

Observing at elections in the UK

Review of electoral observer scheme

**The closing date for this consultation is Wednesday 31 October.
Responses should be sent to:
EAConsultation@electoralcommission.org.uk.**

August 2018

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Summary

The Electoral Commission is required under legislation to administer a scheme for accrediting election observers in the UK.

Our research suggests that the scheme is largely working well. However, we have identified a number of changes to the scheme which would help to maintain and improve its transparency, accessibility, impartiality and security.

We propose changes in the following areas:

- clarifying and modernising the application process
- clarifying expectations about the role of observers
- improving guidance on the practicalities of being an observer
- establishing a voluntary feedback process for observers
- updating the Code of Practice for electoral observers

This consultation summarises the changes we propose and seeks views.

How to respond

The consultation closes on **Wednesday 31 October**. Please send your views to:

EAConsultation@electoralcommission.org.uk.

Responses can also be submitted by post to:

Observer consultation
The Electoral Commission
3 Bunhill Row
London EC1Y 8YZ

Responses can also be submitted by phone to Cahir Hughes or Lizzie Tovey on 0207 271 0500.

1 What is this consultation for?

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).

1.2 In 2006 the UK¹ and Scottish Parliaments² made rules to open up UK elections to electoral observation, for international and domestic groups and individuals.

1.3 The Electoral Commission is required to administer a scheme for the accreditation of electoral observers across the United Kingdom and produce a Code of Practice setting out how observers should apply and what they must do. The Code must also provide guidance to Returning Officers on working with observers.

1.4 The observer scheme has now been running for over ten years. Following elections in 2016 and 2017, we gave a commitment to review the scheme and the Code of Practice to ensure they continue to fulfil the purpose for which they were established. A review has been running since the start of 2018, during which we have identified a number of changes that we believe would further improve the scheme and the Code.

1.5 We must consult with the Secretary of State and the Scottish Ministers before changing the Code. However we also believe it is important to gather views from the wider electoral community and other interested groups and individuals on the changes we propose making. Therefore, this document seeks views on our proposed amendments to the observers' scheme. It also includes an updated version of the Code of Practice which reflects our proposed revisions.

¹ Electoral Administration Act 2006.

² Local Electoral Administration and Registration Services (Scotland) Act 2006.

2 What is the observer scheme?

What the law requires us to do

2.1 The Political Parties Elections and Referendum Act 2000 (PPERA) requires us to administer a scheme for the accreditation of electoral observers across the United Kingdom.

2.2 Under Part 6 of PERA:

- a person who is aged 16 or over may apply to the Commission to be an accredited electoral observer
- an organisation may apply to the Commission to be accredited for the purpose of nominating electoral observers
- we must prepare a Code of Practice for electoral observation

2.3 The legislation can be accessed via the link below:

<http://www.legislation.gov.uk/ukpga/2000/41/contents>

International principles of electoral observation

2.4 Standards for international electoral observation are set out in the [Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers](#). These were launched at the United Nations in 2005 and establish the basis for credible international election observations.

2.5 The Declaration stresses the principles of:

- independence
- impartiality
- professionalism
- the grounding of election observation in international human rights law
- the need to keep under review the long term nature of elections
- the need to establish minimum conditions for credible observation
- the important role of domestic election observers

2.6 We subscribe to the International Principles and International Code of Conduct and adapted them in establishing our original scheme to provide the foundation for observation of elections in the United Kingdom. We believe that they should continue to provide the foundation of our observer scheme and Code of Practice.

How the observer scheme works

Individual observers and accredited organisations

2.7 There are two types of observers: individuals and observer organisations. Those wishing to become observers apply to us for accreditation. During the period of their accreditation, they are entitled to observe the issue and receipt of postal ballot papers, the poll and the verification and counting of votes.

2.8 The expected standards of behaviour of observers are set out in the Code of Practice. Observers who fail to comply with these standards may have their accreditation revoked.

Commission representatives

2.9 Representatives of the Commission are similarly entitled to attend electoral proceedings. 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.

2.10 Commission representatives are required to comply with the Code of Practice in the same way as individual observers and observer organisations.

3 Why are we suggesting changes?

3.1 The scheme has been running now for over ten years. Following elections in 2016 and 2017, we gave a commitment to review how the current scheme operates and to review the Code of Practice for electoral observers.

