

# Guidance on preventing and detecting electoral malpractice

February 2013

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# 1 Purpose – prevention rather than prosecution

1.1 This guidance is designed mainly to support police election Single Point of Contact Officers (SPOCs), working with Electoral Registration Officers, Returning Officers and Counting Officers, to minimise the potential for malpractice in the electoral process. It alerts police forces to issues that may arise in the run-up to polling day, on polling day itself and at related events. It also offers guidance on factors to consider when carrying out a force risk assessment. This guidance is for police forces in England and Wales.

1.2 The Electoral Commission is committed to ensuring that elections and referendums are conducted in a fair and inclusive manner and in accordance with the law. The Association of Chief Police Officers (ACPO) believes that facilitating peaceful and effective voting is a primary concern for the police service and that electoral malpractice can be prevented or reduced by positive police action.

1.3 ACPO and the Commission are therefore promoting this guidance throughout England and Wales.<sup>1</sup> We have brought this guidance to the attention of each Chief Officer of Police, Electoral Registration Officer, Returning Officer, Counting Officer, and political parties and registered campaigners, with the recommendation that it is promoted in individual local authority areas.

1.4 This guidance has also been sent out to Returning Officers (ROs), Electoral Registration Officers (EROs) and political parties, with the recommendation that it is promoted throughout the authority area.

1.5 Electoral Registration Officers, Returning Officers and Counting Officers should use this document in preparing integrity plans that should help them to meet the performance standard set out by the Commission. This document offers guidance on integrity issues that should be included in their joint integrity planning with police SPOCs. Particular attention should be given to:

- the checklist of topics that might be discussed at their meeting with their police SPOC which is set out in Chapter 4, 'Preparation, planning and partnership work'
- agreeing trigger points or thresholds for reporting matters to the police and an escalator of issues

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<sup>1</sup> The Commission has prepared a separate guidance document for Scotland jointly with the Association of Chief Police Officers in Scotland (ACPOS).

1.6 In preparing their integrity plans, Electoral Registration Officers, Returning Officers and Counting Officers should also involve, where possible and appropriate, political parties, independent candidates and registered campaigners.

## 2013 elections and referendums

1.7 On 2 May 2013 in England and Wales there will be:

- elections to 27 County Councils and nine Unitary Authorities in England and by-elections in certain local authority areas
- County Council and Community Council elections on the Isle of Anglesey in Wales
- parish council and community council byelections in certain local authority areas
- mayoral elections in Doncaster and North Tyneside

1.8 The Localism Act 2011 introduced provisions to call local referendums on council tax increases and Neighbourhood Development Plans. It is possible that some local authorities may need to hold a Council Tax referendum between March and May 2013. There may also be some residential Neighbourhood Development Plan referendums. The rules for business Neighbourhood Development Plan referendums are still being drafted.

## Electoral malpractice

1.9 Occurrences of electoral malpractice are relatively rare; however, such occurrences often attract considerable media attention and can undermine confidence in the electoral process.<sup>2</sup> The highest profile cases have been those where substantial postal voting fraud has taken place. These are Blackburn (2003),<sup>3</sup> Birmingham (2004),<sup>4</sup> Peterborough (2004),<sup>5</sup> Bradford (2005),<sup>6</sup> Tower Hamlets (2006)<sup>7</sup> and Slough (2007).<sup>8</sup> The investigation of

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<sup>2</sup> See the chronology in House of Commons Library standard note SN06255 *Postal Voting and Electoral Fraud* (22 June 2011), available at [www.parliament.uk/briefing-papers/SN06255](http://www.parliament.uk/briefing-papers/SN06255).

<sup>3</sup> *R v Mohammed Hussain* [April 2005] EWCA Crim 1866.

<sup>4</sup> *Re Local Government Election for the Bordesley Green Ward of Birmingham City Council and Re Local Government Election for the Aston Ward of Birmingham City Council* [April 2005] unreported (Election Ct) Election Court. *Akhtar and others v Jahan and others; Iqbal and others* [2005] All ER (D) 15 (Executive summary).

<sup>5</sup> *R v Hussain (Maqbool), Mahmood (Tariq) and Choudhary (Mohammed)* [2007] Trial, Case Number U20070492 and *R v Akhtar (Raja), Razak (Abdul) and Khaliq (Mohammed)* [8 October 2008] unreported.

<sup>6</sup> See *R v Khan (Jamsted), Khan (Reis), Rafiq (Mohammed), Sultan (Mohammed)* [6 September 2010] unreported.

<sup>7</sup> See for instance 'Police poised to bring charges over postal votes fraud', *Evening Standard*, 22 October 2006. The prosecution of one person on 23 counts of fraudulent applications to

these cases required a huge investment of resources from the police to gather statements and evidence, and that is why ACPO and the Commission advocate that prevention is better than prosecution.

1.10 Electoral malpractice has often been attributed, and sometimes mis-attributed, purely to postal voting. For example, *The Times* newspaper was specifically criticised by the judge in the Burnley 2004 case for repeatedly reporting the crime as postal voting fraud when it related to proxy voting.<sup>9</sup> Electoral malpractice<sup>10</sup> covers much more than absent voting where the elector votes by post or proxy and does not go to a polling station to vote. Rather than simply focusing on when the vote is cast, everyone should give more attention to preventing fraudulent applications both to register and to vote by post or proxy.<sup>11</sup> This requires vigilance throughout the year and not just during the election period. That is why we are pleased that every police force in the UK has a named SPOC for electoral matters in place throughout the year.

1.11 The Electoral Administration Act 2006 (EAA) introduced new safeguards and duties on Electoral Registration Officers and Returning Officers to carry out specific checks.

1.12 An analysis of files opened by the Crown Prosecution Service (CPS) between 2000 and 2006 showed that allegations peaked around 2003 for almost all Representation of the People Act 1983 (RPA 1983) offences.<sup>12</sup> Better preparation, preventative measures such as higher-profile policing, extra vigilance at the local level and, above all, joint working since 2003 have

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vote resulted in a verdict of not guilty. However, the point about high-profile cases and huge resource implications still applies.

<sup>8</sup> Re Local Government Election for the Central Ward of Slough Borough Council. *Simmons v Khan* [2008] EWHC B4 (QB) (18 March 2008).

<sup>9</sup> *R v Ali (Mozaquir) and Hussain (Manzur)* [September 2006] unreported, Preston Crown Court. 'There is nothing in the facts of this case which could justify criticism of the move to postal voting. On this issue the reporting which appeared in *The Times* after the conviction was again in error and not based on any evidence which was before this Court. Indeed the introduction of postal votes substantially *reduced* the number of proxy votes in this ward from the numbers at previous non postal elections.' Paragraph 16, Judge's passing of sentence.

<sup>10</sup> The term electoral malpractice is used to cover all breaches of the Representation of the People Act 1983. It is much wider than voting fraud or other offences involving fraudulent activity. For example, the term includes offences such as bribery, treating, and false statements about the personal character of a candidate.

<sup>11</sup> See for instance: Hackney 1994–8 – false registration at residential college and proxy voting *R v Lieberman (Zev)* and *R v Zeibowitz (Issac)* both [2001] unreported and Wood Green Court; Havant 2000 – false nomination and false proxy and postal votes, *R v Race (Rae)*, *R v Hayward (Michael)*, *R v Ennis (Brian)* and *R v Fox (Timothy)* all 2002, unreported and Guildford Crown Court; Burnley 2002 – forged signature of assentors on nomination form; and Bristol 2002 – false proxy applications, *R v Astley (John)* [September 2004] unreported, Exeter Combined Courts, Judge Jeremy Griggs.

<sup>12</sup> The analysis of CPS cases 2000 to 2006 can be found in the following publications on the Commission's website at [www.electoralcommission.org.uk/publications-and-research/research-reports](http://www.electoralcommission.org.uk/publications-and-research/research-reports): Allegations of electoral malpractice in England and Wales 2000-2006; CPS files on allegations of electoral malpractice England and Wales 2000-2006; and CPS analysis file of all cases examined.

all played their part in this improvement. It is vital that the public has confidence in the integrity of the electoral process.

1.13 Allegations of electoral malpractice may be greater where there is a history of allegations of, or actual, malpractice in an area.

1.14 The risk of actual electoral malpractice may be greater where:

- There is a greater opportunity to influence the outcome of an election or referendum; for example, fewer votes are needed to win a seat at a local government election compared with at a UK Parliamentary election or a UK-wide referendum.
- There is likely to be a close contest.
- There is a community with limited language or literacy skills who may be more vulnerable to deception or less likely to realise that their vote has been stolen.

## Scope of guidance

1.15 This guidance relates to electoral registration, elections and referendums in England and Wales. It covers:

- electoral registration
- elections to the UK Parliament
- the cyclical local government elections for county councils and some district, unitary councils in England on 2 May 2013 and by-elections in England
- (by-)elections to town and parish councils in England, and community councils in Wales
- cyclical local government elections for unitary councils in Wales
- elections for directly elected Mayors

1.16 A number of the above elections may be combined and held on the same day.

1.17 This guidance does not cover elections to the European Parliament, parish polls or referendums on the type of local authority political executive.

1.18 This document covers guidance and explanations about:

- recommended action in response to allegations of electoral malpractice
- preparatory work to prevent and deter electoral malpractice
- potential offences
- powers of arrest, maximum penalties and time limits for prosecution
- access to documents
- the role of different participants
- electoral registration procedures
- voting and counting procedures

1.19 ACPO and the Commission have established a framework for regular and robust reporting of cases of electoral malpractice. The framework

provides a database of allegations of electoral malpractice and breaches of electoral legislation in the UK. ACPO carried out a preliminary exercise based on local elections in England and Wales in 2008.<sup>13</sup> In 2009, the Commission worked with ACPO to refine this approach to election-related crime reporting, which was administered by the ACPO Police National Information and Co-ordination Centre (PNICC).<sup>14</sup> In 2010 the project was extended to give a more comprehensive profile of electoral malpractice throughout the year.<sup>15</sup> This process was repeated in 2011<sup>16</sup> and 2012 and will be throughout 2013. The results are published annually. Assistance from police election SPOCs in completing returns on time and alerting PNICC to any major allegation is requested as part of this guidance.

**I**t is important for the integrity of the database that all allegations of electoral malpractice are properly progressed and the database is accurate and comprehensive. All allegations of electoral malpractice that can be substantiated, where the Returning Officer, Counting Officer, Electoral Registration Officer or another person is prepared to make a statement, should be brought to the attention of the force SPOC either directly or via the divisional force SPOC where one is appointed.

This guidance sets out many of the issues that are worth considering in preparing a force threat assessment and control strategy. It is based on actions developed from the experience of policing recent elections in Great Britain.

**A** Threat assessment issues are set out in Chapter 4, 'Preparation, planning and partnership work' to help with the design and implementation of an appropriate force-wide response, and a checklist is provided in Appendix G.

1.20 This guidance does not purport to definitively state the law as it may apply to any particular case. Questions of the final interpretation of the law are ultimately a matter for the courts. A court would have regard to any guidance provided by the Commission and ACPO.

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<sup>13</sup> Report on allegations of electoral malpractice in England and Wales 2008, [www.electoralcommission.org.uk/document-summary?assetid=74588](http://www.electoralcommission.org.uk/document-summary?assetid=74588).

<sup>14</sup> Report on allegations of electoral malpractice in England and Wales 2009, [www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0020/83702/063-Allegations-Report-final.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0020/83702/063-Allegations-Report-final.pdf).

<sup>15</sup> Report on allegations of electoral malpractice in England and Wales 2010, [www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0015/107133/2010-Analysis-of-electoral-malpractice.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0015/107133/2010-Analysis-of-electoral-malpractice.pdf).

<sup>16</sup> Report on analysis of cases of alleged electoral malpractice in 2011, [www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0020/147161/Analysis-of-alleged-cases-of-electoral-malpractice-in-2011.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0020/147161/Analysis-of-alleged-cases-of-electoral-malpractice-in-2011.pdf)

# Contacts

1.21 For further advice or comment please contact:

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## For further advice or comment for issues in Wales

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An all-hours telephone service is available during the election period on 07798 915667.

## 2 Elections and referendums – an overview

2.1 The electoral process falls into two distinct areas of work – producing the register of electors and the management of elections and referendums.

■ For the purposes of this guidance, all references to electoral processes should be taken to apply to elections or referendums as appropriate.

### Roles

2.2 The Electoral Registration Officer is responsible for compiling and maintaining the register of electors, which contains an entry for everyone who has registered to vote and their eligibility to vote. The Electoral Registration Officer's responsibilities also include registering applications to vote by post or proxy and applications from people who wish to register to vote anonymously. A register is compiled for each district, borough, city, unitary and metropolitan council area.

2.3 The Returning Officer is responsible for the management of an election for local elections. For local council referendums, council tax referendums or mayoral referendums, the Returning Officer becomes the Counting Officer. The Acting Returning Officer has this responsibility for a UK Parliamentary election.

