

Further analysis of CPS files on allegations of electoral malpractice in England and Wales, 2000-2006

Overview of the project

1. The Electoral Commission has monitored issues around electoral malpractice since our first election report in 2001. We have no direct statutory mandate to act in this area, but rather our interest in this area is covered by overarching powers to keep electoral law and practice under review¹ and to report on major elections².
2. The Commission has often been asked how many cases or allegations of electoral malpractice or fraud have been reported in the UK. Electoral malpractice is investigated by the police and prosecuted by the relevant prosecution service. However, there is no one central database of allegations of electoral malpractice and breaches of electoral legislation in the United Kingdom and no requirement on police and prosecutors to notify any central body of allegations.
3. On 15 January 2007, in a speech to an elections conference entitled *Elections: new thinking, new standards*, Sir Alistair Graham³ reported that during the review of the Electoral Commission the Committee on Standards in Public Life had been told that there were only a “few reported cases” of electoral fraud. He announced that he was aware that since 2001, 342 “cases of electoral malpractice” had been reported to the Crown Prosecution Service (CPS).
4. On 21 January 2007 *The Times* published a comment piece by Dr Michael Pinto-Duschinsky suggesting he had been notified of statistics by the CPS that “revealed that there were no fewer than 390 cases of alleged electoral offences in the past seven years⁴.” We have subsequently confirmed that these are the same statistics provided to the Committee on Standards in Public Life.
5. Following these comments the Commission was able to make arrangements with the CPS to examine these files and categorise them. The CPS’s cooperation in making these files available and assisting with our categorisation is appreciated, as is the support of then Department for Constitutional Affairs, now Ministry of Justice.
6. In March 2007 the Commission released interim findings of our examination of these files. We are pleased to now publish this further analysis and a table summarising the files themselves.

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

² Section 5, PERA

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

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

7. We have confined our analysis to breaches of the Representation of the People Act 1983 (RPA), as these are specific to electoral matters. We acknowledge that such an analysis will not cover all law enforcement action in respect of electoral matters.

Key conclusions

8. No geographic area or type of area has a monopoly on allegations of electoral malpractice. 42 of the 43 territorial police forces in England and Wales have referred at least one case to the CPS during this six year period. There is also one file on the list referred from the 43rd force, the City of London police, but on examination it does not relate to an RPA offence and has been excluded from this analysis.

9. A purpose-designed database detailing allegations of electoral malpractice and their outcomes needs to be established, rather than continue to attempt to draw meaningful conclusions from information gathered for other purposes.

The second analysis

10. This document includes further analysis of CPS files opened in response to alleged incidences of electoral malpractice during the period from 2000-2006.

Background to the spreadsheet and analysis

11. The starting point for this project was the figure of 390 files that the CPS indicated they had opened on electoral malpractice between 2000 and 2006.

12. Our initial analysis reported that nine files had been destroyed under the CPS file retention policy. During the course of our further work one of these files was found not to have been destroyed and now only eight destroyed files are missing.

13. We pointed out that we have not sought access to 'open' files where matters are currently under consideration by the CPS. These 23 'open' files do not feature in this analysis.

14. We have been able to identify five duplicated files. The main reason for separate files being opened in relation to the same allegation is where the initial file was an advice file opened in the early stages of a police investigation and a new case file was created at a later date when the investigations were complete and the papers forwarded to the CPS.

15. We have identified 42 files that relate to cases that were not considered as RPA offences. As stated in our initial analysis some of these will be prosecutions under the forgery and counterfeiting legislation, others will

have no relation to elections at all and some relate to allegations where nothing illegal had taken place.

16. What has changed since the initial analysis is that cases where some details, such as the outcome, were not recorded in the paper files have now been discovered and entered.

An explanation of how the database was constructed

17. Due to the nature of the filing system that the CPS employs, the units of analysis are files and not necessarily cases against individuals, and as such the results are subject to caveats. It should be recognised that in some instances, allegations of breaches involving numerous possible defendants may appear on one CPS file and in others each defendant may have a separate file. Some files contain alleged breaches of more than one RPA section.

18. Where possible our analysis has created a separate entry under the original file number where allegations are made under more than one section of the RPA and they have different outcomes.

19. For example one file may consider offences under section 110 relating to election material without the imprint, and section 106 about a false statement in the same document. While there is evidence of a breach of section 110 which might not be in the public interest to prosecute, there may not be evidence to support a prosecution for a false statement. In this case, we would try to distinguish between separate outcomes and record one under the case file number and make a separate entry for the other using the same file number with a suffix letter.

20. Similarly, where one file reveals that several people have been prosecuted, and the charge or outcome is different, then each has been entered with the same file number but with a different suffix.