3.2 We have carried out a review of the current scheme in the first half of this year. This included:

- reviewing the fundamental policy aims of the scheme
- looking at international comparisons
- consulting informally with stakeholders

3.3 Overall we have found that our scheme works well and is one of the strongest schemes of its kind. However, during the review, we identified a number of improvements which could be made, for example by improving the information we provide to observers and establishing a voluntary feedback process for electoral observers.

4 What changes are we suggesting?

4.1 We have defined four key principles against which the success of the scheme should be measured:

- **Transparency:** like electoral processes, the observer scheme should be open and clear
- **Accessibility:** nobody should be excluded, so anyone who wishes to be an observer and meets the criteria should be able to do so
- **Impartiality:** observers must be and be seen to be impartial
- **Security:** observers must not create any obstacle or disruption to the delivery of the electoral process

4.2 To help us achieve this, we have identified the following areas where we believe improvements can be made:

- clarifying and modernising the application process
- clarifying expectations about the role of observers
- improving guidance on the practicalities of being an observer
- establishing a voluntary feedback process for observers
- updating the Code of Practice for electoral observers

Clarifying and modernising the application process

4.3 The application process for becoming an observer is currently paper-based. As part of our digital strategy we propose moving this process online, although we will still ensure that applications can be made by paper should anyone be unable to access the process online.

4.4 We will also take this opportunity to update the information available about the scheme, and to set out clearly:

- the criteria against which applications are assessed
- the process for reaching decisions on applications
- the grounds on which appeals can be made and the process for doing so

4.5 We will do this by setting out clearly in our Code of Practice for electoral observers:

- how we will handle applications
- how we reach decisions when assessing applications
- how decisions to reject or revoke accreditation can be challenged

4.6 This will cover both new applications and situations where accreditation status is revoked.

4.7 We will also review the application process to determine what more we could do to make it accessible for all, and will seek to provide support to any applicants who may need help when applying to become an observer.

Questions

- Do you have views on the Commission's proposals for clarifying and modernising the application process?
- Do you have views on how we could further improve the accessibility of the application process?
- Is there anything else we should do to clarify and modernise the application process?

Clarifying expectations about the role of observers

4.8 We will update the Code and accompanying information to ensure that observers have access to information about the electoral proceedings they're entitled to observe and about their role in them.

4.9 For example, the revised Code will be simplified to make it easier to understand and will set out clearly the standards of behaviour expected of electoral observers. We will also provide improved guidance to electoral officials around the facilitation of electoral observation. We will also ensure that anyone who wants to is able to apply to become an observer, access proceedings and is able to understand the processes taking place at those proceedings.

Questions

- Do you have any views on what additional information might be provided to electoral observers?
- Is there anything else we should do to clarify expectations about the role of an electoral observer?
- Do you have any views on how we could further improve the information made available to ensure access to and understanding of electoral proceedings?

Improving guidance on the practicalities of being an observer

4.10 We propose a number of changes to make it easier for observers to fulfil their role and to work in collaboration with electoral administrators and others who oversee the electoral process:

- We propose that, in future, observers should be strongly encouraged to tell administrators in advance where they propose to visit. This will help to ensure that observers can get the most out of their visits. It will not, however, preclude them from making unannounced visits or changing their plans.
- We will change the design of the observer badges to draw a clear distinction between Commission representatives and accredited observers.
- We will support electoral observers by providing more information on personal safety.
- We will improve advice and guidance to ensure that observers are aware of the standards expected of them and the sanctions for breaching those standards. For example, our Code of Practice will be updated to clearly set out the standards of behaviour expected of electoral observers and the sanctions for breaching the Code.
- We will also clarify the powers electoral officials have when dealing with misconduct and ensure they have a route for raising concerns directly with the Commission.

Questions

- Do you have any views on our proposals to improve guidance on the practicalities of being an observer?
- Is there anything else we should do to improve guidance on the practicalities of being an observer?

Establishing a voluntary feedback process for observers

4.11 There is currently no process for observers to provide feedback on their findings. We therefore propose creating a voluntary feedback mechanism so that observers can provide feedback to us, which we would in turn be able to share with those responsible for administering the poll in the area where the observation took place. We are exploring several options for this, such as an online survey or template which observers could access in advance of the election to help facilitate their observation.

Questions

- Do you have any views on our proposal to establish a voluntary feedback process for observers?
- Is there anything else we should do to facilitate observers providing feedback on their observations?