2.4 Generally, the duties of the Returning Officer include:

- receiving nominations and publishing the list of nominated candidates called the *Statement of persons nominated*
- establishing and staffing polling stations and ensuring the safe return of ballot boxes
- the management of postal and proxy voting
- the verification and counting of ballot papers, and declaring the result

2.5 The Returning Officer for a local election, or the Acting Returning Officer for a UK Parliamentary election, must be a council employee, normally the Chief Executive. However, while they are undertaking this role they are independent of the local authority and carry personal liability. The decisions of the Returning Officer are generally only subject to challenge by an election petition to the High Court after the election. A referendum can only be questioned by Judicial Review after the result.

2.6 Some Parliamentary constituencies extend across more than one local authority area. In these cases the Acting Returning Officer requires assistance from the Electoral Registration Officer for each area.

For the purposes of this guidance, all references to the 'Returning Officer' and their responsibilities, unless specifically stated to the contrary, should be read to include the Returning Officer at a local government election, the Acting Returning Officer at a UK Parliamentary election or by-election, the Regional or Constituency Returning Officer at an election to the National Assembly for Wales and the Counting Officer at a referendum, except where they refer to interaction with candidates or parties standing for election (a referendum is not 'contested').

## Types of election and referendum

2.7 The systems currently used for elections and referendums in the UK are set out in Appendix L. The appendix sets out how votes are cast in different voting systems and what voting systems are currently in use. Details about how a referendum result or who is elected is worked out can be found on the Commission's aboutmyvote website at:

[www.aboutmyvote.co.uk/how\\_do\\_i\\_vote/voting\\_systems.aspx](http://www.aboutmyvote.co.uk/how_do_i_vote/voting_systems.aspx).

### UK Parliamentary general election or by-election

2.8 For a UK Parliamentary general election or by-election, the Returning Officer in England and Wales is a figurehead, such as the Sheriff of the County, who takes little active part in running the election. The Acting Returning Officer carries out most of the operational duties of the Returning Officer.

### Local government elections

2.9 On 23 May 2013 there will be elections to 27 county councils and nine unitary authorities, plus two Mayoral elections in England and to one county council authority in Wales<sup>17</sup> and community council elections within that county.. There is a four-year cycle of elections to local authorities in England and Wales. Metropolitan borough councils and some district councils elect a third of their councillors every year for three out of four years. Some district councils have elections every four years and a few elect half of their councillors every other year. Local authorities in Wales have elections every four years. Elections to local authorities in England and Wales follow the first-past-the-post method with only one vote per person per seat available.

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<sup>17</sup> The Isle of Anglesey is holding elections that have been delayed from 2012 due to boundary changes.

2.10 Parish councils in England and community councils in Wales will usually mirror the local council cycle and have elections at the same time. Elections to English parish and Welsh community councils follow the first-past-the-post method with only one vote per person per seat available.

2.11 Councils that have a Mayor who is directly elected by the electorate hold elections for this position on a four-yearly cycle, after the first term, depending on when their first election took place. Only Doncaster and North Tyneside will hold mayoral elections on 2 May 2013. Elected Mayors are elected by the supplementary vote system (SVS), where electors are able to indicate a first and second preference from among the candidates.

2.12 At local government elections in England and Wales, the local government Returning Officer is responsible for the administration of the election and count in their area and for any parish or community council election.

2.13 The task of managing the election will usually be carried out by the Electoral Services Manager, who may be appointed as a Deputy Returning Officer. Additional Deputy Returning Officers may be appointed to fulfil specific tasks, such as conducting a local count or collecting postal ballots handed in at polling stations on polling day.

## Referendums

2.14 There are no planned national referendums for 2013. It is possible that some local authorities may need to hold a Council Tax referendum between March and May 2013. There may also be some residential Neighbourhood Development Plan referendums. The rules for business Neighbourhood Development Plan referendums are still being drafted.

2.15 Referendums usually work in a similar way to a first-past-the-post election. Voters have one vote in answer to each question asked. The 'result' of the referendum (or each question, if there is more than one) would normally be whichever answer got the most votes. The exact details are decided on a case-by-case basis for each referendum.

## Responding to allegations of electoral malpractice – roles and responsibilities

2.16 Each Electoral Registration Officer, Returning Officer and Counting Officer takes allegations of electoral malpractice seriously. They should report any suspicion deemed worthy of referral to the police Single Point of Contact Officer (SPOC) for investigation and assist where possible. This should be subject to any criteria agreed at the pre-election meeting mentioned in Chapter 4, 'Preparation, planning and partnership work', and after checking information held by the local authority. It is essential that everyone concerned recognises each other's area of expertise to avoid duplication.

2.17 The police will investigate the allegation until, following consultation with the Special Crime and Counter Terrorism Division of the Crown Prosecution Service (CPS), either they are satisfied that no further action is necessary, or they forward the file to the Special Crime and Counter Terrorism Division of the CPS with a view to prosecution. The Returning Officer, Counting Officer and the Commission should be kept apprised of the general progress of electoral malpractice investigations unless this is deemed inappropriate (for example, where the officer was a witness to an alleged offence).

2.18 There are no Police and Crime Commissioner elections scheduled for 2013. In the unlikely event that a by-election is called any investigations of alleged electoral malpractice relating to Police and Crime Commissioner elections will proceed as in the case of any other election except where these relate (directly or indirectly) to an elected Commissioner. In July 2012 ACPO approved the following guidance document: *Guidelines for interaction with Police & Crime Commissioner Candidates* which can be seen at: <http://www.acpo.police.uk/documents/futures/2012/201207FBAGflwPCCs.pdf> Any enquiries about the guidelines can be made to Inspector John Askew, whose contact details are listed on page 7 of this document.

**A** Electoral malpractice offences under Representation of the People Act 1983 (RPA 1983), together with other relevant legislation, are explored in Chapter 3, 'Electoral offences – key offences and penalties', and Appendix A, 'Schedule of election and referendum-related crimes and penalties'.

## Code of conduct for campaigners

2.19 In conjunction with political parties represented in the UK Parliament and the National Assembly for Wales, the Commission has produced a *Code of conduct for campaigners*. This will be added at Appendix H when it has been finalised. The new Code for 2013 updates and extends the one adopted for elections in previous years to cover other integrity matters while retaining those relating to postal voting. It sets out a summary of the law and offers advice about how these individuals should conduct themselves during an election or referendum campaign. In itself, the code does not have the force of law, but it carries weight because the parties represented in the UK Parliament and the National Assembly for Wales have signed up to follow the code.

2.20 The major political parties require candidates to abide by the code of conduct or be subject to disciplinary action, so there should be no need to ask candidates or campaigners to sign up locally to the code. However, where independent candidates, or candidates representing minority parties, are standing for election, there may be merit in obtaining local sign-up to the code by all candidates. This is something for Returning Officers to consider, on a case-by-case basis, to minimise the possibility of electoral malpractice in that specific area.

2.21 A template joint letter from the Returning Officer and Chief Constable is provided at Appendix K to assist where the Returning Officer decides to ask

candidates to agree to sign up to the national code on a local basis. You should check with the Returning Officer to see if this has been proposed in your area.

2.22 The Commission will also produce a reference guide for distribution to party workers called *Postal voting – a quick guide for campaigners*. Copies will be made available to political parties, and each Returning Officer/Counting Officer will be sent copies to distribute locally.

## Election and referendum expenses

### Candidates' spending and donations

2.23 RPA 1983 specifies a series of controls on candidates' expenditure during an election campaign. The role of the Commission is to ensure the transparency and integrity of party and election finance and to provide guidance on standing for election. The Commission has produced guidance for candidates setting out the different requirements of this legislation.<sup>18</sup>

2.24 The Political Parties, Elections and Referendums Act 2000 (PPERA) established restrictions on the source of income received by candidates and political parties. It also requires certain donations to be reported to the Commission to aid the transparency and integrity of party and election finance.

2.25 The Commission is responsible for monitoring compliance with the legislative controls by candidates and agents in the UK (with the exception of local elections in Scotland and Northern Ireland). The Commission may seek to review a sample of election expenses and donation returns of all candidates contesting elections. For UK Parliamentary elections, the Commission receives copies of all candidates' expenses returns. For local government elections, the Commission may request a sample of returns from Returning Officers and take a risk-based approach to reviewing them.

2.26 The Commission does not however have any formal powers of investigation or sanction in relation to these controls. The Commission will assist the police in considering any investigation but will not generally open an investigation itself unless there are specific public interest reasons to do so.

2.27 A protocol between the Commission and the CPS describes the role of each of these organisations in the investigation of suspected breaches of these controls. The protocol is included at Appendix J.

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<sup>18</sup> *Guidance for candidates and agents*, available on the Commission's website at [www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents).

## Parties' spending and donations

2.28 PPERA regulates spending by, and donations to, political parties.

2.29 The Commission is responsible for receiving parties' returns and regulating compliance with the legislative controls. The Commission's Party and Election Finance Directorate deals with allegations of election spending or donation offences.

2.30 Third party spending for or against a particular candidate comes under RPA 1983 or, if for or against a party or issue (such as the closure of a hospital), under PPERA. The Commission has no statutory role in relation to third party spending under RPA 1983 but has a regulatory role in respect of third party spending and donations under PPERA. PPERA rules do not apply where only local elections are taking place. RPA 1983 controls limit campaigning for or against a particular candidate and impose strict spending limits. PPERA controls allow a higher level of spending and also limit sources from which third parties can receive donations.

2.31 This advice should complement rather than replace or replicate other sources of information produced by political parties, Returning Officers, electoral administrators or others.

# 3 Electoral offences – key offences and penalties

3.1 The Representation of the People Act 1983 (RPA 1983) defines most offences for UK Parliamentary elections, English local government elections and electoral registration and postal voting issues across the UK. Legislation for each referendum will usually mirror the RPA 1983 offences. Other legislation, such as that relating to forgery and false statements, or common law provisions, may also apply.

3.2 The Electoral Administration Act 2006 (EAA) introduced or amended RPA 1983 offences and introduced new procedures.

3.3 The RPA 1983 offences include the following (section numbers are given).

**Table 1: Key RPA 1983 offences**

Section	Brief description of offence
13D(1)	False registration information
13D(1A)	False information in relation to postal/proxy voting
60	Personation
61(1)	Voting whilst under a legal incapacity
61(2)(a–d)	Multiple voting
62A	Offences relating to the applications to register to vote by post and proxy
63(1)	Breach of official duty
65(1)	Tampering with nomination papers, ballot papers etc.
65A(1)	False statements on nomination papers etc.
66(1–5)	Requirement of secrecy
66A(1)	Prohibition on publication of exit polls
94(1)	Imitation poll cards
97(1)	Disturbances at election meetings
99(1)	Officials not to act for candidates
100(1)	Illegal canvassing by police officers
106(1)	False statement of fact as to candidate
107	Corrupt withdrawal from candidature
109	Payments for exhibition of election notices
110	Printer's name and address on election publications
111	Prohibition of paid canvassers
112	Providing money for illegal purposes
113(2–7, ex.4)	Bribery
114(2 and 3)	Treating
115	Undue influence

3.4 More details of offences under RPA 1983, together with persons liable, type of offence and penalty, are given in Appendix A.

3.5 Most offences under RPA 1983 are classified as corrupt or illegal practices. 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.<sup>19</sup> Illegal practices are summary offences and the maximum penalty is a £5,000 fine.<sup>20</sup>

3.6 Prosecutions under RPA 1983 must be brought within 12 months of the offence being committed. However, if there are exceptional circumstances, and there has been no undue delay in the investigation, the time limit may be extended to not more than 24 months after the offence was committed. Any application to extend the deadline must be brought within one year of commission of the offence.<sup>21</sup>

3.7 Specific legislation has enabled the elections, and the conduct of London Mayoral and London Assembly elections. These are primarily the Greater London Authority Act 1999 (GLA 1999) and the Greater London Authority Election Rules 2007 (GLAER 2007), including: the Constituency Members Election Rules (CMER); the London Members Election Rules (LMER); and the Mayoral Election Rules (MER). However, unless otherwise stated RPA 1983 applies.

3.8 More information on some of the more high-profile offences is set out below.

## Corrupt practices

### Bribery

3.9 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 vote, for a particular candidate or option; or to vote or refrain from voting.<sup>22</sup>

### Treating

3.10 A person is guilty of treating if either before, during or after an election 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.<sup>23</sup> The lengthier extracts from

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<sup>19</sup> Section 168, RPA 1983.

<sup>20</sup> Section 169, RPA 1983.

<sup>21</sup> Section 176, RPA 1983.

<sup>22</sup> Section 113(2), RPA 1983.

<sup>23</sup> Section 114(2), RPA 1983.

RPA 1983 on this Section 114 offence in Appendix A point out that treating requires a corrupt intent – it does not apply to ordinary hospitality.<sup>24</sup>

## Undue influence

3.11 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. Undue influence can include threats of harm of a spiritual nature.<sup>25</sup> 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.<sup>26</sup>

3.12 In responding to an allegation of undue influence, consideration should also be given to substantive offences, threats to commit damage, assault and public order.

