Proposed changes to the *Code of conduct for campaigners*

Consultation

September 2014
Translations and other formats

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We are an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation, and no undue influence.
1 Introduction

Purpose of this consultation

1.1 The purpose of this consultation is to set out changes which we consider necessary to the Code of Conduct for Campaigners and to obtain views from political parties, campaigners, voters and electoral administrators on those proposed changes. The proposed Code of Conduct for Campaigners, with changes from the current version highlighted on it, is set out in Appendix A to this consultation paper.

Code of conduct for campaigners

1.2 Political parties, candidates and campaigners are essential elements of a healthy democracy and they should be able to put their arguments to voters. Campaigners should encourage people to participate in elections and referendums, but should not do anything which undermines or brings into question the integrity of the electoral process. Since 2005 we have developed and published a Code of Conduct for campaigners which sets out what is, and is not, considered acceptable behaviour at polling stations and in the community during the lead-up to polling day.

1.3 The current version of the Code of Conduct for campaigners was developed in consultation with and agreed by the political parties represented on the House of Commons Parliamentary Parties Panel and the panels for the Scottish Parliament and the National Assembly for Wales. It has also been endorsed by the members of the Electoral Commission’s UK Electoral Advisory Board of senior Returning Officers (ROs) and Electoral Registration Officers (EROs), and the Electoral Integrity Roundtable of electoral administrators, political party officers, police and prosecutors. It was published and has been in effect for elections and referendums since March 2013.

1.4 We acknowledge that some ROs may identify the need to develop and seek agreement to local codes of conduct which go beyond the terms proposed in this Code, in order to address specific local risks. The Commission will support those ROs who have consulted appropriately and secured local agreement to such codes.

Scope of consultation

1.5 We would welcome comments on the proposed revisions to the Code, and we have set out a series of detailed consultation questions in section 2 of this paper below. We are seeking views on:

- Proposed changes to make clear that campaigners should not handle any completed electoral registration or absent vote application forms or postal ballot packs.

• The practical implications of the proposed changes to the Code, in particular how to ensure voters are not disadvantaged in any way if campaigners are no longer permitted to handle completed electoral registration or absent vote application forms or postal ballot packs.

• Proposed changes to simplify the style and introduce more direct language.

• Proposed changes to emphasise the role of EROs and ROs in helping voters to complete and submit electoral registration and absent vote application forms and postal ballot packs.

• Proposed changes to emphasise the importance of campaigners.

• Any campaign activity that is not currently covered in the code which may give rise to concern about electoral fraud.

1.6 We would like to receive evidence in support of any responses to this consultation, in particular those relating to the impact of any changes on voters.

1.7 We aim to have agreed and published a revised code by the end of November 2014, to ensure there is time for campaigners to understand what changes to their practices they need to adopt before the May 2015 UK Parliamentary general election.

Why we are proposing changes to the Code of Conduct

1.8 Electoral fraud has the potential to affect the results of elections and undermine trust in the democratic process. Although there is no evidence to suggest that there have been widespread, systematic attempts to undermine the electoral system in the UK, there is a consistent underlying level of concern among voters about electoral fraud in the UK. These concerns are shared by a broad range of people with experience of standing for election or running elections, and are particularly focused on specific areas of the country.

1.9 In January 2012 we commenced a review to identify what could be done to improve confidence in the security of electoral processes in the UK, while at the same time ensuring that the integrity of electoral processes are balanced against the risks to effective voter participation.

1.10 During our review we conducted qualitative research\(^2\) and consultation that revealed concerns from members of the public and electoral administrators about the

\(^2\) Define Research and Insight (2013) *Perceptions of Electoral Fraud: Qualitative Research* available on our website at:
http://www.electoralcommission.org.uk/__data/assets/pdf_file/0014/155300/Perceptions-of-Electoral-Fraud-Stage-1-research-report.pdf and
impact of campaigners’ activities on vulnerable voters and on perceptions of the integrity of the absent voting process. These included concerns that:

- Some voters have felt pressured by campaigners to apply to vote by post or appoint a proxy when that was not their preferred voting method.

- Sensitive personal information which is required on absent vote application forms (an elector’s signature and date of birth) is used by EROs and ROs to protect the security of the absent voting process, and that other individuals or organisations should not have access to this information.