Updating the Code of Practice for electoral observers

4.12 In addition to making amendments to address the proposals outlined above, we have also identified a number of further changes we could make to the Code to ensure it is easily accessible for anyone who is interested in observing and for electoral officials.

4.13 For example, we have simplified the layout and language within the Code so that is easier to understand and strengthened information to ensure that observers are aware of their obligation to remain impartial at all times, including when using social media.

4.14 A draft of the revised Code of Practice is presented in full in Appendix A. The current Code of Practice is available for reference on our website:

https://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0004/13927/Code-of-practice-for-electoral-observers-Web.pdf

Questions

- Do you have any views on the draft revised Code of Practice?
- Are there any other amendments you would like to see to the Code of Practice?

Appendix A: Draft revised Code of Practice

1 Introduction

Electoral observation in the UK

1.1 Independent observation is a crucial part of the electoral process. It helps to ensure that elections are carried out in a way which is transparent, accessible, impartial and secure.

1.2 We are responsible under the Political Parties, Elections and Referendums Act 2000 (PPERA) for accrediting individuals and organisations who wish to observe electoral processes at elections and relevant referendums held in the United Kingdom. We are also responsible for producing and enforcing a Code of Practice, which accredited observers must adhere to.

1.3 We subscribe to the Declaration of Principles for International Election Observation and the Code of Practice for International Election Observers, which establish the basis for credible international election observation.

1.4 This Code of Practice contains two sections: Part A explains how to become an observer and what is expected; and Part B provides guidance for electoral officials on working with observers.

2 Part A: Being an electoral observer

2.1 This part tells you about:

- who can become an observer
- what observers do
- how to become an observer
- the standards expected of observers, and what happens if these are breached

Who can become an observer?

2.2 Anyone over the age of 16 can apply to become an electoral observer, provided they are politically impartial.

2.3 There are two types of observers at UK elections: individuals and observer organisations. Individuals and observer organisations can be accredited to observe specified proceedings at elections and relevant referendums throughout the United Kingdom.

2.4 We maintain a public register of observers, which includes the name of all accredited observers. The register of accredited observers is the only official list of accredited observers.

2.5 All those entered on the register will be issued with identification by the Commission.

2.6 It is not a statutory requirement for observers to provide notification of where they intend to observe, but you are strongly encouraged to do so. Providing advance notification to electoral officials in the area you intend to observe will help them provide you with relevant information and maximise the value of your observation. This does not prevent you from making unannounced visits or changing your plans should you wish to do so.

What do observers do?

2.7 Observers accredited by the Commission are entitled to observe:

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

2.8 We would encourage you to provide feedback, both to the Commission and to the election staff where you observe. If you provide feedback to the Commission, we

may share it with the people responsible for running the poll in the area you observed.

How to become an observer

2.9 **Before** applying, applicants must read this Code of Practice and be prepared to adhere to it.

2.10 You can apply at any time. Potential observers are recommended not to wait until an election or referendum is imminent or underway before applying.

Applications which are received within 10 working days before polling day may not be processed in time to take effect for that election or referendum.

What is the process for applying?

2.11 Applicants are required to:

- Complete the appropriate application form for accreditation.
- Submit a photograph in electronic format, e.g. by email, for use on an identification badge³, or attend [one of the Commission's offices](#) to have their photograph taken. The photograph must:
 - be a head shot of the applicant facing the camera
 - include the applicant's full face, which must be clearly visible⁴
 - be taken with the applicants eyes open
- Supply a legible copy of a passport, drivers licence, national identity card or Northern Ireland electoral identity card at the time of the application that confirms the applicants name and age.⁵
- Make a declaration to state that they have read our Code of Practice for electoral observation and agree to abide by the guidance contained in it.
- Declare that they have been provided with a copy of the legislative provisions on secrecy of the ballot, that they understand the provisions and that they will maintain the secrecy of the ballot.

Observer organisations

Observer organisations are required to:

- specify a period of up to three years for which they seek accreditation as an organisation
- declare that they have provided their nominated members with a copy of the legislative provisions on secrecy of the ballot and that they will aid in maintaining the secrecy of the ballot

³ 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.

⁴ Hats or head coverings are not permitted except when worn for religious reasons and only if the full facial features are clearly visible.

⁵ Applicants who do not hold any such photographic identification should contact us for advice.

