



The
Electoral
Commission



Allegations of electoral malpractice at the May 2008 elections in England and Wales

A joint project by the Association of Chief Police
Officers and the Electoral Commission

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Translations and other formats

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We are an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the democratic process. We regulate party and election finance and set standards for well-run elections.

Democracy matters

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1 Executive summary

1.1 Integrity and public confidence in the outcome of elections is vital to our democracy. The Electoral Commission and the Association of Chief Police Officers (ACPO) are committed to working with everyone involved in the electoral process to ensure that elections are conducted in a fair and inclusive way and in accordance with the law and agreed practice.

1.2 Achieving clarity about the number of cases or allegations of electoral malpractice that have been reported in the UK has always been difficult. There is no central database and no requirement on police or prosecutors to notify any central body of allegations. Similarly, there is no central database of sentences handed down in the Magistrates, Crown and High Court. Without a data infrastructure it is extremely difficult to collect good quality and meaningful data about the extent of electoral malpractice.

1.3 Good quality data is crucial in enabling policy-makers, the police, prosecuting authorities and election officials to make more informed decisions about the modernisation, effective management and administration of elections whose outcomes continue to command public confidence.

1.4 Since 2007, the Commission and the ACPO Police National Information and Co-ordination Centre (PNICC) branch have worked together to set up a database of electoral malpractice to enable the cataloguing of allegations and their outcomes at the 2007 and 2008 elections. Prior to this we had undertaken detailed analysis of case files held by the Crown Prosecution Service which covered the period 2000–6.

1.5 The 2008 elections were the first time there had been systematic monitoring of allegations of electoral malpractice reported to the police during an election period. This report examines the extent and nature of allegations recorded by police forces across England and Wales relating to these elections and suggests how reporting might be improved in future years. Through this joint working we have now achieved the basis of a reporting structure and database for England and Wales.

1.6 No local government election in England or Wales that took place in May 2008 has had to be re-run as a result of electoral malpractice. There is no formally recorded challenge to the outcome of any May 2008 election result on the grounds of the Representation of the People Act 1983 (RPA 1983) offences. No case reported in the ACPO PNICC analysis has been shown to have affected the outcome of that election.

1.7 In May 2008, over 16 million votes were cast at the local elections in England and Wales, and for the election of the Mayor of London and London Assembly (Greater London Authority elections). These votes were cast in nearly 4,000 separate elections involving over 13,500 candidates. When considering the integrity of these elections, the reported number of allegations of electoral malpractice should be viewed against this scale of voting and the number of candidates and elections.

1.8 In 2008 there were no allegations of electoral malpractice reported on the scale of the elections in 2004 and 2005 in Birmingham, Peterborough or Bradford (which ran to thousands of electors in some cases). As at the date of this analysis – 31 March 2009 – the police had recorded 472 allegations arising from the 2008 elections. These allegations related to 103 separate cases of electoral malpractice. Over half of all recorded allegations related to two cases.

1.9 The majority of cases (81%) required no further action by the police. One case has led to prosecution, which resulted in the conviction of one person on a charge of making a false application to vote by proxy and a fine of £1,015. Nine cases resulted in formal cautions which may lead to criminal records, with 12 cases under investigation or awaiting advice from the Crown Prosecution Service (CPS).

1.10 It appears that the nature of recorded electoral malpractice is changing. Before 2004, cases involving prosecutions for false proxy voting predominated. This was followed by postal voting malpractice, which appears to have peaked around 2004–5. Now the focus of cases and allegations is moving to earlier in the voting process, with an emphasis on fraudulent registration to vote and fraudulent applications to vote by post or proxy.

1.11 The Commission has been calling for the introduction of individual electoral registration since 2003 and we welcome the Government's recent announcement of plans to introduce it in Great Britain. A move to individual electoral registration will lead to a more accurate and secure electoral register. We will continue to work with the police, prosecuting bodies, electoral administrators and the political parties on preventing and detecting registration offences.

1.12 There is no doubt that we are now able to achieve a much more accurate picture of the scale and nature of electoral malpractice than has previously been possible and we will continue to refine and improve the approach to this kind of reporting. We aim to extend this to cover the whole of Great Britain by 2010. We propose to report annually and will include an update on unresolved cases from previous elections.

1.13 It remains a priority for the Commission, ACPO, police Single Point of Contact (SPOC) officers, electoral administrators, candidates, political parties and everyone involved in the electoral process to continue to work closely together to prevent and detect electoral malpractice.

2 Introduction

2.1 Preventing electoral malpractice and ensuring that voters are confident that elections are safe and secure, and that fraud is detected and dealt with in an appropriate manner, is a priority for the Electoral Commission. Since 2003¹ we have made significant progress in this by working closely with the Association of Chief Police Officers (ACPO), the police election Single Point of Contact (SPOC) officers, the Crown Prosecution Service (CPS), electoral administrators, political parties and their representatives and UK Government officials.

2.2 The Commission has a duty to keep electoral law and practice under review² and to report on major elections in the UK.³ We have monitored issues concerning electoral malpractice since our first election report in 2001.

2.3 The Committee on Standards in Public Life has recommended that the Commission should also be statutorily required to report on scheduled local elections in England.⁴ While the Commission is not statutorily required to do so, it produced reports in 2008 on the administration of the local elections in England and Wales, and the Greater London Authority (GLA) elections.

2.4 In order to report effectively on the scale and nature of electoral malpractice it is necessary to record allegations made to the police and to track the outcomes of such allegations through referral to the CPS and ultimately to prosecution where appropriate. It is essential to define which offences should be tracked and what the terms of reference should be for such reporting, including defining what is 'an allegation'.

2.5 Election-related offences are contained in the Representation of the People Act 1983 (RPA 1983) (as amended) and cover registration, nomination, canvassing, voting, administration and miscellaneous offences. These are shown in Appendix A. Before 2006 there was no specific offence of false application to vote by post or proxy, and these offences were prosecuted as forgery and use of a false instrument. Amendments to the RPA 1983 by the Electoral Administration Act 2006 (EAA) brought in new offences of fraudulently applying to register to vote and to vote by post (among others).