**A** Advice in relation to maintaining order in the vicinity of a polling station, which includes consideration of undue influence, has been prepared and is set out in Appendix E.

## Personation

3.13 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.<sup>27</sup> Further, the individual voting can be deemed to be 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 their appointment as a proxy is no longer in force. It is also an offence for a person to aid or abet another in committing the above offences.

3.14 Appendix C has been produced to help Returning Officers and Counting Officers advise polling station Presiding Officers about personation. It includes a template for recording statements.

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<sup>24</sup> This is supported by case law. For example, Borough of Rochester Case, 1 December 1892, 4 O'M & H at p. 157: Mr Justice Vaughan Williams in connection with 'a conversazione at which refreshments were provided' stated: 'If people are called together for the purpose of exciting their political enthusiasm, and if the so-called treating is a mere incident of such a gathering, it is not an offence within the Act. It does not make it corrupt treating that a roof or warmth is provided for the meeting, nor is it necessarily corrupt treating if the persons attending the meeting are provided with some sort of refreshment. But if they are gathered together merely to gratify their appetites and so to influence their votes, then it is treating within the Act.'

<sup>25</sup> Section 115(2), RPA 1983.

<sup>26</sup> Sections 115(2) and 115, RPA 1983.

<sup>27</sup> Section 60, RPA 1983.

## False application to vote by post or by proxy

3.15 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.<sup>28</sup> Specifically, it is an offence to:

- apply for a postal or proxy vote as some other person (whether living, dead or fictitious), or otherwise make a false statement in connection with an application for a postal or proxy vote
- induce an Electoral Registration Officer or a Returning Officer/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

3.16 It is also an offence to aid or abet another person in committing the above offences.

## Illegal practices

### Multiple voting and proxy voting offences

3.17 There are various offences regarding multiple voting and proxy voting, including:

- voting by post as an elector or proxy when subject to a legal incapacity to vote
- voting more than once to the same elected body or on the same referendum question
- voting as a proxy for someone while knowing that the person has a legal incapacity to vote
- inducing or procuring another to commit one of the above offences<sup>29</sup>

## Other electoral offences

### Secrecy

3.18 Everyone involved in the electoral process should be aware of the secrecy of the ballot and should not breach it. The Returning Officer/Counting Officer will give everyone who attends the opening or counting of ballot papers, including the opening of postal votes,<sup>30</sup> a copy of parts of the relevant

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<sup>28</sup> Section 62A, RPA 1983.

<sup>29</sup> Section 61, RPA 1983.

<sup>30</sup> A very small number of candidates or their agents (two cases in 2010) have been tempted to publish information, often on a website, before the close of poll about voting patterns that they obtained at a postal vote opening session. This contravenes Section 66, RPA 1983.

legislation.<sup>31</sup> Any breach of this legislation is a summary offence with a maximum penalty of six months' imprisonment or a £5,000 fine.<sup>32</sup>

## False registration information and false postal or proxy voting application

3.19 It is an offence to supply false information in relation to the registration of electors to the Electoral Registration 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.<sup>33</sup> Unlike the Section 62A, RPA 1983 offence, set out in paragraph 3.15, it is not necessary to establish an intention to gain, or deprive another of, a vote, money or property. This is a summary offence with a maximum penalty of six months in prison or a £5,000 fine.<sup>34</sup> It may be that the motive for false registration is financial or another, non-electoral crime that would be investigated by an Economic Crime Team, or similar, rather than the election Single Point of Contact Officer (SPOC). Nonetheless, the RPA offence should at least be considered in the investigation where appropriate.

## Other general offences

3.20 There are also some non-electoral offences that 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
- public order offences

**A** Advice in relation to maintaining order in the vicinity of a polling station, which includes consideration of public order offences and other police powers, has been prepared and is set out in Appendix E.

## Additional guidance to the police

3.21 Specific cases and further legal comment is available to police officers on the Police National Legal Database under RPA 1983.

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<sup>31</sup> Section 66, RPA 1983.

<sup>32</sup> The maximum term of imprisonment for a summary offence is currently six months. This will increase to 51 weeks once Section 281(5) of the Criminal Justice Act 2003 comes into force. No date has yet been set for this.

<sup>33</sup> Section 13D, RPA 1983.

<sup>34</sup> Section 13D, RPA 1983.

# 4 4 Preparation, planning and partnership work

4.1 This chapter focuses on preparing a force threat assessment and control strategy, a risk assessment guide for elections and referendums, and topics that might be discussed at planning meetings between the Returning Officer/ Counting Officer or named local authority contact and police election Single Point of Contact Officer (SPOC).

4.2 All preparation, planning and partnership work should be conducted with the key stakeholders in mind. These are:

- the Electoral Registration Officer for the area
- the Returning Officer for local elections
- the Counting Officer for local referendums where appropriate
- the Acting Returning Officer for UK Parliamentary constituencies

4.3 The Commission and the Association of Chief Police Officers (ACPO) recommend that Returning Officers and Electoral Registration Officers give particular attention to the checklist of topics that might be discussed at their meeting with their police SPOC, which is set out on page 29.

4.4 It should be recognised that no two elections or referendums are the same. Some of the reasons why alleged electoral malpractice will vary across different areas and from previous elections are set out in Chapter 1, 'Purpose – prevention rather than prosecution' at paragraphs 1.12 and 1.13.

## Threat assessment and control strategy

4.5 The following measures and responses adopted at recent elections will help to manage the risk of personation, fraud and other offences that might arise at the next elections and referendums. A checklist of possible options, some or all of which may be helpful, is provided at Appendix G.

### General measures and responses

1. Establish a Gold Command structure at the earliest opportunity for the entire election and referendum process.
2. Identify a central unit as the lead on election and referendum issues. In most forces this is likely to be the Economic Crime Unit. Whatever central unit is chosen, the term 'appropriate unit' will be used in this document.

3. Prepare a force threat assessment and control strategy to identify where advice should be provided during the election or referendum period for all staff and the public. It should provide named point of contact details at the appropriate unit and force levels. This should include a strategy for communication with all stakeholders.
4. Make reference to this current guidance at all briefings. This should help to:
  - a. prevent and deter electoral malpractice, and
  - b. encourage the proper responses to any allegations of electoral malpractice
5. Prepare a force media strategy for the election and referendum to cover prevention, investigation and arrest situations. This should include liaison with the Commission's media relations team as required.
6. The Commission has advised Returning Officers and Counting Officers that they should have an initial meeting with the police at the earliest opportunity and another following the deadline for nomination of candidates or appointment of registered campaigners when security issues will be clearer.<sup>35</sup>
7. Use the *Guidance on policing elections and referendums* pocket guide for police officers, produced by ACPO and the Commission. It sets out electoral offences, penalties and contact details and has been produced for individual officers throughout the force area. It lists the offences and includes space to identify force and Basic Command Unit (BCU) SPOC names and contact details. It will be despatched to SPOCs in advance of the elections and referendums. The force SPOC should make arrangements to ensure that every officer on duty over the election and referendum period is issued with a copy of the pocket guide.

Be aware of key events and meetings, especially briefings for candidates, agents and campaigners, any regional or national training events and arrangements for the count. These are all discussed below.

Should you require any assistance with an Operational Order to cover the election period, Inspector John Askew at West Midlands Police can offer advice and guidance (see paragraph 5.15 for contact details).

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<sup>35</sup> The deadline for the nomination of candidates at a UK Parliamentary election is set at 11 working days before polling day. For local government elections the deadline is set at 19 working days before polling day. An election timetable giving specific dates for the next election can be found on the Commission's website at [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators).

## Prevention and reduction measures and responses

8. Identify whether the level of risk locally warrants the creation of a specific task force in the context of elections and referendums in 2011. Intelligence gathering has a key role to play in preventing and reducing crime. Electoral administrators, political parties, party officials, registered campaigners and candidates may be able to assist.
9. Consider whether all information or intelligence logs relating to election-related crime should be sent to a designated unit, as part of co-ordinating the flow of intelligence. This unit should be expected to carry out analytical work to help develop appropriate control strategies in conjunction with force intelligence capabilities.
10. Ensure that the appropriate unit acts as a reference or advice point for officers dealing with allegations of electoral malpractice. The unit should ensure that its role and contact details are made known to every BCU.
11. Identify a named contact in each local authority election office and notify each local authority of a police SPOC who will liaise with the appropriate unit.
12. Ensure that the appropriate unit creates a full list of SPOC contact details and circulate it to all BCUs.
13. Hold a pre-election and referendum planning meeting between the Returning Officer/Counting Officer or the local authority named contact and the police SPOC as soon as possible. Another should be held as soon as practicable after the last date for withdrawal of nominations. A checklist setting out the topics that might be discussed is included in the 'Police SPOC meeting with named local authority contact' section, paragraph 4.8 onwards. The Returning Officer/Counting Officer may also hold pre-election/referendum planning meetings with political party representatives (agents) or registered campaigners.
14. Ensure that the appropriate unit liaises directly on a daily basis with the named local authority contact for each council area, from a mutually agreed date until the count has been concluded.
15. Ensure that a local police officer (preferably the named SPOC) attends and gives input to any briefings for candidates, election agents and registered campaigners given by the Returning Officer/Counting Officer. As a guide, in most areas for elections and referendums in May, this will tend to take place between March and April.
16. Ensure that the police ask the Returning Officer/Counting Officer if they maintain a record of electors who claim not to have voted by post or not to have requested a postal vote although official records show them as having done so. The same should apply in relation to voting by proxy. Such records may provide leads for the investigation of potential malpractice.

17. Ensure that the police ask the Returning Officer/Counting Officer if they provide the Presiding Officer at each polling station with a form on which to record details of any attempted or alleged personation, and advice on what action they might take. Ensure that they consider their own safety and that of all others present as a priority (see Appendix C).
18. Ensure that the police ask the Returning Officer/Counting Officer if they provide the Presiding Officer at each polling station with a form on which to record details of any elector arriving to vote who is registered as a postal voter. The Commission has recommended that the form includes space for a signature if the elector is willing to give one (see Appendix D).
19. Ensure that the police and the Returning Officer/Counting Officer discuss arrangements for the security of any ballot boxes before, during and after polling. For example, in areas of high risk, consideration should be given to escorting the transfer of ballot boxes from polling stations to the count, as well as to the overnight security of ballot boxes where appropriate.
20. Prepare a force media strategy to promote confidence in the electoral process, while emphasising fraud prevention measures and the approach to allegations of electoral malpractice.
21. Establish a direct police hotline, via Gold Command, for advice on electoral malpractice throughout polling hours on polling day and through to the declaration of the result(s).
22. Raise awareness of security issues by ensuring that the force Student Liaison Officer is invited to assist the Returning Officer/Counting Officer in making the delivery of postal votes to multi-occupied student properties more secure, if appropriate. The force Student Liaison Officer may assist in identifying key contacts who are prepared to take responsibility for ensuring that the postal ballots are delivered to the intended recipients.

## Investigation measures and responses

23. Consider setting up a team to proactively follow up issues identified by intelligence and investigate allegations of electoral malpractice identified by intelligence.
24. Make arrangements for this team to be available out of hours for advice, with contact routed via the Force Control Room.
25. Consider and state whether allegations of electoral malpractice and complaints will be reported both at BCU level and centrally.
26. Consider what level of resources will be made available to investigate complaints or allegations of different types of electoral malpractice.

27. Decide whether the relevant BCU should be expected to make initial enquiries and then, if the nature and extent of the allegations warrant further advice, contact the appropriate unit.
28. The appropriate unit should make arrangements to liaise with the Special Crime and Counter Terrorism Division of the Crown Prosecution Service (CPS) and ensure that all the electoral and referendum issues that require advice from the + and Counter Terrorism Division of the CPS are directed via the appropriate unit.
29. Put arrangements in place to ensure that the police election SPOC completes returns to the Police National Information and Co-ordination Centre (PNICC) on time, and ensure that PNICC is alerted at the earliest opportunity to any major allegation of electoral malpractice.

4.6 The Commission and ACPO are continuing to develop the election-related crime-reporting framework established with ACPO PNICC in 2009. In order to gather information on allegations of electoral malpractice throughout the year, rather than just during the main election period, since January 2010 we have asked force SPOCs to complete a monthly return with additional reports during the main election period. We intend to continue this approach for 2013 and beyond. The Commission and ACPO appreciated that 100% returns were received from force SPOCs at every police force in England and Wales.<sup>36</sup> The Commission is grateful for the support from police SPOCs in this vital work.

## Risk assessment guide for elections and referendums

4.7 The following issue checklist sets out actions for the safe policing response to elections and referendums to enable free and fair elections and referendums. It goes beyond electoral malpractice issues to assist with some wider Gold Command considerations, such as public order issues. Presented/potential hazards are:

- potential malpractice
- assault (verbal)
- assault (physical)
- interference with free and fair election and referendum processes
- protest
- public disorder

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<sup>36</sup> The same level of reporting has been achieved by the eight force SPOCs in Scotland since 2009 and the Police Service of Northern Ireland formally since 2010.