1.11 We concluded that it is not appropriate for campaigners to be directly involved in the voting process, including handling completed absent vote applications and postal ballot packs. We made clear that we would consult political parties, other campaigns, EROs and ROs on changes to strengthen the provisions of the Code relating to handling absent vote applications and postal ballot packs, and on how best to ensure campaigners understand the need to change how they deal with these documents.³

1.12 In our report on the May 2014 local and European Parliamentary elections⁴ we also highlighted a number of specific concerns raised by EROs about the impact of absent vote application campaigns organised by campaigners. These included the impact of delays in receiving application forms which meant that some electors who had completed applications in good time were unable to vote by post; and the impact of poorly designed application forms which meant that some electors were not able to vote by post for local government elections.

1.13 Since June 2014 in England and Wales (and from 19 September 2014 in Scotland), new electoral registration applications must include individual personal identifiers (date of birth and National Insurance number) which EROs will use to verify the identity of the applicant. There are likely to be significant data protection risks if third parties (i.e. an individual or organisation other than the applicant or the ERO) including campaigners collect or handle this sensitive personal information. We are aware that some political parties have already identified this risk.

How to respond to this consultation

We would like to hear any views in response to this consultation by Monday 20 October 2014. Responses to this consultation should be sent to:

By email
codeofconduct@electoralcommission.org.uk

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³ More information about the review, including our final report and recommendations, is available on our website at: http://www.electoralcommission.org.uk/find-information-by-subject/electoral-fraud/electoral-fraud-vulnerabilities-review

2 Consultation questions

2.1 We set out below the issues on which we are seeking input from political parties, campaigners, voters and electoral administrators. The questions (on pages 8 to 10) are divided into specific questions about the proposed revisions to the Code for campaigners, EROs and ROs and voters.

2.2 We would welcome detailed responses to these questions, along with any supporting evidence that you can provide.

Questions for campaigners

2.3 We want to ensure that campaigners are able to fulfil their vital role during elections. However, we are also clear that leaving unreformed the current involvement of campaigners in the voting process itself is not a satisfactory option. Voters have expressed concerns over the role of campaigners in the voting process, particularly where campaigners handle postal vote applications and ballot packs.

2.4 We are keen to hear views and evidence about the practical implications of the proposed changes to the Code of Conduct. We are particularly keen to see any evidence available that can help us evaluate the potential impact on voters.

Questions for campaigners

• What impact do you think the proposed changes to the Code would have for campaigners and the way they interact with electors?
• What impact do you think the proposed changes to the Code would have on the experience of voting for voters?
• Are there any other proposed changes to the Code that you think would be beneficial? Why?

Please provide any evidence and further information supporting your views.

Questions for Electoral Registration Officers and Returning Officers

2.5 We want to ensure that voters who may otherwise have been assisted by campaigners are not disadvantaged by the changes we have proposed to the Code of conduct for campaigners. For electors who are able to get to a post box or post office, we would be interested to hear views on the likely impact of providing a freepost service for the return of completed absent vote application forms. To minimise the impact on those voters who are genuinely unable to return their absent vote application form or completed postal ballot pack through the postal service or to a polling station, EROs and ROs may also need to provide their own collection service. We know that some EROs and ROs already offer services of this kind to
help electors. More proactive publicity by campaigners advertising and promoting the availability of these services could, however, increase demand by electors and campaigners and require additional effort and resource by EROs and ROs in response. We are keen to hear your views on this and the proposed changes to the Code.

Questions for Electoral Registration Officers and Returning Officers

- How many (a) electoral registration applications (b) absent vote applications and (c) completed postal ballot packs do you estimate are returned to you each year directly by campaigners?

- Do you provide a freepost address for absent vote applications, or a collection service for applications or completed postal ballot packs? If yes, we would welcome further information about:
  - What have the direct and non-direct costs been?
  - How does this collection service operate?
  - How is it publicised?
  - How do voters access the service?
  - Are there any groups that use this service more than others?
  - How many voters use this service in your local area?
  - If relevant, is one service (either collection of applications or ballot packs) used more than the other?
  - What are the benefits to you of providing this service?

- What are the implications of collecting postal vote applications or ballot packs for resources, staffing and pre-election planning?

- What are the practical implications and requirements of providing a freepost service? E.g. the costs of providing application forms, a freepost address and envelopes for the return of application forms?