2.5 The Home Office⁵ counting rules only cover some RPA 1983 offences, but for the purpose of this project the police were asked to report allegations across the spectrum of RPA offences. These are shown in Appendix A.

¹ See the Electoral Commission (2003) *Review of absent voting in Great Britain*.

² Section 6, Political Parties, Elections and Referendums Act 2000 (PPERA).

³ Section 5, PERA.

⁴ Recommendation 26, Eleventh Report of the Committee on Standards in Public Life, *Review of the Electoral Commission* (January 2007, CM 7006).

⁵ Home Office counting rules set out which allegations of offences should be recorded and how they should be counted. The basic principle is that each allegation represents one alleged offence against one victim by one offender. In a case with multiple victims each victim would be counted as a separate crime and similarly in a case with multiple offenders each offender would be counted separately. Every police force has a Registrar who is appointed to ensure compliance with the rules.

About this report

2.6 The Commission and the ACPO Police National Information and Co-ordination Centre (PNICC) have worked together to enable the cataloguing of allegations and their outcomes at the 2008 elections. These were the first elections for which information was collected in a systematic and comprehensive way about allegations of electoral malpractice from every police force having elections in its area.

2.7 This report presents the findings on the extent and nature of cases and allegations relating to these elections, and their outcomes, based on RPA 1983 offences reported to ACPO PNICC by police forces across England (including London) and Wales. It also suggests how the reporting of these offences might be improved in future years. Details of the background to the 2008 project can be found in Appendix B.

2.8 The Commission gratefully acknowledges the commitment of ACPO PNICC in carrying out this project in 2008 and their willingness to continue the project in 2009. In particular the Commission appreciates the work of the ACPO election crime leads David Shaw and Stuart Hyde and the ACPO PNICC team of Paige Kimberly, Eric Phelps, Ray Teuten and Claire Rudkins. The Commission and ACPO wish to record their thanks to the election SPOCs⁶ for submitting returns so promptly and comprehensively especially where this work does not form part of their mainstream duties, and to the force Crime Registrars and ACPO SPOCs without whose support the project could not have taken place.

About the 2008 elections

2.9 On 1 May 2008 there were local government elections in England and Wales and the GLA elections. Table 1 shows the number of elections, candidates, electors and the votes cast by type of election.

2.10 Over 16 million votes were cast at the local elections in England and Wales in May 2008. These votes were cast in nearly 4,000 separate elections involving over 13,500 candidates. When considering the integrity of the elections, it is against this scale of voting and number of candidates and elections that the reported number of allegations of electoral malpractice should be viewed.

2.11 It is also worth noting that our public opinion research following the 2008 local government elections in England and Wales showed that 29% of all respondents felt that electoral fraud was generally a problem in the UK, while 59% did not believe a problem existed. Furthermore, 25% of respondents were specifically concerned with fraud at the 2008 elections but the majority (74%) were not concerned. For those who did express concern the main

⁶ SPOCs have been established in each police force across England and Wales as a dedicated resource for ensuring police preparedness and responsiveness to allegations of electoral malpractice.

reasons given were that the system is open to manipulation (14%) and problems specifically related to postal voting (11%).

Table 1: Elections and votes cast in May 2008

Year	Number of elections	Number of candidates	Number of electors	Number of votes cast⁷
2008 English and Welsh locals	3,804	13,317	19,111,279	6,827,039
2008 GLA	16	215 ⁸	5,419,913	9,240,616
Total	3,820	13,535	24,531,192	16,067,655

⁷ 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.

⁸ This is the total number of candidates for Mayor of London and Assembly elections, and counts people who stood for both constituency and list Assembly seats, or lists seats and Mayor only once.

3 Terminology

The terminology used in this report is as listed in the table below.

Term	Definition
Case	A case is a unit of management for one or more allegations or complaints made to the police. It may involve one offence or more, committed by one person or several people. It reflects the way the police manage allegations – from the smallest to the largest incident.
Allegation	<p>An allegation is a formal complaint made to the police about a breach of electoral law. Using the Home Office counting method, each allegation represents one offence against one victim by one offender.⁹ At the time of an election the number of allegations is usually the only indicator of electoral malpractice that is available.</p> <ul style="list-style-type: none">• Allegations might not be substantiated (i.e. insufficient evidence to support the allegation).• Allegations might be made where no law has been broken.• Allegations might be made where there is no evidence of breaching the Representation of the People Act 1983 (RPA 1983).• Allegations might be made where there is not enough evidence to prove that electoral malpractice has taken place or there is not enough evidence to identify who has committed the offence.

⁹ Home Office counting rules set out which allegations of offences should be recorded and how they should be counted. The basic principle is that each allegation represents one alleged offence against one victim by one offender. In a case with multiple victims each victim would be counted as a separate crime and similarly in a case with multiple offenders each offender would be counted separately. Every police force has a Registrar who is appointed to ensure compliance with the rules.

Term	Definition
	Allegations might be made where there is sufficient evidence that electoral malpractice has occurred but it is decided that a prosecution is not deemed to be in the public interest.
Offence	An electoral malpractice offence is an illegal action or corrupt practice that contravenes the RPA 1983.
Caution	A police caution is a formal warning given to adults who admit they are guilty of a non-violent offence, and is an alternative to prosecution. A caution is not a criminal conviction but it may result in a criminal record.
Formal advice from the police	This outcome is an alternative that falls short of a caution, and does not bring the case into the criminal justice system.
Charge	A criminal charge is where, following a police investigation and interview, a person is formally accused with committing a criminal offence.
Prosecution	A prosecution is the conducting of legal proceedings against a defendant who is charged with an offence or offences.
Conviction	A conviction is a judgement, or plea, of guilty in a criminal case.

4 The 2008 project – approach

4.1 The Commission and the Association of Chief Police Officers (ACPO) Police National Information and Co-ordination Centre (PNICC) established a framework for the reporting of allegations of electoral offences based on returns by the police Single Point of Contact (SPOC) officers. Representation of the People Act 1983 (RPA 1983) offences were used for the reporting categories (see Appendix A) and returns were verified by the force registrar. Dates for police SPOCs to complete their returns and a programme of training events for SPOCs were also agreed at an early stage.

