



Guidance on policing elections and referendums

Date of publication: February 2011

See: www.electoralcommission.org.uk/guidance

Introduction

Please note that the role of the police service in elections and referendums must be seen to be impartial and fair. There are several specific electoral offences and some general offences to which officers should be particularly alert. This is not intended to be a comprehensive list and advice from a senior officer, your SPOC, or the PPS should be sought if necessary.

The Police Service of Northern Ireland has a **Single Point Of Contact (SPOC)** for advice relating to elections and referendums at either District, Departmental or Organisational level. Your election and referendum advice SPOC is contactable through the Belfast Regional Centre.

Most offences under the Representation of the People Act 1983 (RPA 1983) are classified as corrupt or illegal. **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. **Illegal practices** are summary offences and the maximum penalty is a £5,000 fine.

1 Bribery

A person is guilty of bribery if they directly or indirectly give any money or procure any office to or for any voter, in order to induce any voter to vote or not to vote for a particular candidate or option; or to vote or refrain from voting. Corrupt practice, s113 RPA 1983.

2 Treating

A person is guilty of treating if either before, during or after an election or referendum 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. Corrupt practice, s114 RPA 1983.

3 Undue influence

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 voter to vote or refrain from voting. 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. Corrupt practice, s115 RPA 1983. It can include threats of harm of a spiritual nature.

Suggested action for all cases

- Preserve evidence.
- Respect secrecy of sealed documents and seek advice before opening.
- When election or referendum documents become evidence in a potential crime, the method of preservation by the police should include consultation with the Chief Electoral Officer to agree a mutually beneficial way forward.
- Act positively:
 - Consider inviting party to attend for interview under caution.
 - Consider Article 26 PACE (as amended by SOCPA 2005) with due regard for necessity.
- Notify the PSNI SPOC and the Chief Electoral Officer of all reported incidents.
- The PSNI SPOC will inform the Electoral Commission of any reports.

Prosecutions under the Representation of the People Act 1983 must be brought within 12 months of the commission of the offence. Under exceptional circumstances this may be extended to not more than 24 months if there has been no undue delay.

4 Personation

It is an offence for any individual to vote as someone else (whether that person is living or dead or is a fictitious person), either by post or in person at a polling station as an elector or as a proxy. Furthermore, the individual voting can be deemed as a person 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 the proxy appointment is no longer in force. Corrupt practice, s60 RPA 1983.

It is an offence to commit, aid, abet, counsel or procure the offence of personation.

The Representation of the People Act 1983 (RPA 1983) regulates the conduct of electoral registration and UK Parliamentary elections. Each election and referendum will have its own legislation but offences typically mirror those in the RPA 1983.

5 False application to vote by post or by proxy

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.

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 or Returning Officer or local Counting Officer 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.
- Corrupt practice, s62A RPA 1983.
- It is also an offence to aid or abet the commission of the above offences.

6 Multiple, proxy and other voting offences

It is illegal to vote more than once for elections to the same elected body or more than once in the same referendum.

It is illegal to vote on behalf of another person unless you are the officially appointed proxy. It is also illegal for an officially appointed proxy to vote for more than two people who are not close family members in the same election (i.e. same ward or constituency) or the same referendum.

Voting when under a legal incapacity to vote is also an offence.

Inducing or procuring another to commit one of the above offences is also an offence.

These are illegal practices, s61 RPA 1983.

Remember

- preserve evidence
- seek advice of a supervisor

Be guided by Presiding Officers and their staff within polling stations.

Prevention is better than prosecution

The opportunity to vote is a cornerstone of democracy and a human rights issue.

Facilitating peaceful and effective voting is a primary concern for the police service.

Opportunities for fraud at election time can be prevented or reduced by positive police action.

7 Secrecy

Everyone involved in the electoral process should be aware of the secrecy of the ballot. The Returning Officer will give everyone who attends the opening or counting of ballot papers an extract from s66 of the RPA 1983. Any person found guilty of breaching the secrecy requirements may have committed a summary offence with a maximum penalty of six months imprisonment or a £5,000 fine.

Remember this also applies to police. Do not ask how someone has voted or open a sealed ballot paper envelope or a return envelope.

Summary offence, s66, RPA 1983

Other offences

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**
- **assault, public order and criminal damage offences.**

Ensure all crime (as above) is recorded in line with Home Office counting rules. Advice can be found on the Police National Legal Database, force intranet site and via your SPOC.

A **Presiding Officer** may call upon a constable to eject someone from the Polling Station where a person fails to comply with a lawful instruction of a Presiding Officer. Further non-compliance with a consequent police request may constitute obstructing a police officer or a breach of the peace.

Polling agents

Polling agents are appointed by candidates and are allowed to be present in the polling station. The main role of a polling agent is to detect personation. Polling agents are required to maintain the secrecy of voting and are subject to the legal requirements relating to secrecy under the RPA 1983. Polling agents must not, before the close of poll, pass any information to anyone about:

- the name of anyone who has voted
- the electoral number of anyone who has voted
- the official mark (on the ballot paper)

Postal voting

Postal votes: candidates, canvassers, agents and campaigners are discouraged from handling postal votes. They should advise voters who are unable to return their ballots in person to use friends or family to convey their vote. Postal votes will only be accepted if they have been returned to the Deputy Returning Officer at his/her office before the close of poll. Please note postal votes cannot be handed in at polling stations.

Remember: simple possession of a postal vote belonging to someone else is not illegal. However, where someone other than a member of the Returning Officer's staff or Counting Officer's staff is found to have several or large numbers of these, then potential wrongdoing should not be ruled out.

8 False registration information and false postal/proxy voting application

It is an offence to supply false information in relation to the registration of electors to the Chief Electoral Officer 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.

This is a summary offence under s13D, RPA 1983, with a maximum penalty of six months' imprisonment or a £5,000 fine. Unlike the s62A offence (see 5 overleaf), it is not necessary to establish an intention to gain, or deprive another of, a vote, money or property.

Other matters

Be aware of the statutory duty to promote good relations under Section 75 of the Northern Ireland Act 1998.

Public voting gives an opportunity to the police to promote excellent Community relations in all aspects.