21. While the spreadsheet contains 438 separate entries, the entries relating to the 55 destroyed, duplicate and non-RPA files have been removed to give a base figure of 383 entries for comparative analytical purposes

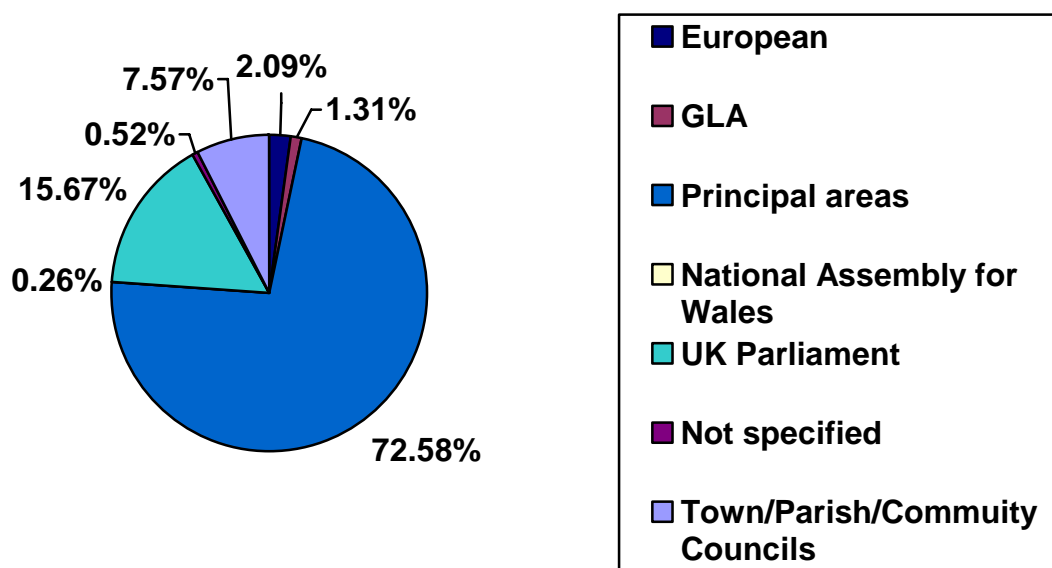
Analysis

22. The analysis looked at the relative proportion of entries on the spreadsheet by type of election. The figures are shown below in a table and graphically. They reveal that over 70 per cent related to principal areas with just over 15 per cent in connection with UK Parliamentary elections.

Spreadsheet entries by type of election 2000-2006

Nature of election	Number of elections from 2000-2006 ⁵	Number of entries relating to each type of election	Proportion of entries (%)
Europe	10	8	2.09
Greater London Authority	32	5	1.31
Principal areas ⁶	23,909	278	72.58
Parish/Town/Community councils		29	7.57
National Assembly for Wales	45	1	0.26
UK Parliament	1,138	60	15.67
Election not specified	-	2	0.52
Total	25,134	383	100.00

Spreadsheet entries by type of election 2000-2006



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

⁶ Principal areas are classified as either: District, City, Unitary, Metropolitan or County Councils.

Spreadsheet entries by Police Authority area 2000-2006⁷

23. The analysis has shown that every police force has submitted papers to create at least one file with the CPS. However the case referred by the City of London police does not relate to an RPA offence and has been excluded.

24. Not surprisingly the larger police forces generally have more cases but some of the smaller ones still feature towards the top of the list as shown in the following table.

Number of CPS files by Police Authority area 2000-2006⁸

	Police Authority area	Entries
1	Metropolitan	61
2	Essex	26
3	West Midlands	25
4	Merseyside	23
5	Greater Manchester	22
6	Lancashire	21
7	Thames Valley	18
8	Northumbria	16
9	Hampshire	13
10	Bedfordshire	12
11	Dorset	12
12	Leicestershire	11
13	South Yorkshire	10
14	Staffordshire	9
15	Cheshire	8
16	Derbyshire	8
17	Kent	8
18	South Wales	7
19	West Yorkshire	7
20	Avon and Somerset	6
21	Devon and Cornwall	5
22	Hertfordshire	5
23	Nottinghamshire	5
24	Cambridgeshire	4
25	Cumbria	4
26	Durham	3
27	Gwent	3
28	Humberside	3
29	Lincolnshire	3
30	Norfolk	3

⁷ Significant caveats apply to these figures, see paragraphs 16 - 21 above.

⁸ Significant caveats apply to these figures - see paragraphs 16 - 21 above.