4.2 The Commission, in association with ACPO, proposed and agreed 12 reporting dates over the election period between 1 April and 14 July. These dates were chosen to enable regular feedback throughout the election period with more frequent reporting dates during the week of the election, when it was anticipated that allegations and enquiries about the number of allegations were more likely to arise as voting activity increased. Based on this, ACPO PNICC developed a reporting matrix which showed forces and RPA 1983 offences for each date. SPOCs were requested to alert ACPO PNICC immediately if they received an allegation on a large scale outside the reporting dates.

4.3 Seminars were held across England and Wales to provide SPOCs with training on election law and information about how elections are administered. They also explained the role of SPOCs and how this fitted into the electoral process. Presentations were given to provide details of how ACPO PNICC would collate, analyse and disseminate data to produce a picture of allegations of election-related crime across England and Wales concerning the 1 May elections. Representatives from the Crown Prosecution Service (CPS) Special Crime Division attended to emphasise the importance of SPOCs liaising with the CPS centrally, especially at the early stages of dealing with an allegation.

4.4 ACPO and the Commission issued joint guidance for police forces on preventing and detecting electoral malpractice. This encouraged SPOCs to meet with electoral administrators, candidates and parties prior to the election in order to identify potential risks for electoral malpractice and to help the police prepare the force strategy for the forthcoming elections.

4.5 It is imperative that all cases and allegations are brought to the attention of the SPOC. In some cases, crimes were reported locally at divisional or basic command unit level and the information was not being passed onto the SPOC. The SPOC training events in 2009 hope to address this by encouraging SPOCs to raise their profile within each force and to stress the importance of passing on information about incidences of electoral malpractice.

5 The 2008 project – findings

5.1 The findings presented in this paper are based upon returns from Single Point of Contact (SPOC) officers on the 12 reporting dates in all police forces with elections in their area. These are based on data received by 31 March 2009. The cases and allegations have been analysed by type of offence as set out in the Representation of People Act 1983 (RPA 1983) and their outcomes. A picture of the geographical distribution of allegations across police forces has also been produced.

5.2 Once the returns were received they were aggregated and verified by officers at the Association of Chief Police Officers (ACPO) Police National Information and Co-ordination Centre (PNICC) before the number of allegations and their current status (such as 'under investigation' or 'no further action') were passed on to the Electoral Commission for further analysis.

Scale, nature and extent of allegations

5.3 No local government election in England or Wales that took place in May 2008 has had to be re-run as a result of electoral malpractice. There is no formally recorded challenge to the outcome of any May 2008 election result on the grounds of RPA 1983 offences. No case reported in the ACPO PNICC analysis has been shown to have affected the outcome of that election.

5.4 The number of allegations of malpractice per case, especially where these can be substantiated, illustrates the scale of electoral malpractice. Overall, for the 2008 elections, a total of 472 allegations relating to 103 cases were recorded by the police. There were no allegations of electoral malpractice reported on the scale of the elections in 2004 and 2005 in Birmingham, Peterborough or Bradford (some of which involved thousands of votes).

Frequency of allegations

5.5 Chart 1 shows the frequency of allegations reported per case. Individual cases could include allegations relating to more than one person, or multiple allegations against one person. Two-thirds of all reported cases had one allegation against one person (66%) and nearly four out of every five reported cases involved either one or two people or one or two alleged offences (78%). Nine out of every ten cases involved five or fewer allegations (89%).

5.6 Only three of the 103 reported cases involved more than 10 allegations. Two cases in Walsall involved 26 and 93 allegations, and in Oldham, one case accounted for 147 allegations. The police decided to take no further action in Oldham and the case involving 93 allegations in Walsall. The case involving 26 allegations in Walsall is still to be resolved.¹⁰

¹⁰ For more information about the Oldham and Walsall cases see paragraphs 5.11 and 5.20 in this chapter.

Chart 1: Number of allegations per case.

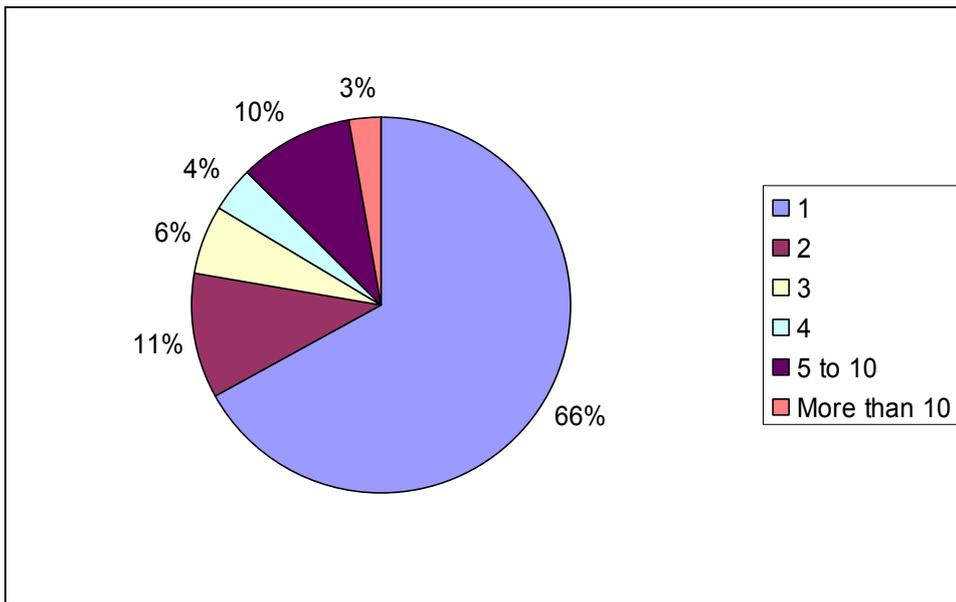


Table 2: The number of ACPO PNICC recorded cases by RPA 1983 offence and outcome (2008)