The organisation should also ensure that their nominated observers abide by this Code of Practice.

Nominating individuals

An accredited organisation must submit a list of individuals nominated to act as observers. This list can be submitted at the time of application for accreditation or at any time after that.

When submitting the list of nominated individuals, this list must include a declaration that the nominated member has been provided with a copy of the legislative provisions on secrecy of the ballot, that they understand the provisions and that they will maintain the secrecy of the ballot.

Each nominated individual must also provide:

- A photograph in electronic format, e.g. by email, for use on an identification badge⁶. The photograph must:
 - be a head shot of the applicant facing the camera
 - include the applicant's full face, which must be clearly visible⁷
 - be taken with the applicants eyes open
- Supply a legible copy of a passport, drivers licence, national identity card or Northern Ireland electoral identity card at the time of the application that confirms the applicants name and age.⁸
- A declaration that they have been provided with a copy of the legislative provisions on secrecy of the ballot and a copy of the Code of Practice for electoral observers and agree to abide by them.

How should applications be submitted?

2.12 Applications may be submitted online, or you can download an application form from [our website](#) and send it by email to: observers@electoralcommission.org.uk.

2.13 Applications can also be submitted by post to any of [our offices](#). If you submit an application by post, please prefix the office address with 'Electoral observation application'.

What happens after an application is submitted?

2.14 When we receive your application we may make checks in relation to political activity, including on social media, as detailed in our [Privacy Notice](#).

⁶ 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.

⁷ Hats or head coverings are not permitted except when worn for religious reasons and only if the full facial features are clearly visible.

⁸ Applicants who do not hold any such photographic identification should contact us for advice.

2.15 We will aim to process all applications within 10 working days of receipt of a completed application, although sometimes checks may take longer. We may also contact you for more information.

Making decisions on applications

2.16 An applicant, or anyone included in an observer organisation's list of nominated individuals, must:

- meet the requirements of the application process set out above
- not have been found or reported guilty (under the Representation of the People Act 1983 or any other electoral legislation in the United Kingdom) of a corrupt or illegal electoral practice anywhere in the United Kingdom
- not have had their accreditation revoked by the Commission within the last five years

2.17 Applicants will be notified in writing of our decision to accept or reject their application.

2.18 Accreditation will not come into effect until three days after it has been granted. Once an application has been granted, the applicant's name will be included on the register of accredited observers.

Observer organisations

There is no limit on the number of observers that any one organisation can nominate.

What happens if my application is rejected?

2.19 We may reject an application for accreditation if the requirements of the application process set out in this Code are not met, or if we are not satisfied when carrying out checks that an applicant is politically impartial.

2.20 We may also reject 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 has been revoked by the Commission in the five years previous to the date of application.

2.21 If an application is rejected the reasons for that decision will be provided in writing. The individual or organisation may submit a further application provided it complies with the requirements set out in this Code.

2.22 If applicants wish to appeal against the rejection of their application, they should do so in writing to observers@electoralcommission.org.uk. Appeals can also be sent by post to:

Electoral observer scheme
The Electoral Commission
3 Bunhill Row

London EC1Y 8YZ

2.23 For your appeal to be considered, it must be received within 28 days of the date of the notification of your application having been rejected.

Renewing accreditation

2.24 Unless a shorter accreditation period is requested on the application form, the accreditation of individual observers will be valid until 31 December of the year of issue. This end date will be specified on the identification card.

Observer organisations

Unless a shorter accreditation period is requested on the application form, the accreditation of an observer organisation is valid for up to three years. The three years begins on the date the application is granted and will expire at the end of the third calendar year from the date of issue.

Nominated individuals

Unless a shorter period is requested, the photographic identification provided to nominated individuals will be valid until 31 December of the year of issue. This will be specified on the identification card.

2.25 We will write to accredited individuals and observer organisations shortly before their accreditation is due to expire and invite them to re-apply.

2.26 If for any reason during the period of your accreditation you decide you no longer wish to remain registered, please contact us at observers@electoralcommission.org.uk and we can arrange to have your details removed from the register of accredited observers.

3 The standards expected of observers

3.1 These standards of behaviour are expected of all accredited observers. They also apply to Commission representatives.

3.2 All applicants must read this guidance **before** completing an application. When completing an application applicants will be asked to sign a declaration stating that they agree to abide by this guidance for the period of their accreditation.