	Police Authority area	Entries
30	Norfolk	3
31	North Wales	3
32	North Yorkshire	3
33	West Mercia	3
34	Dyfed Powys	2
35	Surrey	2
36	Sussex	2
37	Cleveland	1
38	Gloucestershire	1
39	Northamptonshire	1
40	Suffolk	1
41	Warwickshire	1
42	Wiltshire	1
	Several	1
Total entries		383

25. When the figures are adjusted to reflect the population served by each force the following table shows that three of the four highest ranking forces are essentially smaller or rural forces compared with the larger metropolitan ones that would normally be expected. However, in addition to Merseyside, West Midlands and Greater Manchester feature in the top ten with the Metropolitan Police not far behind. There is no discernable pattern.

Number of entries by Police Authority area 2000-2006⁹

	Police Authority area	Number of entries¹⁰	Population per police authority¹¹	Files per '000,000 population¹²
1	Bedfordshire	12	576,218	2.1
2	Dorset	12	700,419	1.7
3	Merseyside	23	1,365,832	1.7
4	Essex	26	1,635,605	1.6
5	Lancashire	21	1,434,871	1.5
6	Leicestershire	11	945,480	1.2
7	Northumbria	16	1,396,374	1.1
8	West Midlands	25	2,579,153	1.0
9	Greater Manchester	22	2,539,043	0.9
10	Staffordshire	9	1,050,609	0.9
11	Thames Valley	18	2,120,859	0.8
12	Metropolitan	61	7,420,617	0.8
13	Derbyshire	8	979,226	0.8
14	Cumbria	4	494,782	0.8
15	Cheshire	8	992,642	0.8
16	South Yorkshire	10	1,278,434	0.8
17	Hampshire	13	1,801,442	0.7
18	South Wales	7	1,217,660	0.6
19	Cambridgeshire	4	737,890	0.5
20	Gwent	3	556,641	0.5
21	Durham	3	595,388	0.5
22	Kent	8	1,610,310	0.5
23	Nottinghamshire	5	1,034,739	0.5
24	Hertfordshire	5	1,041,319	0.5
25	Lincolnshire	3	673,531	0.4
26	North Wales	3	674,498	0.4
27	Dyfed Powys	2	503,663	0.4
28	Avon and Somerset	6	1,519,119	0.4
29	North Yorkshire	3	764,866	0.4
30	Norfolk	3	816,525	0.4

⁹ Significant caveats apply to these figures, see paragraphs 16 - 21 above

¹⁰ The total number of entries for the police forces shown is 382. The entry covering several force areas is not included.

¹¹ Source: Home Office Crime Statistics for England and Wales 2006 .

¹² The figures are shown rounded to the nearest 0.1 place but the order is determined to a further two decimal places

31	Humberside	3	887,521	0.3
32	West Yorkshire	7	2,108,028	0.3
33	Devon and Cornwall	5	1,619,062	0.3
34	West Mercia	3	1,178,763	0.3
35	Warwickshire	1	525,481	0.2
36	Surrey	2	1,067,186	0.2
37	Cleveland	1	553,311	0.2
38	Gloucestershire	1	572,791	0.2
39	Wiltshire	1	626,809	0.2
40	Northamptonshire	1	646,731	0.2
41	Suffolk	1	683,736	0.1
42	Sussex	2	1,510,445	0.1
Total entries		383		

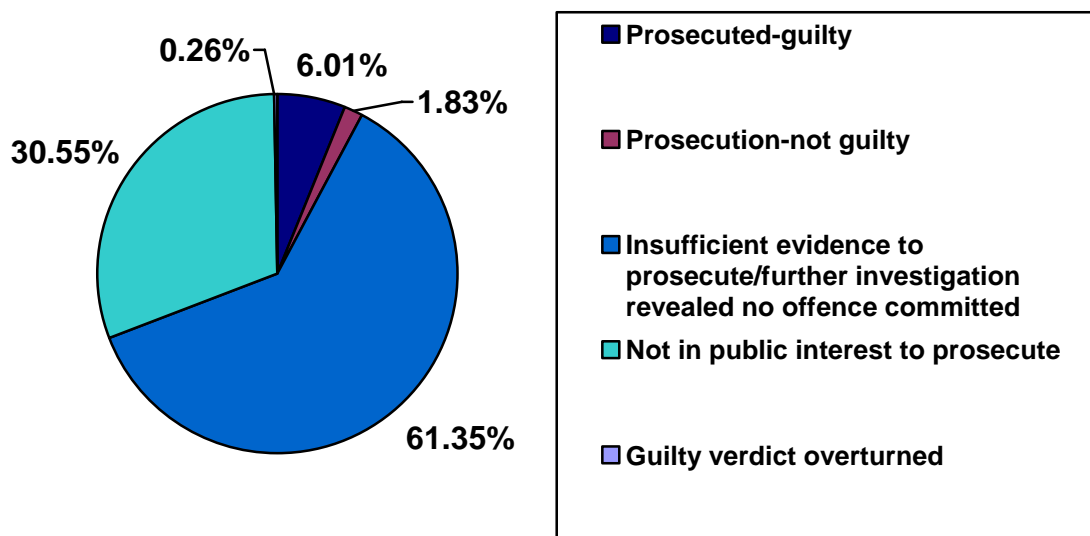
26. With regard to the outcome of allegations referred to the CPS, where the evidential test was met a further 30 per cent were assessed as not being in the public interest to bring a prosecution. Three-quarters of those prosecuted were found guilty. The following table gives the exact figures and the information is also displayed graphically.