Summary title of offence	RPA 1983 section	Cases	Allegations	Outcomes – cases			
				No further action	Caution – which may lead to a criminal record	Unresolved/ awaiting CPS advice	Charged/ in court/ convicted (penalty)
A	B	C	D	E	F	G	H
Registration							
False information for a registration application	13D(1)	23	74	19	2	2	
False information for a postal/proxy voting application	13D1(A)	12	143	9		2	1 convicted on 1 charge (fine £1,015)
Other registration offences	4, 12, 49	7	14	6		1	
Registration subtotal		42	231	34	2	5	1
Nomination							
False statement in nomination paper	65(A)1	11	13	9	1	1	
Corrupt withdrawal of candidate	107	1	1	1			
Nomination subtotal		12	14	10	1	1	
Campaign							
Printer's name and address on election publications (Imprint)	110	21*	30	21*	1*		
False statements as to candidates	106(1)	4	4	3		1	
Return of expenses	75–85	5	5	4		1	
Campaign subtotal		30*	39	28*	1*	2	

* One imprint case has two outcomes, so when outcomes are added together (columns E–H) there is apparently one more case than the total number of cases shown in column C in the campaign subtotal.

Table 2 (continued): The number of ACPO PNICC recorded cases by RPA 1983 offence and outcome (2008)

Summary title of offence	RPA 1983 section	Cases	Allegations	Outcomes – cases			
				No further action	Caution – which may lead to a criminal record	Unresolved/ awaiting CPS advice	Charged/ in court/ convicted (penalty)
A	B	C	D	E	F	G	H
Voting							
Personation/legal incapacity to vote/ multiple voting	60–62A	13*	175	6	5*	3*	
Tampering with ballot papers	65(1)(b)–(f)	1	1	1			
Bribery, treating, undue influence	113–115	4	11	4			
Voting subtotal		18*	187	11	5*	3*	
Miscellaneous							
Broadcasting	93	1	1			1	
Miscellaneous subtotal		1	1			1	
Total		103	472	83*	9*	12*	1

* One personation case has two outcomes. Therefore, in the voting subtotal, when outcomes are added together (columns E–H) there is apparently one more case than the total number of cases shown in column C.

*The one imprint case and the one personation case with two outcomes means that there are apparently two more cases than the total number of cases shown in column C in the final total.

Cases and allegations by RPA 1983 offence and outcome

5.7 Table 2 provides a breakdown of cases and allegations by RPA 1983 offence grouped by registration, nomination, campaigning, voting and miscellaneous activity.¹¹ It also shows the outcome(s) of each case and allegation for each type of offence. A brief summary of the main offences can be found at Appendix C.

5.8 Eighty-three cases (81% of all cases) have been recorded as no further action. This occurs if no offence has been committed, if there is insufficient evidence to bring a prosecution, or if there is evidence of malpractice but it is not in the public interest to prosecute. One case has led to prosecution, which resulted in the conviction of one person on a charge of making a false application to vote by proxy and a fine of £1,015. Nine cases resulted in formal cautions, and 12 cases were under investigation or awaiting advice from the Crown Prosecution Service (CPS).

The nature of electoral malpractice revealed by the 2008 project

Registration cases

5.9 The majority of cases and allegations reported at the 2008 elections related to registration offences, which accounted for 41% of all cases reported. By comparison, the 2007 ACPO PNICC analysis found that registration offences accounted for 15% of all reported cases. Analysis of CPS records show that the proportion of registration allegations averaged less than 2% between 2000 and 2006. As the majority of registration cases result in no further action they do not appear on the CPS files, which explains the small percentage recorded by the CPS from 2000–6.

5.10 Offences involving false information accounted for 83% of all cases relating to registration offences. The Commission has recommended that it should be an offence for anyone to provide false information to an Electoral Registration Officer at any time.¹² It therefore supported the introduction in the Electoral Administration Act 2006 (EEA) of a new offence, in section 13D(1A) of the RPA 1983, of false information in connection with a postal/proxy vote application, and in section 13D(1) of false information in connection with a registration form across Great Britain.

5.11 False information in connection with a registration form accounted for 53% of all registration cases reported. Providing false information in connection with a postal/proxy application accounted for 29% of all registration cases reported. One case in Walsall arose from an unusually large number of applications to vote by proxy in the Palfrey ward. This case

¹¹ The items included in Table 2 are consistent with Appendix A, 'Reporting categories for Representation of the People Act 1983 offences', except for those categories where no offences have been reported. These categories have been omitted.

¹² The Electoral Commission (2005) *Securing the vote*; (2003) *The electoral registration process*.

accounted for 93 of the 145 allegations within this category. Despite extensive police interviews nothing could be found to substantiate electoral malpractice.

5.12 The recent creation of these offences is likely to partly explain the apparent overall increase in the number of reported cases and allegations relating to registration offences, as these can now be clearly identified as election offences.

Nomination cases

5.13 In 2008 there were 12 nomination cases representing 12% of all reported cases. By comparison, nomination offences accounted for 13% of all reported cases in 2007 and 6% of all allegations based on an analysis of CPS files between 2000–6.

5.14 Eleven of the 12 nomination cases reported in 2008 relate to a false statement in a nomination paper.¹³ These relate to two types of offence: one where an elector denies that they attested the nomination and claims that the signature on the nomination paper is not theirs, and the other where a candidate is accused of falsely stating that they meet the criteria for standing in the election. A caution was issued in one case where a false assessor's signature was given.

Campaigning cases

5.15 The 2008 ACPO PNICC figures show that there were 30 cases relating to campaigning offences; 29% of all cases reported. The most frequent campaigning offence is where the 'imprint' or name and address of the printer, publisher and on whose behalf the document has been produced is not on the face of election literature. This accounted for 21 of the 30 campaign cases.

5.16 In 2007 the imprint offence was the most reported RPA 1983 offence that year, accounting for 27 of the 99 reported RPA 1983 allegations. The CPS figures also show imprint offences to be the most frequent, with 96 allegations between 2000–6. The CPS records show these offences to peak with a maximum of 20 allegations in 2003.