Please provide any evidence and further information supporting your views.

Questions for voters

2.6 We would like to hear from voters themselves about what impact these changes might have on them. We have previously carried out qualitative research with voters on perceptions of electoral fraud, and responses to this consultation will build on and supplement our qualitative research findings.

2.7 In particular we would like to know about any concerns voters have about the current system; the extent to which they rely on campaigners to deliver applications and postal ballot packs to EROs and ROs; and whether they would welcome and use a freepost address for application forms or collection service for postal ballot packs?
Questions for voters

- What impact would the proposed changes to the Code for campaigners have on you as a voter? Would they affect the method you choose to use to vote? Would they increase the likelihood that you will participate in elections? Or improve your trust in the election process?

Please provide any evidence and further information supporting your views.
Appendix A: Proposed Code of conduct for campaigners: electoral registration, postal voting, proxy voting and polling stations for elections and referendums from 2015

Campaigners are an essential element of a healthy democracy, and their right to put their arguments to voters should be supported and protected. It is equally important, however, to ensure that the activities of campaigners do not bring into question the integrity of the electoral process.

This Code provides a guide for campaigners, electoral administrators and police forces to what is, and is not, considered acceptable behaviour at polling stations and in the community during the lead-up to polling day.

As a guiding principle, if there is any doubt about a particular activity, campaigners should ask themselves “What would a reasonable observer think?”

More detailed guidance about electoral offences can be found in the full guidance published jointly by the Electoral Commission and the UK’s Associations of Chief Police Officers, which is available on our website at:

http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events

This Code has been agreed by the political parties represented on the House of Commons Parliamentary Parties Panel and the panels for the Scottish Parliament and the National Assembly for Wales, and is endorsed by the members of the Electoral Commission’s UK Electoral Advisory Board of senior Returning and Electoral Registration Officers and Electoral Integrity Roundtable.
The Code has been sent to all registered political parties in Great Britain, and Returning Officers will draw it to the attention of all candidates and parties contesting elections.

Scope of this code

This code covers all those actively involved in campaigning in elections or referendums in Great Britain. All references to campaigners in this code include:

- Candidates standing at an election, their agents and their staff and supporters
- Political party officers, members and supporters campaigning at an election
- Other people and organisations campaigning for or against a candidate, a group of candidates or a party at an election
- People and organisations campaigning for or against a particular outcome at a referendum

Compliance with this code

Any concerns that this code has been breached should be raised first with the candidate, political party or campaigner in question.

Any further concerns should be drawn to the attention of the Electoral Commission. The Commission will raise them with the relevant party or campaigner if appropriate, and will agree appropriate actions to remedy or prevent a reoccurrence of any breach.

1 Registration and absent vote applications

1.1 Campaigners should be free to encourage voters to register to vote and apply to vote by post or appoint a proxy to vote on their behalf, if that is the most convenient way for them to vote.

Campagners can help to inform voters about how to participate in elections, and Electoral Registration Officers should support you by providing you with a reasonable number of registration and absent vote application forms on request. Voters can also register online at:

www.gov.uk/register-to-vote

1.2 Campaigners should ensure that any electoral registration forms and postal or proxy voting application forms conform fully to the requirements of electoral law, including all the

Proposed change
New paragraph added at 1.1 to emphasise the importance of campaigners and provide link to online registration address

Proposed changes
References to electoral registration forms added in heading and paragraphs 1.1 to 1.3
necessary questions and the options open to electors.

You can download electoral registration forms from www.gov.uk/register-to-vote and absent vote application forms from www.aboutmyvote.co.uk

1.3 Campaigners should always explain to voters the implications of applying to vote by post or appointing a proxy.

It is important that voters understand that they will not be able to vote in person on polling day if they or their proxy apply for and are granted a postal vote, and will not be able to vote in person if their appointed proxy has already voted on their behalf. To avoid duplication and unnecessary administrative pressures for Electoral Registration Officers, you should try to ensure that voters who are already registered, included in current postal or proxy voter lists, or have already applied for a postal or proxy vote for a particular poll, do not submit an additional application. This will also prevent voters from being placed under an unnecessary bureaucratic burden.

1.4 Campaigners should not handle or take any completed electoral registration forms or postal vote or proxy vote application forms from electors.

