Code of conduct for political parties, candidates, canvassers and campaigners on the handling of postal vote applications and postal ballot papers in Scotland

Introduction

1. Political parties, candidates, canvassers and campaigners play a vital part in elections and referendums, not least through encouraging voting. With the increasing popularity of postal voting there is a need to ensure that traditional standards of political propriety observed at polling stations are carried through to the postal voting context.

2. All references to Returning Officers in this Code should be taken to refer to Counting Officers for referendums.

3. All references to campaigners in this Code refer to people involved in referendum campaigning, and include:

   - registered campaigners, whether individuals or organisations\(^1\)
   - designated organisations (the ‘lead’ registered campaigners)\(^2\)
   - a registered campaigner’s ‘responsible person’\(^3\)
   - an agent appointed by a registered campaigner
   - anyone else working for a registered campaigner

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\(^1\) Any person or organisation intending to spend more than £10,000 campaigning in a referendum must register with The Electoral Commission as a ‘permitted participant’. We refer to these campaigners as ‘registered campaigners’.

\(^2\) The Commission may designate a lead campaign organisation for each referendum outcome (e.g. a ‘yes’ or a ‘no’ campaign).

\(^3\) The person nominated by a registered campaigner to be legally responsible for ensuring that they comply with the relevant rules on campaign finance.
Key principles

4. All political parties, candidates, canvassers and campaigners handling postal vote applications and postal ballot papers will adhere to the following two key principles:

- Candidates, campaigners and supporters should assist in the efficient and secure administration of elections and referendums and uphold the secrecy of the ballot.
- No candidate, campaigner or supporter should place themselves in a situation where their honesty or integrity—or that of the party, candidate or campaign—can be questioned.

What the law says

5. In an election an individual may only vote once for each contest.

6. In a referendum an individual may only vote once, and only for the number of options specified on the ballot paper (typically one).

7. A voter's signature or mark must always be their own.

8. An individual may not vote for, or as, someone else unless they are formally appointed to act as their proxy. If an individual steals someone else's vote they may be prosecuted for making a false statement or oath, forgery, using, or uttering as genuine, a false instrument or pretending to be someone else (personation).

9. An individual may not exert, or attempt to exert, undue influence to persuade or force someone to vote, not to vote, or to vote a certain way. Someone who prevents or deters the voter from freely exercising their right to vote, or attempts to do so, may be found guilty of undue influence.

10. It is an offence to offer money, food, drink, entertainment or other gifts to persuade someone to vote, or not to vote.

11. It is an offence to falsely apply for a postal or proxy vote as some other person. It is also an offence to otherwise make a false statement or otherwise induce the Returning Officer to either send a postal ballot paper or other election or referendum mail to an address which has not been agreed by the person entitled to the vote, or to cause a postal ballot paper not to be delivered to the intended recipient.4

4 Section 62A(2) and 115(2), Representation of the People Act 1983 (RPA 1983).
12. It is an offence to supply false information to the Electoral Registration Officer for any purpose connected with the registration of electors.  

**Applications for postal voting**

13. If you develop a bespoke application form, it should conform fully with the requirements of electoral law, including all the necessary questions and the options open to electors.

14. Electors should be encouraged to ask for the postal vote to be delivered to their registered home address, unless there are compelling reasons why this would be impractical. This reason must be stated on the application form.

15. Because of the risk of suspicions that the application may be altered and the risk of the application form being delayed or lost in transit, the local Electoral Registration Officer’s address should be the preferred address given for the return of application forms.

16. If an intermediary address is used, forms should be despatched unaltered to the relevant Electoral Registration Officer’s address within two working days of receipt.

17. If you are given a completed application form, you should forward it directly and without delay to the local Electoral Registration Officer.

18. The Electoral Registration Officer may check the signature on an absent voting application against any other copies of the elector’s signature or date of birth which they hold or is held by any authority which they are authorised to inspect.

19. The Electoral Registration Officer must confirm in writing to all successful applicants that they will receive a postal ballot.

**Postal voting ballot papers**

20. You should not touch or handle anyone else’s ballot paper. If you are asked for assistance in completing a ballot paper, you should always refer the voter to the Returning Officer’s staff at the elections office who can arrange a home visit if necessary. Assistance will also be available for electors at polling stations.

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Please note that all elections and referendums have their own legislation where offences typically mirror those in the RPA 1983. For example, for Scottish Parliamentary elections the Section 62A offence under the RPA 1983 appears as Article 27, Scottish Parliament (Elections etc.) Order 2010.

5 Section 13D, RPA 1983.
6 Regulation 51A, Representation of the People (Scotland) Regulations 2001 (as amended).
21. It is absolutely clear that anyone acting on behalf of a party or campaign should not solicit the collection of any ballot paper. Wherever practical, the voter should be encouraged to post or deliver the completed ballot paper themselves.

22. It is recognised that people working for a party or a campaign may be approached by a voter who is unable to post their ballot paper or make arrangements for it to be returned in time. If you are asked to take the completed ballot paper, you should ensure that the voter has sealed it first and then post it or take it to a polling station or office of the Returning Officer immediately, without interfering in any way with the package.

23. If you are with a voter when they complete their ballot paper, remember they should complete it in secret. Equally, you should ensure that the voter seals the envelopes personally and immediately. 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.

24. If you are in any doubt about the probity or propriety of your actions, you should ask yourself the question, ‘What would a reasonable observer think?’ This draft code has been prepared based on this test, as advocated by the Third Report of the Committee on Standards in Public Life.7

See Appendix A: Policing elections and referendums in Scotland. This document, designed for issue to police officers on duty over the voting period, sets out offences relating to elections and referendums and more general offences of which you should be particularly aware.

Agreed November 2010 and current for elections and referendums in 2011.

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