5.17 While it is often easy to produce evidence, many offenders are not prosecuted because they claim ignorance, or inadvertent oversight, and it is deemed not to be in the public interest to bring a prosecution. All but one of the imprint cases resulted in no further action. However, the police do sometimes issue a warning or a caution to deter re-offending.

5.18 In addition to imprint offences, there were four cases relating to false statement about the personal character of a candidate under Section 106 of the RPA 1983 and five cases in relation to return of expenses under Sections 75–85 of the RPA 1983.

¹³ Section 65(A) 1, RPA 1983.

Voting cases

5.19 In 2008, voting offences accounted for nearly one in five (17%) of all cases reported. Personation offences were the most common within this category – 13 of the 18 voting cases. Similarly, personation was the most common voting offence recorded by ACPO PNICC in 2007 (11 of 18 reported voting allegations) and among the CPS allegations between 2000 and 2006 (40 of 91 reported voting allegations).

5.20 One case, in Oldham, related to alleged personation irregularities affecting 147 migrant workers who shared the same landlord in the Alexandra ward. This was the largest single reported case in 2008. Extensive police interviews with over 50 of those affected produced no evidence to substantiate the allegations and no further action was taken.

Other cases

5.21 In 2008 there was one case of electoral malpractice that related to a broadcasting offence. It is still unresolved.

Geographical distribution of allegations

5.22 Of the 43 territorial police forces in England and Wales, 17 (40%) reported no case of electoral malpractice and 11 (26%) reported one case. Six forces accounted for 60% of all reported cases: Essex, Greater Manchester, Merseyside, South Wales, Thames Valley and West Midlands. The highest number of reported cases was in Greater Manchester, with 12 cases and 160 allegations.

5.23 A breakdown by police force of the number of cases and allegations and their outcomes can be found in Appendix D. Care needs to be taken when interpreting these figures as one case may have many allegations.

5.24 The 2008 ACPO PNICC analysis does not enable us to breakdown cases and allegations at the ward level. However, we are aware of specific wards with a history of actual and alleged electoral malpractice including Aston (Birmingham) and Central ward (Slough). For the 2009 elections, ACPO PNICC will be requesting the SPOCs to record the name of the ward where the case/allegation has taken place, as well as the local authority administering the election.

6 Conclusion and recommendations

6.1 This report has set a benchmark for the analysis of the scale and nature of electoral malpractice at future elections.

6.2 No local government election in England or Wales that took place in May 2008 has had to be re-run as a result of electoral malpractice. There is no formally recorded challenge to the outcome of any May 2008 election result on the grounds of the Representation of People Act 1983 (RPA 1983) offences. No case reported in the Association of Chief Police Officers (ACPO) Police National Information and Co-ordination Centre (PNICC) analysis has been shown to have affected the outcome of that election.

6.3 The ability this year to break down cases and allegations into RPA 1983 offences has enabled a more detailed analysis of allegations and their outcomes across police forces than previously. This analysis takes 31 March 2009 as its reporting date and the status of returns at that date are as follows:

- One hundred and three cases of electoral malpractice, which involved 472 allegations, were recorded in connection with the May 2008 elections in England and Wales.
- One case has led to prosecution. It resulted in the conviction of one person on one charge of making a false application to vote by proxy and a fine of £1,015.
- Nine cases have resulted in a formal caution which may result in a criminal record.
- The majority of cases and allegations – 83 cases involving 398 allegations (81% and 84% of all reports respectively) – have been recorded as requiring no further action by the police. This is where no offence has been committed, or there is insufficient evidence to bring a prosecution, or there is evidence of malpractice but it is not in the public interest to prosecute.
- Two cases involving 147 and 93 allegations account for over half (51%) of the 472 recorded allegations. These two cases have been resolved as requiring no further action.¹⁴
- Twelve cases, involving 55 allegations, are still under investigation or awaiting advice from the Crown Prosecution Service (CPS). The Commission will continue to work with the CPS and will analyse and report on the outcomes of these unresolved cases once they are known.

6.4 The 2008 project has demonstrated that with the help of ACPO PNICC and the CPS it is possible to monitor and track allegations reported to the police through to their conclusion, to give a comprehensive picture of electoral malpractice.

6.5 To date, it has been very difficult to establish any trends in electoral malpractice because of the lack of comprehensive or comparable data in the past. However, it would appear that the nature of recorded electoral

¹⁴ The returns and the statistics derived from them are accurate at the time of publication.

malpractice appears to be changing. Before 2004, false proxy voting predominated among those cases that were prosecuted. This was followed by postal voting malpractice cases, which appear to have peaked around 2004/5. Now the focus of cases and allegations is moving to earlier in the voting process, with an emphasis on fraudulent registration to vote and fraudulent applications to vote by post or proxy.

6.6 The Commission is currently working with ACPO to carry out a similar project for the 2009 European Parliamentary and English local government elections.

6.7 The use of the election Single Point of Contact (SPOC) officer network, supported by the ACPO PNICC SPOC network, is vital to the effective reporting of information about allegations of electoral malpractice. The Commission has responded to feedback from SPOCs that the reporting matrix might be improved and has developed a more user-friendly approach to be tested prior to the elections with a small sample of SPOCs. SPOCs will also be asked to report on fewer occasions.

6.8 In addition, the Commission and ACPO PNICC have amended the reporting procedure to include:

- qualitative as well as quantitative data where appropriate
- a more detailed classification of key election offences
- reasons for deciding why a case required 'no further action'
- collecting key additional information – such as the number of people alleged to have committed offences and in which local authority area the allegations have been made

6.9 We are also working with ACPO PNICC to determine how they may encourage police forces to raise the profile of their election SPOCs. In addition we are working with Returning Officers to ensure that advice on the imprint for election campaign material reaches candidates and agents.

6.10 To provide a more comprehensive and accurate picture about the extent and nature of electoral malpractice we will continue to work with ACPO, ACPO PNICC and the CPS to enable every allegation recorded by SPOCs to be followed through to its outcome.