## Action to be taken to prevent, reduce and control hazards and risks

### Pre-commitment planning

1. Ensure nomination of police SPOC.
2. Ensure liaison between SPOC and elections office.
3. Agree levels and channels of referral (for example, in the 2005 elections in Birmingham a police response was generated where any household submitted more than four postal vote applications, or where any road had 30% of households seeking postal votes).
4. Ensure liaison at strategic level between Electoral Registration Officer, Returning Officer, Counting Officer, political parties, registered campaigners and police strategic command.
5. Ensure nomination of local level SPOCs at BCU level.
6. Ensure intelligence distribution systems are effective both internally and externally.
7. Undertake research, including:
  - previous elections by the parties and candidates
  - potential of result to change local control of council
  - location of polling stations and location of count
  - any other interested party
  - media interest
  - local issues of diversity
  - any high-profile local issue (such as closure of large local employer)

### Control and reduction measures

8. Establish force Gold Command.
9. Ensure availability of force and local SPOCs.
10. Allocate roles before the event.
11. Allocate briefed police/community support officers to polling station/geographic area.
12. Identify locations warranting a high-visibility police presence.
13. Establish suitable contingency reserves in the event of an incident.
14. Ensure high visibility at count location.
15. Ensure availability of key network directory.
16. Ensure officers are in possession of protective equipment.

### **Specific responsibilities**

17. Appoint Gold Command.
18. Appoint force SPOC.
19. Appoint investigation team.
20. Appoint local SPOC.

### **Training requirements**

21. The Commission, in partnership with ACPO, will provide:
  - training for force election SPOCs
  - pocket guides for staff deployed on election, referendum or related duties
22. Each force should provide:
  - police officers on election or related duty with a basic understanding of electoral offences through the distribution of pocket guides for deployed staff and access to the force SPOC
  - training of any dedicated investigation resource. A variety of different approaches have been adopted to large-scale investigations of electoral malpractice and Inspector John Askew can offer advice and guidance (see paragraph 5.15 for contact details)
  - training of staff on conflict resolution/recognition
  - dynamic risk assessment training
  - first aid training
  - public order training

If you need help with the preparation of an Operational Order and/or a risk assessment for the election period, Inspector John Askew of West Midlands Police can offer advice and guidance (see paragraph 5.15 for contact details).

## **Police SPOC meeting with named local authority contact**

4.8 This section includes a checklist of topics that should be considered at the pre-event planning meeting between a SPOC and the named local authority contact. The checklist should be used:

- as a basis for discussion at the initial pre-event planning meeting and at a further meeting once the candidates and registered campaigners are known

- to inform the project plan that must be prepared by the Returning Officer to satisfy Performance standard 1a: Planning for an election. As a requirement to meet Performance standard 1a, project plans must include processes in place to identify any patterns of activity that might indicate potential integrity issues and what steps are to be taken to deal with any such integrity issues.

## Background and related documents and publications

4.9 This guidance should be read alongside the force election strategy, including the election media strategy, and other Commission guidance. The guidance includes the following:

- Performance standards. In order to meet the Commission's Performance standard 1a: Planning for an election, project plans must include processes in place to identify any patterns of activity that might indicate potential integrity issues and what steps are to be taken to deal with any such integrity issues. The standards can be found at [www.electoralcommission.org.uk/performance-standards](http://www.electoralcommission.org.uk/performance-standards).
- *Guidance for candidates and agents: UK Parliamentary general elections in Great Britain*, [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/uk-parliamentary-elections](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/uk-parliamentary-elections).
- *Local government elections in England and Wales: guidance for candidates and agents*, [www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents/local-elections-in-england-and-wales](http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents/local-elections-in-england-and-wales).
- *Managing Electoral Registration in Great Britain: guidance for Electoral Registration Officers*, [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/electoral-registration](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/electoral-registration).
- *Local government elections in England and Wales: guidance for Returning Officers*, [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/local-elections-in-england-and-wales](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/local-elections-in-england-and-wales).
- *Managing a UK Parliamentary general election in Great Britain: guidance for (Acting) Returning Officers*, [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/uk-parliamentary-elections](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/uk-parliamentary-elections).
- *Essentials of effective election management: planning for a UK Parliamentary general election* (valid for GB only) (especially 'Electoral integrity', Section 18), [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/uk-parliamentary-elections](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/uk-parliamentary-elections).

- *Postal voting – a quick guide for party workers*, [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events). This was produced for elections and referendums to the end of 2012. An updated and extended version - *Code of conduct for campaigners: postal voting, proxy voting and polling stations* - will be produced for 2013
- *Postal voting – a quick guide for Royal Mail drivers and delivery staff* (a credit-card-sized guide), [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/integrity-guidance/electoral-events).

## Checklist

- Identify named and alternative contacts at the local authority for elections and referendums.
- Establish what cover will be in place for any planned leave, especially in the period after polling day.
- Exchange contact details for all, including out-of-hours numbers and backups.
- Identify and discuss any issues of concern or risk arising from a review of previous elections and any other issues that may need particular attention at the next election or referendum. For example:
  - candidates who are new to the electoral process. These candidates may also have untried and inexperienced supporters. It is more likely that aspects of the legislation will be inadvertently overlooked, giving rise to allegations of malpractice. The same issues apply to campaigners at referendums
  - closely contested seats
  - contests in urban and metropolitan wards, where fewer votes are needed to win a seat compared with a UK Parliamentary election
  - where there is a community with limited language or literacy skills who may be more vulnerable to deception or less likely to realise that their vote has been stolen
  - cross-boundary absent voter identity checks for Parliamentary constituencies
  - formal timescales with a large number of last-minute applications to register to vote and/or to vote by post or proxy
  - overnight security of ballots when counting takes place on Friday
- Identify locations that have historically had incidents or currently show potential for being at risk in 2013. Ensure that the discussion does not focus exclusively on these areas and that any measures proposed are proportionate across the board.
- Refer substantiated suspicions or allegations. Although elections staff are uniquely placed to identify malpractice and are required to carry out

some checking processes as required by electoral law, if there are any suspicions or allegations that can be substantiated and the complainant is prepared to make a statement in writing, then the matter should be referred to the police SPOC for investigation. This approach is consistent with that given in the guidance documents listed at the start of paragraph 4.9.

- Agree trigger points or thresholds for where matters should be reported and for where a combination of issues becomes serious enough to warrant more urgent attention.
- Clarify where the police SPOC will act (such as allegations of electoral malpractice) and where others may act on operational matters, for example in maintaining order outside polling stations (see Appendix E).

## Pre-election and pre-referendum issues

- Registration issues (these are issues that fall within the remit of the Electoral Registration Officer rather than the Returning Officer or Counting Officer):
  - a. Suspicious registration applications submitted during the annual canvass period between September and November each year. The new register is published during the first week in December.
  - b. Suspicious registration applications received outside the annual canvass period. These applications must be made by individuals. Outside the annual canvass period, additions and deletions to the register are published each month.
  - c. Suspicious postal and proxy applications. Agree triggers for reporting and police response.

It may be that the motive for false registration is financial or another, non-electoral crime that would be investigated by an Economic Crime Team, or similar, rather than the election SPOC. Nonetheless, the RPA 1983 electoral offence should at least be considered in the investigation where appropriate.

Where UK Parliamentary constituencies cover more than one local authority area, the SPOC may need to contact the Electoral Registration Officer for each area.

- Candidates/agents/registered campaigners briefing issues:
  - a. will the police SPOC be notified and invited to attend?
  - b. national *Code of conduct for political parties, candidates, canvassers and campaigners on the handling of postal vote applications and postal ballot papers in England and Wales*
  - c. *Postal voting – a quick guide for party workers* (a credit-card-sized guide)

- d. establish whether a local code of conduct has been agreed that goes beyond the national agreed code of conduct; for example, requiring that party workers should not handle completed ballot papers (note: where a local code of conduct is proposed, no stigma should be attached to any candidate or party not wishing to subscribe to it)
- Media strategy issues: police and council press officers should exchange contact details and briefings as appropriate
- Public order and public safety issues, for example in maintaining order outside polling stations (see Appendix E)

## Election/referendum period issues

- Arrange a meeting after the close of nominations or appointment of registered campaigners to review strategy in view of issues particular to the contest and candidates or referendum campaigners. Nominations for a UK Parliamentary election and local elections could close on different days.
- Discuss any matters arising from poll card issue.
- Alert the SPOC to postal ballot delivery issues:
  - a. Royal Mail or other means of delivery
  - b. delivery dates by area
  - c. liaison with Royal Mail contact for the election/referendum
  - d. internal distribution by Royal Mail of *Postal voting – a quick guide for Royal Mail drivers and delivery staff* (a credit-card-sized guide)
- Postal vote opening issues. There is no provision in electoral law specifically enabling a police officer to attend any postal vote opening session. We encourage SPOCs to attend a postal vote opening session to gain an insight into the process. The recommended approach is for the SPOC to apply to the Commission for accreditation as an official observer at the earliest opportunity. It is important that the SPOC should avoid the temptation to become involved in the process. If the need for investigation arises, this should be conducted after the event. Issues may include:
  - a. planned dates and times
  - b. police presence
  - c. identifier processes
  - d. special opening of suspicious postal ballots, if needed
  - e. white powder in envelope procedures

## Polling day issues

- Overarching issues

- Polling station issues:
  - a. the local authority contact should provide a list of polling stations
  - b. the SPOC should discuss the level of police support – dedicated to stations or mobile support
  - c. personation guidance and statement form
  - d. discuss action in relation to a disturbance within a polling station and maintaining order outside a polling station (see Appendix E)
  - e. tellers – what local arrangements are in place?
  
- Issues relating to the collection of postal ballots:
  - a. will postal ballots be collected from polling stations during the day?
  - b. are any problems expected and would police support be prudent?
  - c. if necessary, what arrangements are in place for overnight security of ballot boxes?
  
- Issues relating to the count:
  - a. when and where will it take place (centralised or decentralised)?
  - b. police presence and other security at the venue(s) – in particular, control of access to venue and monitoring who is present
  - c. procedure for dealing with suspicious postal voting statements
  - d. postal ballot papers marked with correction fluid
  
- Post-election issues:
  - a. allegations of malpractice
  - b. rejected postal ballot statements
  - c. access to documents
  - d. recording of actions and audit trail
  - e. reporting allegations to ACPO PNICC

# 5 Action in response to allegations of electoral malpractice

5.1 This chapter offers advice about what to do if an allegation of electoral malpractice is made.

## Where malpractice is suspected or alleged

5.2 Electoral staff are uniquely placed to identify malpractice and are required to carry out some checking processes as required by electoral law. The Commission has advised them that:

- if there are any suspicions or any allegations of electoral malpractice or coercion that can be substantiated by their own checks, and
- if someone is prepared to make a statement in writing

they should report the matter without delay to the police election Single Point of Contact Officer (SPOC) for the force or Basic Command Unit (BCU) for investigation.

5.3 When a member of the electoral staff is approached with an allegation of electoral malpractice by a voter, elector, candidate, registered campaigner, the media or someone else:

- The Electoral Registration Officer, Returning Officer/Counting Officer or local authority contact should help verify the facts where appropriate, and if an offence is suspected the allegation should be reported without delay by the electoral staff or the complainant, as appropriate, to the police election SPOC for the force or BCU for investigation.
- The election staff may help by providing the relevant police SPOC contact details.

5.4 When the police receive an allegation of electoral malpractice directly from the voter, elector, candidate, registered campaigner, the media or someone else:

- The force SPOC should be notified.

5.5 The police may contact the Electoral Registration Officer, Returning Officer/Counting Officer or local authority contact to help verify the facts where appropriate and agree the most appropriate course of action.

5.6 In all cases referred to the police, the police will make an assessment as to the level of investigation required and ensure that it is proportionate to the allegation and to the potential effect of the alleged offence on the election process. The nature and scope of any investigation will be at the discretion of the Chief Constable. Where possible, the police will keep the relevant Electoral Registration Officer, Returning Officer or Counting Officer informed of the progress of any investigation. The police may consider the merit of contacting the local/regional/constituency agent for the particular political party or registered participant.

5.7 Suggested action for all cases:

- preserve evidence
- respect the secrecy of sealed documents and seek advice before opening
- when election documents become evidence in a potential crime, the method of preservation by the police should include consultation with the elections office to agree a mutually beneficial way forward
- invite the suspected party for interview under caution or consider Section 24(e) of the Police and Criminal Evidence Act (PACE) 1984 (as amended by the Serious Organised Crime and Police Act 2005)
- consider advice from the Special Crime and Counter Terrorism Division of the Crown Prosecution Service (CPS)
- inform the Returning Officer/Counting Officer and the Electoral Commission via the force SPOC
- advise the Association of Chief Police Officers (ACPO) Police National Information and Co-ordination Centre (PNICC) in the scheduled return of all allegations and outcomes or immediately if there is a major allegation

5.8 It may be that the motive for false registration is financial or another, non-electoral crime that would be investigated by an Economic Crime Team, or similar, rather than the election SPOC. Nonetheless, the Representation of the People Act 1983 (as amended) (RPA 1983) offence should at least be considered in the investigation where appropriate.