Outcome of allegations to CPS 2000-2006

	Number of entries by outcome of allegation	Outcome of allegation as % of entries relating to 2000-2006
Number prosecuted where verdict = Guilty	23 ¹³	6.01
Number of prosecutions bought where verdict = Not guilty	7	1.83
Prosecuted = guilty-Overturned on appeal	1	0.26
Not enough evidence to prosecute or/and further investigation found that no offence was committed.	235	61.36
Not in public interest to prosecute	117	30.55
Total	383	100.00

¹³ One case went to appeal but the prosecution was upheld.

Outcome of allegations 2000-2006 as % of entries relating to 2000-2006



27. A notable feature of the original analysis by offence was the number of allegations alleging both an imprint issue and a false statement concerning a candidate. If one looks at the prosecution rate for these offences individually and then together, the proportion of prosecutions increases considerably where allegations of election material bearing no imprint and involving a false statement arise together.

Outcome of allegations by S.106 offences (false statements as to candidates) and S.110 offences (imprint on election material) 2000-2006

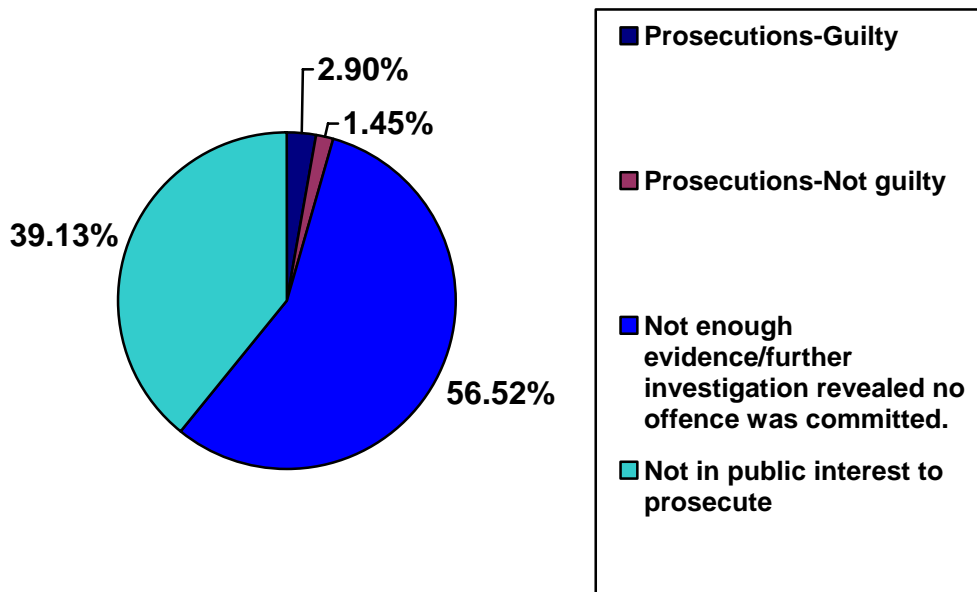
	S.106 offences (false statements as to candidates)	S.110 offences (imprint on election material)	Combined S.106 & S.110 offences ¹⁴
Number prosecuted where verdict = Guilty	1	1 ¹⁵	2
Number of prosecutions brought where verdict = Not guilty	1	0	1
Not enough evidence to prosecute or investigation has	40	32	6

¹⁴ These offences may be combined with other offences under the Political Parties, Elections and Referendums Act 2000.

¹⁵ Decision upheld on appeal

found no offence committed.			
Not in public interest to prosecute	3	49	2
Percentage of offences resulting in guilty prosecutions	2.22%	1.22%	18.18%

Proportion of allegations under S.106 and S.110 resulting in prosecutions 2000-2006



Conclusion

28. The conclusion must mirror the recommendation in the Review of absent voting in Great Britain. If there are lessons to be learned about electoral malpractice a database needs to be set up that will allow an accurate picture to be discerned. This work is still a goal of the Commission, and one which is being actively pursued with the CPS.