Appendix A – Reporting categories for Representation of the People Act 1983 offences

The table below outlines the categories and grouping of Representation of the People Act 1983 (RPA 1983) offences used in the 2008 project.¹⁵

RPA 1983	Summary title
Registration	
13D(1)	False information
13D(1A)	False postal/proxy voting application
4, 12, 49	Other registration offences
Nomination	
65(A)1	False statement in nomination paper
65(1)	Tampering with nomination papers
107	Corrupt withdrawal of candidate
Campaign	
110	Printer's name and address on election publications
106(1)	False statements as to candidates
109	Payment for exhibition of election notices
111	Prohibition of paid canvassers
75–85	Return of expenses
Voting	
60-62 and 62A	Personation/legal incapacity to vote/multiple voting
66	Requirement of secrecy
65(1B–F)	Tampering with ballot papers
113–115	Bribery, treating and undue influence
Administration	
63	Breach of official duty
99(1)	Officials not to act for candidates
Miscellaneous	
93	Broadcasting
94	Imitation poll cards
97(1)	Disturbance at election meetings
100(1)	Illegal canvassing by police officers
110	Providing money for illegal purposes

Note: The categories reported in Table 2 in Chapter 5, 'The 2008 project – findings', and Appendix D, 'ACPO PNICC record of cases and allegations by force', are consistent with this table except that categories have been omitted where no offence has been reported.

¹⁵ An explanation of some of the offences is given in Appendix C.

Appendix B – Background

1 In its report on absent voting, the Commission called for the creation of a national database to record electoral offences.¹⁶ Subsequently, a number of options were explored, including using the Police National Computer (PNC), reporting via the Crown Prosecution Service (CPS) through their Special Crime Division and detailed analysis of CPS files.

2 The Commission also worked with the Association of Chief Police Officers (ACPO) and in 2005 established a police election Single Point of Contact (SPOC) officer for each of the 43 territorial police forces in England and Wales.¹⁷ We jointly identified that giving election-related crime a dedicated resource and focus within each police force was an essential component for ensuring that police were prepared for, and responsive to, allegations of electoral malpractice.

3 In 2007, in response to a request from the Commission and the Department for Constitutional Affairs – now the Ministry of Justice (MoJ) – ACPO agreed to collect information on allegations received by police forces relating to Representation of the People Act 1983 (RPA 1983) offences. SPOCs were subsequently tasked with reporting allegations of election offences to a small team established for the period of the elections at the ACPO Police National Information and Co-ordination Centre (PNICC). PNICC's wider role is to manage police information at a national level, and it is this capability which led ACPO and the Commission to establish a reporting mechanism for electoral malpractice.

4 The use of ACPO PNICC enabled a more definitive pool of data to be collected than had existed previously and the Commission published this information in 2007.¹⁸ At the same time, the Commission published two papers which examined the content and outcome of 430 files relating to electoral malpractice opened by the CPS between 2000 and 2006 relating to RPA 1983 offences. A schedule showing details for each file was also published.¹⁹

5 The Commission and ACPO believed that the 2007 approach using ACPO PNICC offered a way of achieving a database which could

¹⁶ The Electoral Commission (2003) *Review of absent voting in Great Britain (2003)*, p26.

¹⁷ The Commission has also worked with the Association of Chief Police Officers Scotland (ACPOS) to set up a SPOC for each of the eight territorial police forces in Scotland.

¹⁸ The Commission's analysis of the 2007 PNICC project can be found at www.electoralcommission.org.uk/document-summary?assetid=56235

¹⁹ The interim findings published in October 2007 are at www.electoralcommission.org.uk/__data/assets/pdf_file/0009/60498/Allegations-of-electoral-malpractice-in-England-and-Wales-2000-06.pdf

The further analysis published in March 2008 is at www.electoralcommission.org.uk/__data/assets/pdf_file/0007/60496/CPS-files-on-allegations-of-electoral-malpractice---England-and-Wales-2000-06.pdf

The spreadsheet giving all the files examined published in March 2008 is at www.electoralcommission.org.uk/__data/assets/pdf_file/0004/60484/CPS-analysis-file-of-all-cases-examined.pdf

systematically record allegations of electoral malpractice in real time. It was envisaged that the data produced through ACPO PNICC could be used, together with information provided by the CPS on the cases they take forward for prosecution, to provide a more accurate picture of electoral malpractice.

6 Following 2007, the Commission and ACPO identified a number of areas to improve the collection and recording of allegations in advance of the 2008 elections. These included ensuring:

- consistency of support to election SPOCs across all police forces
- consistent reporting of information across all police forces to ensure comparability of data
- that police forces also provided ACPO PNICC with information on the outcomes of allegations and that cases were followed up where appropriate
- that all new SPOCs receive appropriate training and that consideration was given to ensuring that when SPOCs left the force, the role was handed on to another officer with an appropriate handover of information

7 There has been, and continues to be, a high turnover of force SPOCs. This created challenges for tackling electoral malpractice including:

- ensuring the continuity of election knowledge
- providing an easy access point for police officers, Returning Officers and electoral administrators
- delivering appropriate training for other officers on election-related crime and managing prevention measures and the effective circulation of election advice such as the pocket guides
- managing cases through CPS headquarters rather than local CPS offices, which do not have expertise in dealing with electoral offences
- effective reporting of election-related crime to ACPO PNICC

8 This led to a further improvement in 2008 where ACPO PNICC agreed to take over responsibility from the ACPO election crime lead for maintaining an updated list of SPOCs. ACPO PNICC also agreed to notify the Commission and the ACPO election crime lead of any changes to enable allegations to be directed to the appropriate police officer in each force.

Appendix C – Election offences: key offences and penalties

1 The Representation of the People Act 1983 (RPA 1983) defines most offences for UK Parliamentary elections, English local government elections and for electoral registration and postal voting issues across the United Kingdom. The Electoral Administration Act 2006 (EAA) introduced or amended new RPA offences and introduced new procedures.