5.9 Documents that are open to public inspection and may be examined without a court order, together with those that will or may require a court order, are set out in Appendix F. The appendix includes advice about the length of time documents may be retained.

# Contacts

## Crown Prosecution Service

5.10 The Special Crime and Counter Terrorism Division of the CPS deals with allegations of electoral offences at their casework directorate headquarters in London and York. The appropriate office should be contacted at the start of an investigation and will be able to provide advice. The London office covers London, Eastern, South East and South West regions. The York office covers the remainder of England and all of Wales.

Where advice is sought from the CPS early in an investigation, police personnel contacting the CPS should be familiar with the issues on which they are seeking guidance and should give a brief verbal or written synopsis of the facts. Contacting the CPS should be done only with the agreement of the force SPOC.

### **London CPS office contacts**

Rosemary Fernandes

Tel: 0203 357 0762

[Rosemary.fernandes@cps.gsi.gov.uk](mailto:Rosemary.fernandes@cps.gsi.gov.uk)

Zoe Martin

Tel: 0203 357 0279

[zoe.martin@cps.gsi.gov.uk](mailto:zoe.martin@cps.gsi.gov.uk)

Special Crime and Counter Terrorism Division  
Crown Prosecution Service  
Rose Court  
2 Southwark Bridge Road  
London SE1 9HS  
DX: 154263 Southwark 12

### **York CPS office contacts**

Tara Wallis

Tel: 01904 545517

[Tara.Wallis@cps.gsi.gov.uk](mailto:Tara.Wallis@cps.gsi.gov.uk)

Simon Orme

Tel: 01904 545534

[Simon-Timothy.Orme@cps.gsi.gov.uk](mailto:Simon-Timothy.Orme@cps.gsi.gov.uk)

Special Crime and Counter Terrorism Division  
Crown Prosecution Service  
United House, Piccadilly  
York YO1 9PQ

## Electoral Commission

### **Election or referendum spending and donations**

5.11 The Party and Election Finance Directorate at the Commission should be informed if it appears that an offence has been committed relating to election spending or donations reporting by a candidate or political party in order to co-ordinate any further action.

5.12 The Commission should be contacted via the Enforcement Team Manager at:

The Electoral Commission  
3 Bunhill Row  
London EC1Y 8YZ

Tel: 020 7271 0616

[pef@electoralcommission.org.uk](mailto:pef@electoralcommission.org.uk)

### **Media**

5.13 In developing a force media strategy, there may be merit in issuing a joint statement at the start of the election campaign endorsed by all candidates and parties, the Returning Officer and the police. In the past this has proven effective in providing a clear and cohesive joint approach. However, this should be a voluntary agreement and no stigma should be attached to any party or candidate not wishing to be included. The Commission is willing to assist as a point of reference for news releases, especially prior to any arrest or prosecution.

5.14 The force press officer may wish to make contact with:

Rosemary Davenport  
Media Relations Officer  
Tel: 020 7271 0704

[rdavenport@electoralcommission.org.uk](mailto:rdavenport@electoralcommission.org.uk)

## Further advice or comment

### **Association of Chief Police Officers**

5.15 For further advice or comment relating to the overall guidance, please contact ACPO.

Gareth Cann  
Assistant Chief Constable (Crime)  
West Midlands Police  
Tel: 0121 626 5483

[g.j.cann@west-midlands.pnn.police.uk](mailto:g.j.cann@west-midlands.pnn.police.uk)

Inspector John Askew  
West Midlands Police  
Mob: 07825 938808  
[j.askew@west-midlands.pnn.police.uk](mailto:j.askew@west-midlands.pnn.police.uk)

### **Electoral Commission**

Richard Jordan  
Senior Adviser (Electoral Integrity)  
Tel: 020 7271 0562  
Mob: 07827 839000  
[rjordan@electoralcommission.org.uk](mailto:rjordan@electoralcommission.org.uk)

Tom Hawthorn  
Head of Electoral Policy  
Tel: 020 7271 0712  
Mob: 07917 838169  
[thawthorn@electoralcommission.org.uk](mailto:thawthorn@electoralcommission.org.uk)

An all-hours telephone service during the election period is available on 07917 838169.

## **Further advice or comment for issues in Wales**

### **ACPO in Wales**

Detective Inspector Dave Runnalls  
South Wales Police  
Tel: 029 2077 4244  
[Dave.Runnalls@south-wales.pnn.police.uk](mailto:Dave.Runnalls@south-wales.pnn.police.uk)

### **Electoral Commission in Wales**

Ceri John  
Senior Political Party Liaison Officer  
Tel: 029 2034 6800  
[cjohn@electoralcommission.org.uk](mailto:cjohn@electoralcommission.org.uk)

5.16 An all-hours telephone service for Wales during the election period is available on 07798 915667.

# Appendix A – Schedule of election and referendum-related crimes and penalties

Non-financial offences (excludes Sections 75 to 85 of the RPA 1983 regarding election expenses)

Table A1: Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law<sup>1</sup>

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
13D(1) as amended by EAA Section 15(7)	<p><b>False registration information</b></p> <p>(1) Providing, for any purpose connected with the registration of electors, false information to a registration officer</p>	Any person		Six months' imprisonment and/or a fine not exceeding level 5 on the standard scale (currently £5,000)
13D(1A) as amended by EAA Section 15(7)	<p><b>False information in relation to postal/proxy voting</b></p> <p>(1A) Providing false information in connection with an application to which any of the following apply:</p> <p>a. Where a person applies to the registration officer to <b>vote by post</b> at Parliamentary elections, at local government elections or at both (whether for an indefinite period or for a particular period specified in their application), or</p> <p>b. Where a person applies to the registration officer to <b>vote by proxy</b> at Parliamentary elections, at</p>	Any person		Six months' imprisonment and/or a fine not exceeding level 5 on the standard scale (currently £5,000)

<sup>1</sup> Each election and referendum will have its own legislation but offences typically mirror those in the RPA 1983.

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	<p>local government elections or at both (whether for an indefinite period or for a particular period specified in their application), paragraph 3(1) or (2), Schedule 4, RPA 2000</p> <p>c. Where a person applies to the registration officer to <b>vote by post</b> at a particular Parliamentary or local government election or where a person applies to the registration officer to <b>vote by proxy</b> at a particular Parliamentary or local government election, paragraph 4(1) or (2), Schedule 4, RPA 2000</p> <p>d. Where a person applies to the registration officer to vote by post:</p> <p>i. as proxy at Parliamentary elections, at local government elections or at both (whether for an indefinite period or for a particular period specified in their application), or</p> <p>ii. as proxy at a particular Parliamentary or local government election, paragraph 7(4), Schedule 4</p>			

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	A person does not commit an offence under Section 13D(1) or (1A) if they did not know, and had no reason to suspect, that the information was false			
60	<b>Personation</b> Votes in person or by post as some other person, or votes in person or by post as proxy for a person they know/have reasonable grounds to assume is dead/fictitious or their proxy is no longer in force	Any person (who commits, aids, abets, counsels or procures the commission of the offence of personation)	Corrupt practice	On summary conviction: statutory maximum fine or six months' imprisonment. On indictment: fine or two years' imprisonment
61(1)	<b>Voting whilst under a legal incapacity</b> a. Voting, or applying to vote, knowing that they are subject to a legal incapacity b. Applying to appoint a proxy knowing that either the elector or proxy is subject to a legal incapacity c. Voting as a proxy for a person they know is subject to a legal incapacity	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
61(2)(a)	<b>Multiple voting</b> Voting as elector other than by proxy either:  i. more than once in the same constituency at any Parliamentary election, or more than once in the same electoral area at any local government election, or			

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	<p>ii. in more than one constituency at a Parliamentary general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area, or</p> <p>iii. in any constituency/electoral area (which is not a single electoral area) when there is in force an appointment of a person to vote as their proxy at the election in some other constituency/electoral area</p> <p>This does not apply at London Mayoral and London Assembly elections</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
61(2)(b)	<p><b>Multiple voting</b> Voting as elector in person at a Parliamentary or local government election at which you are entitled to vote by post</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
61(2)(c)	<p><b>Multiple voting</b> Voting as elector in person at a Parliamentary or local government election, knowing that a person appointed to vote as your proxy at the election either has already voted in person or is entitled to vote by post</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
61(2)(d)	<p><b>Multiple voting</b> Applying for a person to be appointed as a proxy to vote for you at Parliamentary elections without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
61(2A)	<p><b>Multiple voting</b> At London Mayoral and London Assembly elections, voting as an elector otherwise than by proxy more than once:</p> <ol style="list-style-type: none"> <li>a. at the same election of the Mayor of London</li> <li>b. at the same election of London members of the London Assembly</li> <li>c. at the same election of a constituency member of the London Assembly (in the same constituency)</li> <li>d. in more than one Assembly constituency or in any Assembly constituency at an ordinary election, or election of the Mayor of London voting as an elector otherwise than by proxy when there is in force an appointment of a person to vote as their proxy at the election in some other Assembly constituency</li> </ol>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
61(3)	<p><b>Multiple voting</b></p> <p>a. Voting as a proxy for the same elector either:</p> <p style="padding-left: 20px;">i. more than once in the same constituency at any Parliamentary election, or more than once in the same electoral area at any local government election, or</p> <p style="padding-left: 20px;">ii. in more than one constituency at a general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area, or</p> <p>b. Voting in person as a proxy for an elector at a Parliamentary or local government election at which they are entitled to vote as a proxy by post, or</p> <p>d. Voting in person as a proxy for an elector at a Parliamentary or local government election knowing that the elector has already voted in person at the election</p> <p>This does not apply at London Mayoral and London Assembly elections</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
61(4)	<b>Multiple voting</b> Voting at a Parliamentary election in any constituency (or local government election in any electoral area) as proxy for more than two persons of whom they are not the husband, wife, parent, grandparent, brother, sister, child or grandchild	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
61(5)	<b>Multiple voting</b> Knowingly inducing or procuring some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that person under the relevant subsection of Section 61	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
62(1)	<p><b>Offences as to declarations</b></p> <p>Making a declaration of local connection or a service declaration:</p> <ul style="list-style-type: none"> <li>i. when a person is not authorised to do so by Section 7B(1) or Section 15(10)</li> <li>ii. except as permitted by this Act, when they know that they are subject to legal incapacity to vote, or</li> <li>iii. when they know that it contains a statement which is false, or</li> </ul> <p>Attesting a service declaration when a person knows:</p> <ul style="list-style-type: none"> <li>i. that they are not authorised to do so, or</li> <li>ii. that it contains a false statement as to any particulars required by regulations under Section 16</li> </ul>	Any person		A fine not exceeding level 5 on the standard scale (currently £5,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
62A added by EAA Section 40	<p><b>Offences relating to applications for postal and proxy votes</b></p> <p>Engaging in one of the following acts with the intention, by doing so, to deprive another of an opportunity to vote or to make for themselves or another a gain of a vote, to which they or the other are not otherwise entitled, or a gain of money or property:</p> <ol style="list-style-type: none"> <li>a. applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person)</li> <li>b. otherwise making a false statement in, or in connection with, an application for a postal or proxy vote</li> <li>c. inducing the Registration Officer or Returning Officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote</li> <li>d. causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient</li> </ol>	Any person (who commits, aids, abets, counsels or procures the commission of the offence)	Corrupt practice	Up to two years' imprisonment and/or an unlimited fine

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
63(1)	<p><b>Breach of official duty</b> Any person to whom this section applies, acting without reasonable cause, will be in breach of his official duty by any act or omission</p>	<p>This section applies to: Clerk of the Crown or their deputy; Registration Officer, Returning Officer or Presiding Officer; any person whose duty it is to be responsible after a local government election for used ballot papers and other documents (including return and declarations as to expenses); any official designated by the universal postal service provider or their deputy</p>		<p>A fine not exceeding level 5 on the standard scale (currently £5,000)</p>

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
65(1)	<p><b>Tampering with nomination papers, ballot papers etc.</b></p> <p>At a Parliamentary or local government election:</p> <ol style="list-style-type: none"> <li>a. fraudulently defacing or fraudulently destroying any nomination papers, or</li> <li>b. fraudulently defacing or fraudulently destroying any ballot paper, or the official mark or any ballot paper, or any postal voting statement or official envelope used in connection with voting by post, or</li> <li>c. without due authority supplying any ballot paper to any person, or</li> <li>d. fraudulently putting any paper into any ballot box, other than the ballot paper authorised by law to be put in, or</li> <li>e. fraudulently taking out of the polling station any ballot paper, or</li> <li>f. without due authority destroying, taking, opening, or otherwise interfering with the ballot box or packet of ballot papers then in use for the purpose of the election, or</li> <li>g. fraudulently or without due authority attempting to do any of the previously mentioned acts</li> </ol>	Any person	Offence	<p>On summary conviction: a fine not exceeding the statutory maximum and/or imprisonment for a term not exceeding six months</p> <p>On indictment, a fine and/or imprisonment for a term not exceeding two years</p> <p>On summary conviction: a fine not exceeding the statutory maximum and/or imprisonment for a term not exceeding six months</p>

