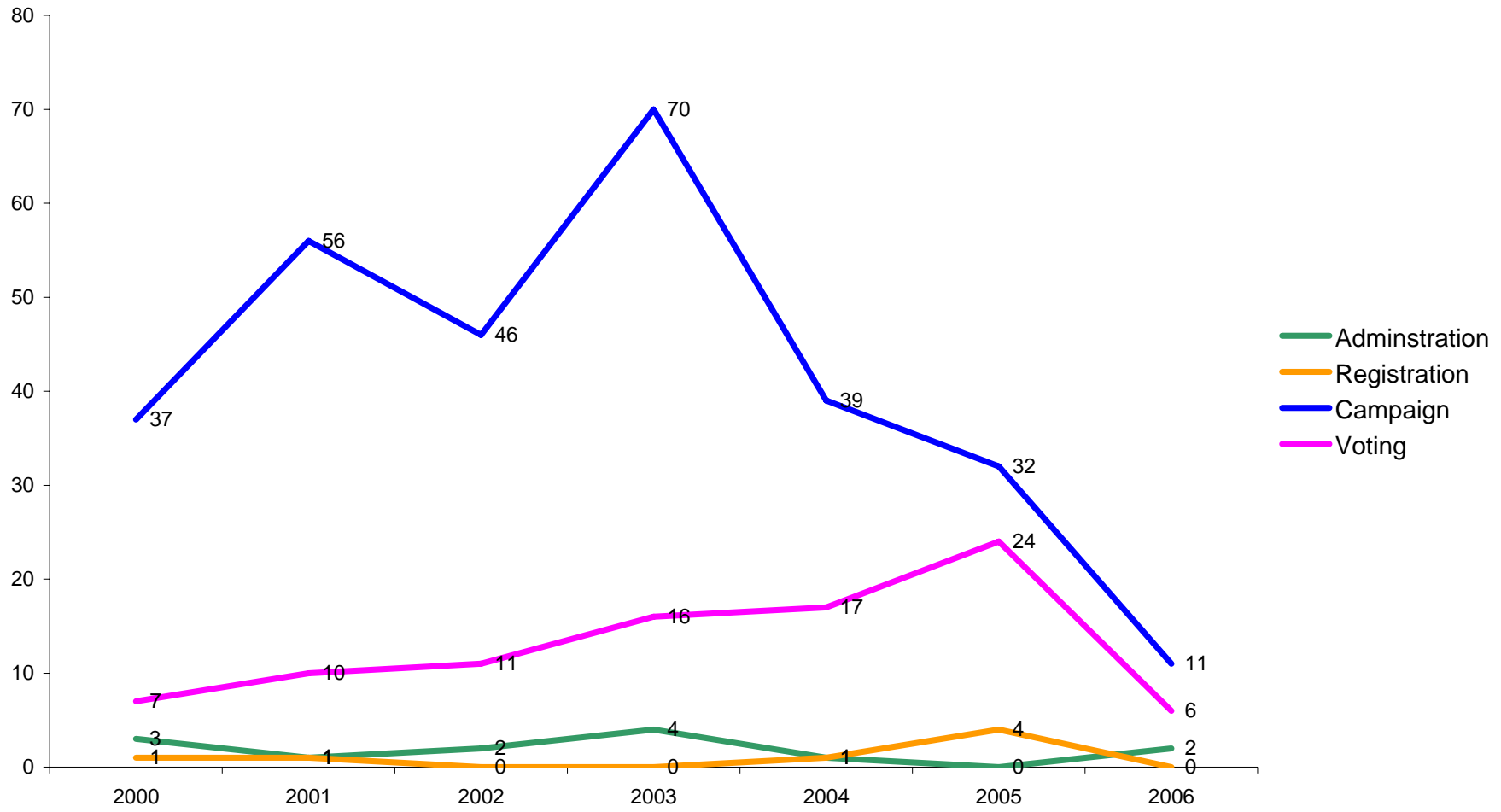
The Electoral Commission
19 March 2007

¹² This refers to an offence created in the RPA 2000

Appendix



Allegations over time by type



Voting allegations over time