2 Most offences under the RPA 1983 are classified as corrupt or illegal practices. Corrupt practices are indictable with a maximum penalty of imprisonment for one year and/or a fine, except for the offences of personation and making a false application to vote by post or proxy, where the maximum penalty is imprisonment for up to two years and/or a fine.²⁰ Illegal practices are summary offences and the maximum penalty is a £5,000 fine.²¹

3 Prosecutions under the RPA 1983 must be brought within 12 months of the commission of the offence. If there are exceptional circumstances, and there has been no undue delay in the investigation, the time limit may be extended to not more than 24 months after the offence was committed. Any application to extend the deadline must be brought within one year of commission of the offence.²²

Corrupt practices

Bribery

4 A person is guilty of bribery if they directly or indirectly give any money to, or procure any office for, any voter in order to induce any voter to vote, or not vote, for a particular candidate, or to vote or refrain from voting.²³

Treating

5 A person is guilty of treating if before, during or after an election they directly or indirectly give or provide (or pay wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to influence any voter to vote or refrain from voting.²⁴

Undue influence

6 A person is guilty of undue influence if they directly or indirectly make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict injury, damage or harm in order to induce or compel any

²⁰ Section 168, RPA 1983 and Article 120, National Assembly for Wales (NAW) (Representation of the People (RoP)) Order 2007.

²¹ Section 169, RPA 1983 and Article 121, NAW (RoP) Order 2007.

²² Section 176, RPA 1983 and Article 128, NAW (RoP) Order 2007.

²³ Section 113(2), RPA 1983 and Article 79, NAW (RoP) Order 2007.

²⁴ Section 114(2), RPA 1983 and Article 80, NAW (RoP) Order 2007.

voter to vote or refrain from voting.²⁵ A person may also be guilty of undue influence if they act with the intention of impeding or preventing the voter from freely exercising their right to vote.²⁶ Substantive offences, threats to commit damage, assault and public order may be considered as in addition to undue influence.

Personation

7 It is an offence for any individual to vote as someone else (whether that person is living or dead or fictitious), either by post or in person at a polling station as an elector or as a proxy.²⁷ Further, the individual voting can be deemed to be guilty of personation if they vote as a person they have reasonable grounds for supposing is dead or fictitious, or where they have reasonable grounds for supposing their appointment as a proxy is no longer in force. It is also an offence for a person to aid or abet the commission of the above offences.

False application to vote by post or by proxy

8 It is an offence to falsely apply to vote by post or proxy with the intention of depriving another person of a vote or gaining a vote or money or property to which a person is not entitled.²⁸ Specifically, it is an offence to:

- apply for a postal or proxy vote as some other person (whether living, dead or fictitious)
- otherwise make a false statement in connection with an application for a postal or proxy vote
- induce an Electoral Registration Officer (ERO) or a Returning Officer (RO) to send a communication relating to a postal or proxy vote to an address that has not been agreed by the voter
- cause such a communication not to be delivered to the intended recipient

9 It is also an offence to aid or abet the commission of the above offences.

Illegal practices

Multiple voting and proxy voting offences

10 There are various offences regarding multiple voting and proxy voting, including: voting by post as an elector or proxy when subject to a legal incapacity to vote; voting more than once in the same or in more than one local election area; applying for a proxy without cancelling a previous proxy

²⁵ Undue influence can include threats of harm of a spiritual nature.

²⁶ Section 115 and 115(2), RPA 1983 and Article 81, NAW (RoP) Order 2007.

²⁷ Section 60, RPA 1983 and Article 30, NAW (RoP) Order 2007.

²⁸ Section 62A, RPA 1983 and Article 14, NAW (RoP) Order 2007.

appointment; and inducing or procuring another to commit one of the above offences.²⁹

Other election offences

Secrecy

11 Everyone involved in the electoral process should be aware of the secrecy of the ballot and should not breach it. The RO will give everyone who attends the opening or counting of ballot papers a copy of parts of the relevant legislation.³⁰ Any breach of this legislation is a summary offence with a maximum penalty of six months imprisonment or a £5,000 fine.³¹

False registration information and false postal/proxy voting application

12 It is an offence to supply false information in relation to the registration of electors to the ERO for any purpose connected with the registration of electors. It is also an offence to provide false information in connection with an application for a postal or proxy vote. False information includes a false signature.³² It is not necessary to establish an intention to gain, or deprive another, of a vote, money or property. This is a summary offence with a maximum penalty of six months imprisonment or a £5,000 fine.³³

Other general offences

13 There are also some non-electoral offences which may be relevant, such as:

- making a false statement under the Perjury Act 1911
- forgery
- using a false instrument under the Forgery and Counterfeiting Act 1981
- conspiracy to defraud

²⁹ Section 61, RPA 1983 and Article 31, NAW (RoP) Order 2007.

³⁰ Section 66, RPA 1983 and Article 35, NAW (RoP) Order 2007.

³¹ The maximum term of imprisonment for a summary offence is currently six months. This will increase to 51 weeks when Section 281(5) of the Criminal Justice Act 2003 comes into force. No date has yet been set for this.

³² Section 13D, RPA 1983 and Article 14, NAW (RoP) Order 2007.

³³ Section 13D, RPA 1983 and Article 14, NAW (RoP) Order 2007.

Appendix D – Association of Chief Police Officers Police National Information and Co-ordination Centre record of cases and allegations by force

Table D1

Police forces in England and Wales	Cases	Allegations	Outcome by case [Allegations shown in square brackets] (Representation of the People Act 1983 section shown in curved brackets)				
			No further action (NFA)	Caution – which may create a criminal record	Unresolved/ awaiting CPS advice	Charged/ in court/ convicted	Penalty
Avon & Somerset	1	3	1*(s110)[2]	1*(s110)[1]	0	0	
Bedfordshire (no elections)	0	0	0	0	0	0	
Cambridgeshire	1	2	0	1(13D(1)) [2]	0	0	
Cheshire	0	0	0	0	0	0	
City of London	0	0	0	0	0	0	
Cleveland	0	0	0	0	0	0	
Cumbria	0	0	0	0	0	0	
Derbyshire	2	2	2(s110)[2]	0	0	0	
Devon & Cornwall	3	8	2(s13D(1))[5,2]	1(s60–62A)[1]		0	
Dorset	0	0	0	0	0	0	
Durham	1	1	1(s65A(1))[1]	0		0	
Dyfed-Powys	4	4	4(s110)[4]	0		0	
Essex	9	9	1(s75–85)[1] 2(s110)[2] 1(s113/115)[1] 3(s13D(1))[3] 2(s13D1(A))[2]	0			
Subtotal	21	29	19*[25]	3*[4]	0	0	