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
65A(1)	<p><b>False statements in nomination papers etc.</b> At a Parliamentary election, or any local government election in England or Wales, a person causing or permitting to be included in a document delivered or otherwise furnished to the Returning Officer for use in connection with the election:</p> <p>a. a statement of the name or home address of a candidate at the election which they know to be false in any particular, or</p> <p>b. anything which purports to be the signature of an elector who proposes, seconds or assents to the nomination of such a candidate which they know:</p> <p>i. was not written by the elector</p> <p>ii. if written by the elector, was not written by them for the purpose of signifying that they were proposing, seconding or assenting to the nomination</p>	Any person	Corrupt practice	On summary conviction: statutory maximum fine or six months' imprisonment. On indictment: fine or one year's imprisonment
65A(1A)	<p><b>False statements by candidates on nomination papers</b></p>	Any candidate	Corrupt practice	On summary conviction: statutory maximum fine or six months' imprisonment

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	<p>In any Parliamentary election, or any local government election in England or Wales, a candidate makes a false statement in any document in which their consent is given for nomination, regarding:</p> <ul style="list-style-type: none"> <li>a. their date of birth</li> <li>b. their qualification (that they are or will be qualified for being elected, and to the best of their knowledge or belief, they are not disqualified from being elected), or</li> <li>c. that they are not a candidate at an election for any other constituency where the poll is to be held on the same day as the poll at the election to which the consent relates</li> </ul>			On indictment: fine or one year's imprisonment
66(1)	<p><b>Requirement of secrecy</b> Every Returning Officer and Presiding Officer or clerk and every candidate, election agent or polling agent attending a polling station shall maintain and aid in maintaining the secrecy of voting and unless authorised by law shall not communicate to any person before the poll is closed information as to:</p>	Any person		A fine not exceeding level 5 on the standard scale (currently £5,000), or a term of imprisonment not exceeding six months

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	<ul style="list-style-type: none"> <li>i. the name of any elector or proxy who has or has not applied for a ballot paper or voted at the polling station</li> <li>ii. the number on the register of electors of any electors who or whose proxy has or has not applied for a ballot paper or voted at the polling station, or</li> <li>iii. the official mark</li> </ul>			
66(2)	<p><b>Requirement of secrecy</b> Every person attending a polling station at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not:</p> <ul style="list-style-type: none"> <li>a. ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper</li> <li>b. communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on a particular ballot paper</li> </ul>	Any person		A fine not exceeding level 5 on the standard scale (currently £5,000), or a term of imprisonment not exceeding six months

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
66(3)	<p><b>Requirement of secrecy</b> No person shall:</p> <ul style="list-style-type: none"> <li>a. interfere with or attempt to interfere with a voter when recording their vote</li> <li>b. otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted</li> <li>c. communicate at any time to any person any information obtained in a polling station as to the candidate for whom the voter is about to vote or has voted, or as to the number on the back of the ballot paper given to that voter at that station</li> <li>d. directly or indirectly induce a voter to display their ballot paper after they have marked it so as to make known to any person the name of the candidate for whom they have or have not voted</li> </ul>	Any person		A fine not exceeding level 5 on the standard scale (currently £5,000), or a term of imprisonment not exceeding six months
66(4)	<p><b>Requirement of secrecy</b> Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not:</p>	Any person		A fine not exceeding level 5 on the standard scale (currently £5,000), or a term of imprisonment not exceeding six months

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	<ul style="list-style-type: none"> <li>a. unless authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark, or</li> <li>b. unless authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number on the back of the ballot paper sent to any person</li> <li>c. unless authorised by law, ascertain or attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper, or</li> <li>d. attempt to ascertain at the proceedings in connection with the receipt of ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings</li> </ul>			

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
66(5)	<p><b>Requirement of secrecy</b>                      No person having undertaken to assist a blind voter to vote shall communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number on the back of the ballot paper</p>	Any person		A fine not exceeding level 5 on the standard scale (currently £5,000), or a term of imprisonment not exceeding six months
66A(1)	<p><b>Prohibition on publication of exit polls</b>                      At a Parliamentary election, or any local government election in England or Wales, no person shall publish before the poll is closed:</p> <p>a. any statement relating to the way in which voters have voted at the election where a statement is (or could reasonably be taken to be) based on the information given by voters after they have voted, or</p> <p>b. any forecast as to the result of the election which is (or could reasonably be taken to be) based on information so given</p>	Any person		A fine not exceeding level 5 on the standard scale (currently £5,000), or a term of imprisonment not exceeding six months

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
66B	<p><b>Failure to comply with conditions relating to supply etc. of certain documents</b>                      Failure to comply with election document retention conditions under Rule 57 of the Parliamentary Elections Rules (hold all election documents for one year and then have them destroyed) by:</p> <p>a. any person, unless they have an appropriate supervisor and have complied with the requirements set by their supervisor, or</p> <p>b. an appropriate supervisor who has failed to take appropriate steps</p> <p>Any other person is not guilty of an offence if they take all reasonable steps to comply with the conditions</p>	Electoral Registration Officer or supervisor	Offence	On summary conviction: a fine not exceeding level 5 on the standard scale
94(1)	<p><b>Imitation poll cards</b>                      No person shall for the purposes of promoting or procuring the election of a candidate at a Parliamentary election issue any poll card or document so closely resembling an official poll card as to be calculated to deceive</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
97(1)	<b>Disturbances at election meetings</b> Acting or inciting others to act in a disorderly manner for the purpose of preventing the transaction of business for which the meeting was called	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
99(1)	<b>Officials not to act for candidates</b> Acting as a candidate's agent in the conduct or management of an election	Returning Officers at a Parliamentary or local government election, an officer or clerk appointed under the Parliamentary Rules, or the Rule under Section 36	An offence	A fine not exceeding level 4 on the standard scale (currently £2,500)
100(1)	<b>Illegal canvassing by police officers</b> No member of the police force shall by word, message in writing or in any other manner endeavour to persuade any person to give or dissuade any person from giving their vote by proxy or as an elector at any Parliamentary election for a constituency or local government election for any electoral area wholly or partly within the police area	Members of the police force		A fine not exceeding level 3 on the standard scale (£1,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
106(1)	<p><b>False statements of fact as to candidates</b>                      Making or publishing false statements of fact in relation to the candidate's personal character or conduct, unless there are reasonable grounds for believing the statement is true</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
107	<p><b>Corrupt withdrawal from candidature</b>                      Corruptly inducing or procuring any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person in pursuance of the inducement or procurement</p>	Any person	Illegal payment	A fine not exceeding level 5 on the standard scale (currently £5,000)
109	<p><b>Payments for exhibition of election notices</b>                      No payment or contract for payment shall for the purposes of promoting or procuring the election of a candidate at an election be made to an elector or their proxy on account of the use of any house, land, building or premises for the exhibition of any address, bill or notice unless:</p> <p>a. it is the ordinary business of the elector, and                      b. the payment is made in the ordinary course of that business</p>	Any person	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
110	<b>Printer's name and address on election publications</b>	A candidate or election agent	Illegal practice	A fine not exceeding level 5 on the standard scale (currently £5,000)
111	<b>Prohibition of paid canvassers</b> The person engaging or employing them and the person so engaged or employed for payment or promise of payment as a canvasser	Any person	Illegal employment	
112	<b>Providing money for illegal purposes</b>	Any person	Illegal payment	
113(2)	<b>Bribery</b> Directly or indirectly, by themselves or by any other person on their behalf:  a. gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or  b. corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or	Any person	Corrupt practice	On summary conviction: statutory maximum fine or six months' imprisonment. On indictment: fine or one year's imprisonment

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	<p>c. makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election or the vote of any voter,</p> <p>or if upon or in consequence of any such gift or procurement they procure or engage, promise or endeavour to procure the return of any person at an election or the vote of any voter</p>			
113(3)	<p><b>Bribery</b> If they advance or pay or cause to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at any election, or knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election</p>	Any person	Corrupt practice	On summary conviction: statutory maximum fine or six months' imprisonment. On indictment: fine or one year's imprisonment
113(5)	<p><b>Bribery</b> If before or during an election they directly or indirectly by themselves or by any other person on their behalf</p>	Any voter	Corrupt practice	On summary conviction: statutory maximum fine or six months'

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
	receive, agree, or contract for any money, gift or loan of valuable consideration, office, place or employment for themselves or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting			imprisonment. On indictment: fine or one year's imprisonment
113(6)	<b>Bribery</b> If after an election they directly or indirectly by themselves or by any other person on their behalf receive any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting	Any person	Corrupt practice	On summary conviction: statutory maximum fine or six months' imprisonment. On indictment: fine or one year's imprisonment
RPA 113(7)	<b>Bribery</b> A person's ineligibility to vote does not necessarily prevent an act being bribery	Any person	Corrupt practice	On summary conviction: statutory maximum fine or six months' imprisonment. On indictment: fine or one year's imprisonment
Case law <i>R v Vaughan</i> (1769) 4 Burr 2494	<b>Bribery</b> A common law offence of bribery as extends to attempt to bribe at an election	Any person	Corrupt practice	

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
RPA 202(1)	<p><b>Bribery</b> The RPA defines ‘voter’ as a person voting at an election and includes a person voting by proxy. This means the definition of bribery extends to proxy voting</p>	Any person	Corrupt practice	On summary conviction: statutory maximum fine or six months’ imprisonment. On indictment: fine or one year’s imprisonment
114(2)	<p><b>Treating</b> If they corruptly, by themselves or by any other person, either before, during or after an election, directly or indirectly give or provide, or pay wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person:</p> <p>a. for the purpose of corruptly influencing that person or any other person to vote or refrain from voting, or</p> <p>b. on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting</p>	Any person	Corrupt practice	On summary conviction: statutory maximum fine or six months’ imprisonment. On indictment: fine or one year’s imprisonment
114(3)	<p><b>Treating</b> Every elector who corruptly accepts or takes any meat, drink or entertainment or provision</p>	Any elector or their proxy	Corrupt practice	On summary conviction: statutory maximum fine or six months’ imprisonment. On

Table A1 (cont.): Representation of the People Act 1983 (RPA 1983), Electoral Administration Act 2006 (EAA) and case law

RPA 1983 Section	Summary of offence	Person or persons liable	Type of offence	Penalty
115	<p><b>Undue influence</b> Where they directly or indirectly make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict any temporal or spiritual injury, damage or harm in order to induce or compel any voter to vote or refrain from voting</p> <p>Impeding or preventing the free exercise of the franchise of an elector. Interfering with a voter when they are recording their vote</p>	Any person	Corrupt practice	<p>indictment: fine or one year's imprisonment</p> <p>On summary conviction: statutory maximum fine or six months' imprisonment. On indictment: fine or one year's imprisonment</p>

Table A2: Offences under Representation of the People Act 2000 (RPA 2000)

RPA 2000	Summary of offence	Person or persons liable	Type of offence	Penalty
<b>Schedule 4(8)</b>	<p><b>Absent voting – offences</b></p> <p>a. making a false statement within any relevant declaration or form, or</p> <p>b. attesting an application (under paragraph 3 or 4, Schedule 4) when they know they are not authorised to do so or that it contains a statement which is false</p>			A fine not exceeding level 5 on the standard scale (currently £5,000)

# Appendix B – The election and referendum process

## Electoral registration

1. Electoral registration is the responsibility of the Electoral Registration Officer for each council area. The Electoral Registration Officer and the Returning Officer/Counting Officer for local elections in England is usually the same person. In Wales they may not be the same person but will both work for the same local authority.

### The annual canvass phase

2. From the beginning of September each year, a new register is compiled. It is published at the beginning of December. Each household is required to complete the canvass form for everyone in the household over the age of 18, and those who will become 18 during the life of the register. The person completing the return must sign it and return it to the Electoral Registration Officer.
3. European citizens (other than British, Irish and Commonwealth citizens) may vote in local government elections but are not entitled to vote in UK Parliamentary elections. Each referendum will have its own franchise.

### The rolling registration phase

4. Since 2001 it has been possible to register to vote at any time from December through to September, outside the annual canvass period described above. This allows people who move house to voluntarily supply updated details. The process is called 'rolling registration'. To be eligible to vote at a particular election, applications to register must be received no later than 11 working days before polling day.
5. It is possible for some electors, such as students and Members of Parliament, to register at more than one address if they spend a substantial amount of time at each property. The only restriction is that they must not vote more than once in an election to the same body.
6. Electoral Registration Officers and Returning Officers/Counting Officers must make information available in English in England, and in English and Welsh in Wales. They may also make information available in minority languages and in written, Braille, pictorial, graphical and audio tape formats.