3.3 Observers who fail to abide by the standards of behaviour set out in this section may have their accreditation revoked.

Your conduct as electoral observers

3.4 All observers must read and agree to the principles set out below.

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

3.5 Observers must respect the laws of the United Kingdom as well as the authority of Returning Officers, Counting Officers and the Commission and follow any lawful instruction from the UK's governmental, security and electoral authorities.

3.6 Observers must also maintain a respectful attitude toward electoral officials and other national authorities.

Maintain strict impartiality at all times

3.7 Observers must maintain **strict political impartiality** at all times during the period of their accreditation, including during their leisure time and when using social media. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates or referendum issues.

3.8 Observers must also 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.

3.9 Political party affiliation does not automatically disqualify a person from becoming accredited as an observer. However, members, officers or employees of a UK registered political party who would be, or are likely to be, politically active during their accreditation period must not apply for accreditation.

3.10 In all circumstances, applicants must be satisfied that they will be able to meet the requirement for political impartiality set out above for the duration of their accreditation.

Abide by the requirements of secrecy

3.11 Observers must maintain and aid in maintaining the secrecy of the ballot.

3.12 Observers must comply with all directions on the use of portable electronic equipment, such as mobile phones, tablets, laptops, electronic recording equipment, cameras, etc.

Do not obstruct electoral processes

3.13 Observers must not obstruct any element of electoral processes, including pre-election processes, the issue and opening of postal ballots, voting, counting and calculation of results and processes transpiring after polling day.

3.14 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.

3.15 Observers may ask questions of election officials, political party representatives and other observers and may answer questions about their own activities, as long as observers do not obstruct any electoral process. When asking or answering questions, observers must not seek to direct any electoral process.

3.16 Observers may ask and answer questions of voters but may not ask them to tell for whom or which party or referendum position they voted.

Provide appropriate identification

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

3.18 Observers must ensure that their observer identification is visible at all times while observing.

3.19 Observers must not give the impression that they are employed by, are a representative of, or are observing on behalf of the Commission. If asked, observers must state that they are an electoral observer and independent of the Commission.

Maintain accuracy of observations and professionalism in drawing conclusions

3.20 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 electoral processes. Observers' judgements must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence.

3.21 Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely.

3.22 Accredited observers are encouraged to provide feedback on their observations. We would encourage you to provide feedback, both to the Commission and to the election staff where you observe. If you provide feedback to the Commission, we may share it with the people responsible for running the poll in the area you observed.

Maintain proper personal behaviour

3.23 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 in their leisure time.

Failure to meet these standards

3.24 Observers who exhibit disruptive behaviour can be removed from electoral proceedings, and/or have their accreditation revoked.

3.25 We may revoke accreditation if an observer, organisation, or anyone included in an observer organisations list:

- fails to abide by these standards of behaviour
- is found or reported guilty (under the Representation of the People Act 1983 or any other electoral legislation in the United Kingdom) of a corrupt or illegal electoral practice anywhere in the United Kingdom

3.26 If, as a result of misconduct, a relevant officer⁹ has had an observer removed from a particular electoral proceeding, we will only revoke their accreditation if we consider that the individual was not abiding by this Code and the guidance contained in it.

3.27 Misconduct includes:

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

⁹ The term 'relevant officer' is used to refer to Returning Officers, Counting Officers and Presiding Officers

3.28 The power of relevant officers to remove observers for misconduct is in addition to their general power to keep order at the relevant electoral proceeding. Observers are subject to the lawful directions of relevant officers.

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

Observer organisations

We may also revoke the accreditation of observer organisations if the organisation refuses to promptly remove an observer found to be in breach of this Code from their list of nominated individuals.

3.30 Observers who want to appeal against revocation should do so in writing to the Commission at observers@electoralcommission.org.uk. Appeals can also be sent by post to:

Electoral observer scheme
The Electoral Commission
3 Bunhill Row
London EC1Y 8YZ

3.31 For your appeal to be considered, it must be received within 28 days of the date of the notification of your accreditation being revoked.

4 Part B: Facilitating electoral observation

4.1 This part covers:

- guidance to Returning Officers, Counting Officers and Presiding Officers¹⁰
- how they will manage access to and conduct at electoral proceedings
- how they will deal with disruptive behaviour and/or misconduct

4.2 Accredited observers should also read this section of the Code of Practice to ensure they understand it and are familiar with it.