Appendix D (continued) – Association of Chief Police Officers Police National Information and Co-ordination Centre record of cases and allegations by force

Table D2

Police forces in England and Wales	Cases	Allegations	Outcome by case [Allegations shown in square brackets] (Representation of the People Act 1983 section shown in curved brackets)				
			No further action (NFA)	Caution – which may create a criminal record	Unresolved/ awaiting CPS advice	Charged/ in court/ convicted	Penalty
Gloucestershire	0	0	0	0	0	0	
Greater Manchester	12	160	1(s13D(1))[2] 1(s60–62A)[147] 1(s65(A)1)[1] 1(s65(1)(b)–(f))[1] 2(s106)[2] 2(s110)[2] 1(s113–115)[1]	2(s60–62A)[2]	1(s60–62(A))[2]CPS		
Gwent	0	0	0	0	0	0	
Hampshire	3	10	2(s13D(1))[2]		0	1(13D(1A))[8] Convicted 1 charge	Fined £1,015
Hertfordshire	0	0	0	0	0	0	
Humberside	1	1	1(s75–85)[1]	0	0	0	
Kent	1	3	1(s4,12,49)[3]	0	0	0	
Lancashire	1	10	1(s13D(1A))[10]	0	0	0	
Leicestershire (no elections)	0	0	0	0	0	0	
Lincolnshire	1	1	0	0	1(s75–85)[1]	0	
Merseyside	8	30	2(s4,12,49)[3,3] 2(s110)[4,4]		1(s4,12,49)[2] 2(s13D(1A))[10,3] 1(s93)[1]	0	
Subtotal	27	215	18[186]	2[2]	6[19]	1[8]	

Appendix D (continued) – Association of Chief Police Officers Police National Information and Co-ordination Centre record of cases and allegations by force

Table D3

Police forces in England and Wales	Cases	Allegations	Outcome by case [Allegations shown in square brackets] (Representation of the People Act 1983 section shown in curved brackets)				
			No further action (NFA)	Caution – which may create a criminal record	Unresolved/ awaiting CPS advice	Charged/ in court/ convicted	Penalty
Metropolitan	5	6	1(s13D(1))[1] 1(s13D(1A))[1] 1(s65(A))[1] 1(s110)[2] 1(s60–62A)[1]	0	0	0	
Norfolk	0	0	0	0	0	0	
North Wales	3	3	3(s4,12,49)[3]	0	0	0	
North Yorkshire	0	0	0	0	0	0	
Northamptonshire	0	0	0	0	0	0	
Northumbria	5	6	2(s13D(1))[2,1] 1(s13D(1A))[1] 1(s65(A))1 1(s110)[1]	0	0	0	
Nottinghamshire	0	0	0	0	0	0	
South Wales	11	35	3(s13D(1)) [10,5,2] 1(s60-62A)[10] 1(s107)[1] 3(s110)[3]	1(s65A(1))[1] 1(s13D(1))[2] (2 people cautioned)	1(s106)[1]	0	
South Yorkshire	2	2	1(s65(A)1))[1] 1(s13D(1))[1]	0		0	
Staffordshire	1	1	1(s65(A)1)[1]	0		0	
Subtotal	27	53	24[49]	2[3]	1[1]	0	

Appendix D (continued) – Association of Chief Police Officers Police National Information and Co-ordination Centre record of cases and allegations by force

Table D4

Police forces in England and Wales	Cases	Allegations	Outcome by case [Allegations shown in square brackets] (Representation of the People Act 1983 section shown in curved brackets)				
			No further action (NFA)	Caution – which may create a criminal record	Unresolved/ awaiting CPS advice	Charged/ in court/ convicted	Penalty
Suffolk	1	1	0	1(s61)[1]	0	0	
Surrey	1	4	0	0	1(s13D(1))[4]	0	
Sussex	0	0	0	0	0	0	
Thames Valley	11	11	4(13D(1))[4] 2(s65(A)1)[2] 1(s60–62A)[1] 2(s75–85)[2] 1(s106)[1] 1(s113–115)[1]	0		0	
Warwickshire	1	1	1(s110)[1]				
West Mercia	0	0	0	0	0	0	
West Midlands	11	152	4(s13D(1A))[93, 8, 6, 1] 2(s60–62A)[4, 1] 1(s65(A)1)[3] 2(s110)[2] 1(s113-115)[8]		1(s13D(1))[26]		
West Yorkshire	3	6		1*(s60–62A)[1]	1*(s60–62A)[1] 1(s60–62A)[3] 1(s65(A)1)[1]		
Wiltshire	0	0	0	0	0	0	
Subtotal	28	175	22[138]	*2[2]	*5[35]	0	

Appendix D (continued) – Association of Chief Police Officers Police National Information and Co-ordination Centre record of cases and allegations by force

Table D5: Totals

Police forces in England and Wales	Cases	Allegations	Outcome by case [Allegations shown in square brackets] (Representation of the People Act 1983 section in curved brackets)				
			No further action (NFA)	Caution – which may create a criminal record	Unresolved/ awaiting CPS advice	Charged/ in court/ convicted	Penalty
Table D1 subtotal	21	29	19*[25]	3*[4]	0	0	
Table D2 subtotal	27	215	18[186]	2[2]	6[19]	1[8]	Fine £1,015
Table D3 subtotal	27	53	24[49]	2[3]	1[1]	0	
Table D4 subtotal	28	175	22[138]	*2[2]	*5[35]	0	
TOTAL	103	472	83*[398]	9*[11]	12*[55]	1[8]	

*Two cases each have two outcomes (see Avon & Somerset and West Yorkshire). Therefore, when outcomes are added together (columns C to F) this results in there being two more cases than the total number of cases shown in the column headed cases.

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