7. It is an offence to supply false information to an Electoral Registration Officer for any purpose connected to electoral registration.<sup>37</sup> In this case it is not necessary to establish an intention to gain or deprive another of a vote.<sup>38</sup>
8. False registration occurs where an attempt is made to unlawfully register a person. While the purpose may be to affect the outcome of an election, false registration may arise for non-electoral motives. For example, it may be part of an attempt to commit financial fraud or to establish an identity for an illegal immigrant. Fraudulent voting may be a by-product of such practices. If the Electoral Registration Officer has good reason to suspect that fraudulent registration has taken place, they have been advised to inform the police. An early, positive and well-publicised response may help to deter other attempts.

## Poll cards

9. Returning Officers and Counting Officers will send out poll cards as soon as practicable after the publication of the Notice of Election or Notice of Referendum. They must send poll cards to all electors whether they are registered to vote in person, by post or by proxy. Every elector who is registered to vote by post will receive a poll card confirming that their postal ballot pack will be delivered to them, with an indication as to when it is likely to arrive. The proxy poll card must also include the proxy's name and address and details of the elector for whom the proxy is voting. Neither the voter nor a proxy needs to bring their poll card with them to the polling station in order to vote.

## Anonymous registration

10. The Electoral Administration Act 2006 (EAA) provided an opportunity from 1 June 2007 for people to legally register to vote anonymously. Applicants must give a qualifying reason. The test is that 'the safety of the applicant for an anonymous entry or that of any person of the same household would be at risk if the register contains the name of the applicant or their qualifying address'.<sup>39</sup> The application must be supported by either documentary evidence or an attestation.
11. Guidance on anonymous registration has been produced by the Association of Chief Police Officers (ACPO) in consultation with the Electoral Commission. The Representation of the People (Amendment)

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<sup>37</sup> Section 13D, Representation of the People Act 1983 (RPA 1983).

<sup>38</sup> Unlike the offence under Section 62A, RPA 1983.

<sup>39</sup> Section 9(b)(10), RPA 1983.

Regulations 2009 amended the list of qualifying officers who are entitled to complete anonymous registration attestations with effect from 17 March 2009. For the police, the job titles granting qualifying officer status have been widened to any police officer of or above the rank of superintendent in any police force in the United Kingdom. A copy of the guidance is available on the ACPO website at [www.acpo.police.uk/policies.asp](http://www.acpo.police.uk/policies.asp) (listed as *Anonymous Registration Guidance July 2009*).

12. Anonymous registration is much less susceptible to fraud than most other forms of registration because the application must be attested. An elector who is registered as an anonymous voter must bring their polling card with them to the polling station if they decide to vote in person.

## Absent voting

13. The term 'absent voting' describes the two ways in which an elector may vote other than in person at a polling station on polling day. These are proxy voting and postal voting. Both options require the elector to make an official application in writing to the Electoral Returning Officer. The person appointed to vote as a proxy may also apply to vote by post.
14. The Electoral Registration Officer for each council area is responsible for processing applications for absent votes and maintaining lists of proxy and postal voters in addition to maintaining the register of electors. The Returning Officer/Counting Officer is responsible for issuing postal votes to electors and for administering proxy votes. In England and Wales these tasks are both carried out by local authority staff.
15. To avoid double voting, where the Returning Officer/Counting Officer is satisfied that two or more entries in the absent voters list or in the list of postal proxies or in each of those lists relate to the same person, only one ballot paper will be issued in respect of that elector at any one election or referendum.<sup>40</sup>
16. A security measure first introduced for the May 2007 elections is a requirement that the Electoral Registration Officer must maintain a record of the name, signature and date of birth of anyone applying to vote by proxy or by post.<sup>41</sup> The only exception to recording the signature is where a waiver has been agreed on the grounds of the person's incapacity to provide a signature.<sup>42</sup> Where a waiver is sought, the applicant must provide reasons along with the name and address of any

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<sup>40</sup> Regulation 73, Representation of the People (England and Wales) Regulations 2001 (2001 Regulations).

<sup>41</sup> Schedule 4, Representation of the People Act 2000 (RPA 2000).

<sup>42</sup> Schedule 4, RPA 2000.

person who has assisted them with the completion of the application.<sup>43</sup> Although no evidence of misuse of this facility has been reported, electoral administrators have concerns that the waiver procedure may affect the integrity of the electoral process.

## Proxy voting

17. An elector may appoint a person to vote on their behalf – this person is known as a proxy. A proxy vote may be requested for all elections or for a specific election. An application for a proxy vote on a permanent basis must be attested by someone with the authority to vouch for the elector's inability to vote in person. An application to vote by proxy for a single occasion must state why a proxy is needed but does not need to be attested; for example, if the elector knows that they will be abroad when ballot papers are due to be issued and it is unlikely that a postal vote could be despatched and returned before the close of poll. To obtain a proxy vote, the elector must sign the application form. Then the person chosen to act as proxy must sign to state that they agree to do so, or the applicant can sign to that effect.
18. Written confirmation of the proxy voting arrangement must be sent to both the elector and the proxy. This is an important anti-fraud requirement. Electoral Registration Officers have been advised to monitor not only any notifications that are returned stating that the elector has not applied for the facility but also any returned marked 'not known at this address'. Where their suspicions are aroused, Electoral Registration Officers have been advised to notify the police.
19. A provision introduced in May 2006 permits electors to apply to vote by proxy if they become physically incapacitated between six working days before polling day (the deadline for ordinary proxy applications) and 5pm on polling day.<sup>44</sup> This will allow an elector who is hospitalised or has an accident to appoint a proxy. Applications under this provision must be attested by a qualified person and the date when the incapacity started must also be stated. The Commission has suggested that the proxy of any voter whose emergency application has been accepted should be given a letter of authorisation to that effect. However, there is no requirement in law that the proxy needs to present that letter to the Presiding Officer at the appropriate polling station. The Commission has suggested that every effort is made by Electoral Registration Officers to alert the appropriate Presiding Officer to the new appointment. Returning Officers/Counting Officers will be alert to any abuse of this facility.

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<sup>43</sup> Regulation 51(2)(f), 2001 Regulations.

<sup>44</sup> See election timetable for date. An election timetable giving specific dates for the next election can be found on the Commission's website at [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators).

# Postal voting

20. More and more electors are applying to vote by post since postal voting became available on demand in 2001. The Commission recognises that this is an area which requires constant vigilance.
21. Electors may apply for a postal vote for a particular election, a specified period or permanently. The Electoral Registration Officer's power to check a signature on a postal vote application against any signature previously provided by the applicant is now expressly permitted.<sup>45</sup> The following steps are intended to deal with problems that may arise.

To apply for a postal vote the elector must give certain information in writing. This can be by letter, by fax or on an application form. The information needed to register for a postal vote is:

- the full name of the applicant
- the address where the applicant is or will be registered
- the address to which the ballot paper should be sent, and a reason for redirection if this address is not the elector's registered address
- whether it is for an indefinite or definite period or for one election only
- whether it is for Parliamentary elections, local elections or both
- the date of birth of the applicant, and
- the date the application is made

5.17 The application must also be signed and the signature provided in a way that can be electronically scanned by the Electoral Registration Officer.<sup>46</sup>

22. Following receipt of the application, the elector must be sent confirmation that they have applied for a postal vote and the outcome of that application. If they have also requested that the postal vote be directed to another address, the written confirmation will also include details of the address to which the ballot pack is to be directed. These measures are intended to prevent someone seeking to commit fraud by applying for a postal vote without the knowledge of the voter.
23. Electoral Registration Officers, Returning Officers and Counting Officers must make information available in English in England and in English and Welsh in Wales. They may also make information available in minority languages and in written, Braille, pictorial, graphical and audio tape formats.

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<sup>45</sup> Regulation 51A, 2001 Regulations.

<sup>46</sup> Regulation 51, 2001 Regulations.

24. In order to show vigilance and combat potential fraud, election officials will monitor the instances of new applications for postal votes that ask for the ballot papers to be sent to an address other than where the elector is registered. Where several postal votes are redirected to a single property and there is no reasonable explanation as to why this has occurred, the Electoral Registration Officer should conduct initial checks of the information to which they have access and immediately refer the matter to the police for an investigation if deemed appropriate. A speedy and well-publicised police response at this stage may serve to demonstrate the seriousness with which such matters are regarded.
25. Although the Electoral Registration Officer may refer such requests to the police, the Returning Officer must still issue the ballot paper as soon as practicable.<sup>47</sup>

### Existing postal voters seeking to redirect their postal ballot packs

26. Electors who are already registered to vote by post can request that their postal ballot pack be sent to an address that is not their registered address; however, they must give a reason for the redirection request. Following receipt of a redirection request, confirmation that the postal ballot will be sent to another address must be sent to the elector at their registered address. This may help prevent someone seeking to commit fraud by redirecting a postal vote without the knowledge of the elector. However, with many applications arriving at the last minute, this confirmation may not reach the elector until after election day.
27. Some Returning Officers/Counting Officers have adopted a standard form which contains a declaration that the individual will be at the address where the ballot paper is to be redirected; however, while this is seen as an aid to security, the completion of such a form is not required by law.
28. In order to show vigilance and combat potential fraud, Electoral Registration Officers have been advised to monitor the instances of postal vote redirection requests. In the same way as for new applications to vote by post, where several postal votes are redirected to a single property and there is no reasonable explanation as to why this has occurred, the Electoral Registration Officer has been advised to conduct initial checks of the information to which they have access and refer the matter to the police for an investigation if deemed appropriate. The Electoral Registration Officer may also monitor the reasons given for redirection if a pattern appears evident. A speedy and well-publicised

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<sup>47</sup> Regulation 71, 2001 Regulations.

police response at this stage may serve to demonstrate the seriousness with which such matters are regarded.

29. Although the Electoral Registration Officer may refer such requests to the police, the postal ballot pack must still be issued as soon as practicable.<sup>48</sup>

## The postal ballot pack

30. The Returning Officer/Counting Officer will send every elector who has registered to vote by post a postal ballot pack. Each pack will contain:
- a ballot paper
  - an envelope, marked with the letter 'A'
  - a postal voting statement
  - a larger envelope, marked with the letter 'B'
  - a set of instructions for the voter
31. The ballot paper and the postal voting statement issued to each postal voter will both display unique identifying marks, such as a barcode. The mark on the postal voting statement will enable the production of the list of returned postal voting statements. The mark on the ballot paper will help to verify that the ballot paper has been issued correctly and will assist if the result is challenged. In addition, each ballot paper must bear the official mark. This was, and still may be, a perforation through the ballot paper made when it is issued. However, now it need only be a device, such as a watermark, heat sensitive dot or grey-shaded design, selected by the Returning Officer/Counting Officer.
32. In England and Wales, the ballot paper can look very different from election to election and even from ward to ward, and different from a referendum one. If voting is taking place for more than one body, the ballot papers for each body will have a different colour and a different colour from the ballot paper for a referendum. In the event of a UK Parliamentary general election, white ballot papers are customarily used. Returning Officers/Counting Officers have to consider the possibility of a UK Parliamentary general election when allocating ballot paper colours for combined elections.
33. Once the voter has made a mark on the ballot paper against the name of their preferred candidate or party (or candidates in the case of some local government elections, if more than one can be selected), or their preferred option in a referendum, the ballot paper(s) should be put in envelope 'A' and sealed. The voter should write their date of birth on the postal voting statement and sign the document. The postal voting

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<sup>48</sup> Regulation 71, 2001 Regulations.

statement should then be placed, together with envelope 'A', into the return envelope 'B'. Envelope 'B' should be sealed and sent back to the Returning Officer/Counting Officer. The return envelope may be marked with purple flashes to make it more visible. Some areas may also have parish or community council elections at the same time as other local elections and a separate ballot paper and envelope may be included. Electors can also hand their completed postal ballot in at a polling station in the constituency or electoral area of any relevant election.<sup>49</sup>

34. The police Single Point of Contact Officer (SPOC) may wish to seek information from the Returning Officer about when the postal ballot packs are scheduled for delivery, to which parts of the constituency or local government area and who will be delivering them, so that consideration may be given to appropriate measures to deter any attempt to intercept them or remove them from letterboxes. Claims have been made, and allegations would suggest, that the period immediately following the delivery of the postal ballots is when malpractice, especially attempts to persuade electors to hand over their unopened ballot papers to another person, is most likely to occur.
35. Royal Mail may be approached by the police SPOC to see what assistance they can give in identifying and preventing possible postal voting malpractice. For example, they may alert the police where large numbers of postal ballots are directed to a single or questionable address, and ensure that their local collection mailboxes are emptied more frequently during the period when most postal ballots are returned to avoid them overflowing. A procedure should be agreed in the event of a mailbox that possibly contains completed postal ballots suffering an arson attack.

