

The
Electoral
Commission

Electoral observation at United Kingdom elections and referendums

Code of practice for electoral observers

HC 1824

Scotland ELC/2018/02

Electoral observation at United Kingdom elections and referendums

Presented to Parliament pursuant to Section 6F(5) of the Political
Parties, Elections and Referendums Act 2000

Ordered by the House of Commons to be printed 19 December
2018

Laid before the Scottish Parliament by the Electoral Commission in
pursuance of Section 6G(5) of the Political Parties, Elections and
Referendums Act 2000

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ELC/2018/02



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Email: info@electoralcommission.org.uk

ISBN: 978-1-5286-0931-9CCS

CCS: CCS1218199994

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office.

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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 and relevant referendums¹ 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,² 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.

¹ A relevant referendum is a Referendum held under the Political Parties, Elections and Referendums Act 2000.

² http://www.ndi.org/sites/default/files/1923_declaration_102705_0.pdf.

2 Part A: Becoming 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, including those from outside the UK, can apply to become an electoral observer, provided they are politically impartial.

2.3 There are two types of observers at UK elections and relevant referendums: 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 is published on our website. This public register is the only official list of accredited observers and includes the name of all accredited observers.

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

2.6 Accredited electoral observers are entitled to observe specified electoral proceedings. There is no requirement to notify electoral officials of your intention to observe these proceedings.

2.7 However, providing advance notification to electoral officials in the area you intend to observe will mean they can provide you with relevant local information, such as the list of polling stations in the area, which will help to 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.

2.8 If you do wish to provide advance notification of where you intend to observe, addresses and telephone numbers of local election offices can be found online or by contacting the relevant local authority or the Commission.

What do observers do?

2.9 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

2.10 Individual observers accredited by the Commission are also entitled to attend the count at a recall petition.³

2.11 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. The provision of feedback is entirely voluntary and you do not have to use any template we may make available.

How to become an observer

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

2.13 You can apply to become an observer at any time. Your accreditation will last for a period of up to three years. However you can request a shorter period of accreditation. 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?

2.14 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 badge⁴, 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

³ Regulation 150 of The Recall of MPs Act 2015 (Recall Petition) Regulations 2016.

⁴ 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.

- include the applicant's full face, which must be clearly visible⁵
 - 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 age⁶
 - specify a period of up to three years for which they seek accreditation
 - 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
 - declare that they will maintain strict political impartiality at all times during the period of their accreditation (paragraphs **3.7** to **3.10** contain further information on political impartiality)

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

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 individual has been provided with a copy of the legislative provisions

⁵ Hats or head coverings are not permitted except when worn for religious reasons and only if the full facial features are clearly visible.

⁶ Applicants who do not hold any such photographic identification should contact us for advice.

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 badge⁷
- The photograph must:
 - be a head shot of the applicant facing the camera
 - include the applicant's full face, which must be clearly visible⁸
 - be taken with the applicants eyes open
- 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 applicant's name and age⁹
- a declaration that they will maintain strict political impartiality at all times during the period of their accreditation (paragraphs **3.7** to **3.10** contain further information on political impartiality)
- 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?

2.15 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.

2.16 Applications can also be submitted by post to any of our offices. If you submit an application by post, please use the words 'Electoral observation application' prior to the office address.

2.17 If you need help with your application, please contact us on 0333 103 1928.

⁷ 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.

⁸ Hats or head coverings are not permitted except when worn for religious reasons and only if the full facial features are clearly visible.

⁹ Applicants who do not hold any such photographic identification should contact us for advice.

What happens after an application is submitted?

2.18 When we receive your application we will make checks in relation to political activity, including on social media, as highlighted in our privacy notice, which is available on our website.

2.19 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

2.20 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

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

2.22 Accreditation will not come into effect until the fourth day 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.

Accreditation of a nominated individual will last for a period of up to three years. However a shorter period of accreditation can be requested.

Organisations are responsible for ensuring that they notify us by emailing observers@electoralcommission.org.uk if they want to remove a nominated individual from their list or if the nominated individual is no longer entitled to be accredited.

What happens if my application is rejected?

2.23 We will 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.

2.24 We will 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.

2.25 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.

2.26 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, addresses for each of our offices are available on our website.

2.27 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

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

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

2.30 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 will remove your details 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 political 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, or being affiliated with a non-party campaign group, 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. The provision of feedback is entirely voluntary and you do not have to use any template we may make available.

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 officer¹⁰ 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

¹⁰ 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, addresses for each of our offices are available on our website.

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 Officers¹¹
- how they should manage access to and conduct at electoral proceedings
- how they should 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 papers¹²
- the poll
- the verification and counting of the votes

4.5 Individual observers accredited by the Commission are also entitled to attend the count at a recall petition.¹³

4.6 While it is not a requirement for observers to provide advance notification of where they intend to observe, we advise them that doing so will help relevant officers¹⁴ provide

¹¹ 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 guidance for Returning Officers and polling station staff, which is available on our website, includes further detail on providing observers access to specific electoral proceedings.

¹² 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.

¹³ Regulation 150 of The Recall of MPs Act 2015 (Recall Petition) Regulations 2016.

¹⁴ The term 'relevant officer' is used to refer to Returning Officers, Counting Officers or Presiding Officers.

them with key information, such as the list of polling stations in the local area, and will aid the security of electoral proceedings.

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

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

How can relevant officers manage access?

4.9 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.¹⁵

4.10 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.

4.11 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

4.12 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.

4.13 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.

4.14 Should access be suspended, relevant officers should ensure they maintain a clear audit trail to support their decision. We have made available on our website a log which may be used to note any occasions when it is required to limit observer numbers at electoral proceedings.

¹⁵ Section 6E of PPERA.

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

4.16 The provisions allowing for attendance of Commission representatives and observers do not detract from the duty and responsibility of relevant officers to comply with the relevant election and referendum rules concerning the attendance of people at electoral proceedings. These include, for example, controls on admission to polling stations, the duty to keep public order at a polling station and the duty to promote the secrecy of the ballot at any electoral proceedings.

4.17 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 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

4.18 The law allows relevant officers to remove an accredited observer due to disruptive behaviour or misconduct.¹⁶ The power for relevant officers to remove observers for misconduct is in addition to their general power to keep order at electoral proceedings.

4.19 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?

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

4.21 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.

¹⁶ Section 6E of PPERA.

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

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

4.24 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.

4.25 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 have made available on our website a form which may be used to note any occasion where an observer has been removed from electoral proceedings due to disruptive behaviour or misconduct. We ask that relevant officers notify the Commission if an observer is removed from any electoral proceeding due to disruptive behaviour or misconduct.