Completed electoral registration forms and absent vote application forms contain sensitive personal information about electors, which is used by Electoral Registration Officers and Returning Officers to protect the security of registration and absent voting processes. Once they have been completed by electors, electoral registration forms, postal vote or proxy vote application forms should be sealed and sent directly by the elector to the Electoral Registration Officer. You should not take any completed electoral registration form or postal vote or proxy vote application forms from voters or offer to deliver them to the Electoral Registration Officer yourselves. Electoral Registration Officers may provide a freepost service for application forms. Electors who are unable personally to return an electoral registration form or absent vote application should contact the Electoral Registration Officer directly for assistance.

Postal vote applications

1.5 Campaigners should not encourage voters to have their postal ballot pack redirected to anywhere other than the address where they are registered to vote.

Voters should take care to protect their ballot paper and postal ballot pack, and they will be best able to do so at their home address unless there are compelling reasons why receiving the postal ballot pack at the address where they are registered to vote would be impractical. Voters must state on the application form the reason why they need their postal ballot pack sent to another address.
Proxy vote applications

1.6 Voters should be encouraged to explore other options for people to act as a proxy – including relatives or neighbours, for example – before a campaigner agrees to be appointed as a proxy.

To minimise the risk of suspicions that campaigners may be seeking to place undue pressure on them, you should not encourage any voter to appoint a campaigner as their proxy.

2 Postal voting ballot papers

2.1 Campaigners should never touch or handle anyone else’s ballot paper.

If you are asked for assistance in completing a ballot paper, you should always refer voters to the Returning Officer’s staff at the elections office who may be able to arrange a home visit if necessary. Assistance will also be available for voters at polling stations.

2.2 Campaigners should never observe voters completing their ballot paper. If you are with a voter when they complete their ballot paper, remember they should always complete it in secret.

You should ensure that voters seal both envelopes personally and immediately after completing their ballot paper and postal voting statement. If you are asked to give advice, it is acceptable and often helpful to explain the voting process, but do not offer to help anyone to complete their ballot paper.

2.3 Campaigners should never handle or take any completed ballot paper or postal ballot packs from voters.

Wherever practical, you should encourage voters to post or deliver the completed postal ballot pack themselves. If you are approached or asked for help by a voter who is unable to post their completed postal ballot pack or make arrangements for it to be returned in time, you should contact the Returning Officer to ask them to arrange for their staff to collect it.
3 Campaigning outside polling places

3.1 Campaigners should be allowed to put their messages to voters on polling day, including in public spaces outside polling places.

Polling station staff and police officers should not seek to discourage or remove campaigners who are otherwise peacefully communicating with voters, as long as they are not within or impeding access to the grounds of the polling place. You should be careful, however, to ensure that your approach is proportionate and should recognise that groups of supporters may be perceived as intimidating by voters.

3.2 Campaigners should keep access to polling places and the pavements around polling places clear to allow voters to enter.

The Presiding Officer is responsible for maintaining order in the polling place, and campaigners who appear to be impeding access by voters to a polling place may be asked to move by polling station staff or police officers.

4 Complaints and allegations about electoral fraud

4.1 Campaigners should be prepared to give the police a statement and substantiate any allegations of electoral fraud they make.

The police will investigate allegations where someone is prepared to provide evidence or a statement in support of the complaint, but unsubstantiated claims about electoral fraud have the potential to damage confidence in the integrity of the electoral process. You should ensure you are confident that evidence can be provided to the police before considering whether it is appropriate to publicise any specific allegation.

4.2 Campaigners who are concerned or think that electoral fraud may have taken place should raise the matter with their election agent or local party or with the relevant Electoral Registration Officer or Returning Officer for the area.

They may be able to explain whether or not an election-related crime has been committed, and refer it to the police if appropriate or provide details of the police contact for the relevant area so that you can report your allegation. Concerns about breaches of the political finance rules should be raised directly with the Electoral Commission.

4.3 Any campaigner who has actual evidence of an electoral offence having been committed should report it directly and without delay to the police.
If appropriate, the police will investigate the matter. Every police force has designated a Single Point of Contact officer (known as a SPOC) to lead on election matters and who will deal directly with the matter or give advice to local police officers. The Electoral Commission can help provide contact details for local police force SPOCs.

**Agreed and effective from [month] [year]**