Managing access to electoral proceedings

4.3 Electoral observation is a legitimate and valuable part of the electoral process, and care should be taken not to hinder or obstruct any observers.

What do observers do?

4.4 Observers accredited by the Commission are entitled to observe:

- the issue and receipt of postal ballot papers¹¹
- the poll
- the verification and counting of the votes

4.5 While it is not a requirement for observers to provide advance notification of where they intend to observe, we advise that it is good practice for them to do so. Providing advance notification of where they intend to observe will help relevant officers¹² provide them with key information and will aid the security of electoral proceedings.

4.6 Likewise, relevant officers are not required to proactively notify observers of the time and place of electoral proceedings, or of the processes to be followed, but it is good practice to do so. Providing information to observers will enable them to

¹⁰ 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. [Our manuals for Returning Officers and handbooks for polling station staff](#) include further guidance on providing observers access to specific electoral proceedings.

¹¹ Under the Representation of the People 2001 Regulations or equivalent legislation, 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.

¹² The term 'relevant officer' is used to refer to Returning Officers, Counting Officers or Presiding Officers.

properly observe proceedings and will help build confidence in the administration of the poll.

4.7 Commission representatives and accredited observers must follow all lawful directions from relevant officers and the police.

How can relevant officers manage access?

4.8 The law allows a relevant officer to limit the number of accredited 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.¹³

4.9 Numbers can only be limited where an observer or a number of observers are hindering the conduct of proceedings or are jeopardising the secrecy of the ballot.

4.10 A direction to limit the number of observers should only be given:

- for a specified time, such as for 30 or 60 minutes
- when circumstances exist, for example:
 - at the polling station there are ‘x’ number of electors waiting to vote or ‘y’ number of agents being present which mean that they would hinder the conduct of the proceedings
 - at the issue and receipt of postal votes, or at the verification and count, ‘x number of agents being present’ which mean that they would hinder the conduct of those proceedings

4.11 While relevant officers are permitted to limit the number of observers who may be present at any one time during electoral proceedings, caution should be exercised in doing so.

4.12 Relevant officers are not entitled to bar all observers from electoral proceedings, only to limit the number of observers present at any one time, and this discretion must be exercised reasonably.

4.13 Should access be suspended, relevant officers should ensure they maintain a clear audit trail to support their decision. We provide [a log to note any occasions when it is required to limit observer numbers at electoral proceedings](#).

4.14 Relevant officers may not limit the number of Commission representatives who may be present at an electoral proceeding.

4.15 The provisions allowing for attendance of Commission representatives and observers do not detract from the duty and responsibility of relevant officers to keep public order and promote the secrecy of the ballot at any electoral proceedings.

4.16 Accordingly, relevant officers should 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. Also, if the issue or receipt of postal

¹³ Section 6E of PPERA.

ballots is outsourced, the contract must contain provision for the attendance of observers at the proceedings, and relevant officers will need to make suitable arrangements with their contractors to ensure this can be achieved.

Guidance on dealing with disruptive behaviour or misconduct

4.17 The law allows relevant officers to remove an accredited observer due to disruptive behaviour or misconduct.¹⁴ The power for relevant officers to remove observers for misconduct is in addition to their general power to keep order at electoral proceedings.

4.18 Misconduct includes:

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

How can relevant officers manage disruptive behaviour or misconduct?

4.19 While relevant officers are permitted to remove observers for misconduct, caution should be exercised in doing so.

4.20 Should a relevant officer exercise their power to remove an accredited observer from electoral proceedings due to misconduct, they should ensure they maintain a clear audit trail to support their decision.

4.21 A direction by a relevant officer to remove an observer from electoral proceedings for disruptive behaviour or misconduct can be given at any time.

4.22 Any observer removed for misconduct is not entitled to re-enter those proceedings for the remainder of them.

4.23 The power of relevant officers to remove observers for misconduct is in addition to their general 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.

4.24 The relevant officer should notify observers in writing of why they are being removed and maintain a record of the removal and the reasons for the removal. We provide [a form to note any occasion where an observer has been removed from electoral proceedings due to disruptive behaviour or misconduct](#) to assist with this. Relevant officers should notify the Commission if an observer is removed from any electoral proceeding due to disruptive behaviour or misconduct.

¹⁴ Section 6E of PPERA.