## Replacement ballots

36. A replacement postal ballot pack may be issued by the Returning Officer/Counting Officer where the original postal ballot paper is spoilt (i.e. the elector has made a mistake), lost or not received up until 5pm on polling day.
37. Replacement postal ballot packs may be issued by post, where time allows, or by hand. The Returning Officer/Counting Officer may ask the applicant to call in person at the office, where possible, for security purposes.
38. Before issuing a replacement for a postal ballot paper that has not been received or has been lost, the Returning Officer/Counting Officer may

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<sup>49</sup> Rule 45 (1B), Schedule 1, RPA 1983; Regulation 79, RPR 2001; Rule 45(3) and (4), Local Elections (Principal Areas) Rules (LEPAR) 2006.

consider asking the elector to confirm in writing that the ballot paper is lost or has not been received, and should maintain a list of any proof of identity required.

39. Before issuing a replacement postal ballot pack, the Returning Officer/Counting Officer must be satisfied as to the voter's identity. The Commission has circulated guidance on what proof of identity may be appropriate and has advised each Returning Officer/Counting Officer to set down in writing, prior to the election, which of the measures in the guidance will be adopted locally.<sup>50</sup> These will usually be one form of photo-document showing the elector's name or two documents linking the applicant's name and address with the current entry on the register of electors.
40. Where a ballot paper or postal voting statement has been spoilt, all postal voting documentation must be returned to the Returning Officer/Counting Officer before a replacement pack is issued by post or by hand. Although there is no provision in law for the same level of proof of identity as in the case of lost postal ballot papers, Returning Officers/Counting Officers may wish to follow the Commission's guidance procedure for the replacement of lost ballot papers.

## The postal voting statement

41. The postal voting statement is an important document. The elector must sign it to say that they are the person to whom the ballot paper was sent and give their date of birth. There is no longer a requirement for the voter's signature to be witnessed as was the case with a declaration of identity. The postal voting statement has replaced the declaration of identity.
42. The Returning Officer/Counting Officer is required to check at least 20% of returned postal voting statements in each ballot box opened against the personal identifiers held on file from postal voting applications. The Commission's view is that Returning Officers/Counting Officers should verify 100% of absent voting statements as this ensures that all votes are treated equally. Most Returning Officers/Counting Officers have been keen to follow this advice. The Returning Officer/Counting Officer may consider discussing with the police SPOC what level of satisfaction will be adopted with regard to signature matching and whether there would be merit in having the police in attendance during these opening sessions.

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<sup>50</sup> Guidance on this is available at [www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators](http://www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators).

43. The elector must complete their postal ballot in secret. The elector should contact the local elections office if they need assistance to complete their ballot paper. This advice is included in the postal ballot pack.

## Reducing the risk of undue influence

44. Postal voters may deliver their voting papers on polling day to a polling station in their electoral area (ward or constituency) if they so choose.

## Tracking returned postal ballots

45. Postal voters are now able to ask the Returning Officer/Counting Officer whether their postal ballot papers have been returned. The Returning Officer/Counting Officer will be able to confirm if a postal voting statement has been marked returned in their system. Returning Officers/Counting Officers must establish a system for doing this, and have been advised to also consider monitoring such requests for any suspicious patterns. If a pattern raises any suspicion of malpractice that can be substantiated, Returning Officers/Counting Officers have been advised to refer the matter to the police for investigation.
46. Returning Officers/Counting Officers are required to compile a list of returned postal voting statements and separate lists of unmatched postal voting statements and unmatched ballot papers. If allegations of postal voting malpractice are made, these lists may be of assistance to Returning Officers/Counting Officers and the police when they are made available after the election for public inspection.

# Polling stations

## Police support

47. The police Basic Command Unit (BCU) commander will decide the level of police support required at polling stations and Returning Officers/Counting Officers may offer useful advice and information. Returning Officers are required to appoint Presiding Officers and poll clerks to run the polling stations and manage the voting process. Police constables may be present on duty in the polling station at any time, although it is the Presiding Officer's duty to maintain order within the polling station.<sup>51</sup> In many areas, it is now common practice to provide mobile policing support to polling stations. It is important that the Presiding Officer and the police work together to maintain order within and around the polling station. Should you require any assistance with

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<sup>51</sup> Rule 32, Schedule 1, RPA 1983; Rule 31, LEPAR 2006.

an Operational Order to cover the election period, Inspector John Askew at West Midlands Police can offer advice and guidance (see paragraph 5.15 for contact details).

## Who can be present in polling stations?

48. The law restricts who may be present inside a polling station. In addition to members of the Returning Officer/Counting Officer's staff, only the following people may be present:
- voters and children who are accompanying them
  - companions of voters with disabilities
  - candidates at the elections<sup>52</sup>
  - candidates' election agents, referendum agents and polling agents appointed to the specific polling station<sup>53</sup>
  - police officers on duty<sup>54</sup>
  - observers accredited by the Electoral Commission<sup>55</sup>
  - Electoral Commission representatives<sup>56</sup>
49. Voters and their companions may enter a polling station in connection with casting a vote; they must vote without undue delay and leave the polling station as soon as they have put their ballot paper into the ballot box. Electors can also visit the polling station to hand in completed postal ballots. The Presiding Officer may instruct a person to leave, and may instruct their removal by the police or by a person appointed by the Returning Officer/Counting Officer.
50. Candidates, their election agents, specifically appointed polling agents and accredited observers may enter polling stations to observe proceedings. They may also make allegations of personation and require related action by the Presiding Officer. Candidates and agents may mark off on their copy of the register of electors those voters who have applied for ballot papers. However, if they leave the polling station during the hours of polling, their marked copy of the register must be left in the polling station in order not to breach the secrecy of the ballot.<sup>57</sup>

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<sup>52</sup> Rule 31, Schedule 1, RPA 1983; Rule 30, LEPAR 2006.

<sup>53</sup> Not more than one per candidate.

<sup>54</sup> The Electoral Registration and Administration Bill currently being considered by the UK Parliament (debates in the House of Lords are scheduled for 14 and 23 January 2013) would, if enacted, extend the right of access to a polling station to include Police Community Support Officers on duty. This guidance will be updated when the Bill receives Royal Assent and the relevant provision has been commenced.

<sup>55</sup> Accredited observers will be issued with photographic identification that they must show on request.

<sup>56</sup> Accredited representatives will be issued with photographic identification that they must show on request.

<sup>57</sup> Section 66, RPA 1983.

## Candidates, election agents and polling agents

51. Candidates, their election agents and polling agents may enter polling stations to vote and to observe proceedings. They cannot interfere with the voting process nor influence voters, and if such action takes place the Presiding Officer can ask for them to be excluded.

## Tellers

52. It is a well-established practice for candidates or their agents to appoint 'tellers', **positioned outside a polling station**, to record the names of electors who have voted. Tellers should not be confused with party agents, whose appointment and duties are described in legislation, although they may wear rosettes to indicate on whose behalf they are working. The role of the teller is to assist party workers to identify potential supporters who have yet to vote. This is usually done by asking voters for their poll card or electoral number as they enter or leave the polling station. Voters are under no obligation to provide this information.
53. Tellers play an important role in encouraging turnout but they have no legal standing. Tellers must not attempt to induce, influence or persuade an elector how or whether to vote. They have been advised to ensure that their conduct does not give rise to allegations of undue influence, such as discussing voting intentions, party affiliations, candidate's history and party campaigns, or undertake any other activity particularly associated with one party or candidate.
54. Presiding Officers have responsibility for ensuring that electors are given an opportunity to cast their vote in secret. Any decision regarding the location or behaviour of tellers is a matter for the Presiding Officer and Returning Officer. Should tellers, or anyone else, intimidate voters, cause a nuisance or obstruct the polling station, and should the Presiding Officer be unable to resolve the matter, the agent of the party or independent candidate they are representing should be informed. If the situation persists, further assistance from the political parties and/or the police may be sought.
55. The Commission has issued more detailed guidance relating to tellers in its *Tellers guidance for campaigners at elections and referendums*.<sup>58</sup> Although this has no standing in law, it reinforces good practice. Political parties are encouraged to bring this guidance to the attention of their tellers.

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<sup>58</sup> *Tellers guidance for campaigners at elections and referendums*, [www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0005/102839/fact-tellers-guidance-rc-ca.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0005/102839/fact-tellers-guidance-rc-ca.pdf).

## Campaigning in the environs of polling stations

56. While it is clear that campaigning cannot happen within a polling station, there is no legal clarity on activities around polling stations. The overriding aim of a polling station is for electors to have a place in which to quietly and privately cast their vote free of any intimidation (whether real or perceived) and where the secrecy of the ballot will be respected. They should be able to enter and leave the surrounding area in the same manner.
57. It is accepted that the Returning Officer/Counting Officer will not allow any campaign activity such as the display and distribution of election material to be undertaken in the polling station itself.
58. There should be no long-term parking of vehicles used for campaign purposes, for example displaying election materials or using loudspeakers, immediately outside entrances to polling stations. Cars being used in campaigns that are also used to transport voters may need to wait for the voter while they are at the polling station, but the wait should not be unduly prolonged. It should be noted that driving an elector to the polling station to cast their vote is a generally accepted practice that does not constitute the offence of 'treating'.
59. The Presiding Officer will not allow large groups of a candidate's supporters or detractors to gather in the environs of the polling station. They will be particularly alert to actions that may lead to electors feeling intimidated or influenced. Influencing includes deterring an elector from voting as well as influencing them to vote or not to vote for a particular candidate or party.
60. It is for the Returning Officer/Counting Officer and Presiding Officer to take a view on whether particular campaign activities conducted in the environs of a polling station are acceptable, bearing in mind the need to balance the competing needs of campaigners and electors. The Returning Officer/Counting Officer may then need to call upon party, candidate or campaign representatives or the police to ensure that public order is maintained at or near polling stations.

## Personation

61. Personation (fraudulently purporting to be a voter) is an offence. Incidents of personation are few; however, the law provides for specific actions where the Presiding Officer, candidate or agent, polling agent or referendum agent present in the polling station suspects personation.

62. At a polling station, if suspicions of personation are aroused when issuing a ballot paper, the Presiding Officer may put two statutory questions to a person applying for a ballot paper.<sup>59</sup> The wording is prescribed. The first question asks if the voter is the person registered in the register of electors for the election under the name shown on the register. The second question asks whether the person has already voted at the election, other than as a proxy for some other person.<sup>60</sup>
63. In Wales, voters may be asked the same questions in Welsh.
64. If the voter confirms that they are the person named on the register and says that they have not already voted, the Presiding Officer must issue the person with a ballot paper. No proof of identity or poll card has to be produced. The only exception is in the case of an anonymous elector who must show their poll card in order to vote.
65. Variants of these questions are specified for use where a person requesting a ballot paper as a proxy is suspected of personation. Cases of personation of a proxy voter are extremely rare.
66. If the Presiding Officer has reason to believe that the offence of personation has been committed, or if a candidate, election agent or polling agent declares to the Presiding Officer that they believe this to be the case and is prepared to substantiate the charge in court, the Presiding Officer should refer the matter to the Returning Officer/Counting Officer or directly to the police. Before the introduction of the Electoral Administration Act 2006, the Presiding Officer had the power to order a police constable to arrest a person suspected of personation. This special facility no longer applies.
67. It should be noted that the person must be allowed to vote if they answer the prescribed questions satisfactorily even if they are subject to an allegation of personation by a candidate or their election agent or if they are arrested on the grounds that they are suspected of committing or of being about to commit such an offence.<sup>61</sup>
68. The Commission has produced a template giving advice and a form that may be used where personation is alleged at a polling station. It has encouraged Returning Officers/Counting Officers to supply this to all Presiding Officers. A copy of the advice and template is included at Appendix C.

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<sup>59</sup> Rule 35(1), Schedule 1, RPA 1983; Rule 29, LEPAR 2006.

<sup>60</sup> Rule 35(1A), Schedule 1, RPA 1983; Rule 33, LEPAR 2006..

<sup>61</sup> Rule 36, Schedule 1, RPA 1983; Rule 30, LEPAR 2006; Section 25, Police and Criminal Evidence Act 1984. See 'Preserved powers of arrest' in Schedule 2 of the Act.

69. Candidates and agents, polling agents and referendum agents may require the Presiding Officer to put the statutory questions set out above to an elector or proxy when they apply for a ballot paper. They may make allegations of personation.

## Absent voters seeking to vote at a polling station

70. The register at each polling station will be marked to show where an elector has chosen to vote by post. These electors cannot be issued with a further ordinary ballot paper at the polling station. An elector may claim not to have applied for a postal vote despite being recorded as having done so.
71. Where an elector who is registered as a postal voter arrives at a polling station claiming not to have received their postal ballot, the Presiding Officer may issue a pink tendered ballot paper to them. This is a new provision. The Commission has advised Returning Officers/Counting Officers and Presiding Officers that where this situation arises early enough on polling day, the elector should be encouraged to call in person at the offices of the Returning Officer/Counting Officer before 5pm, so they can be issued with a replacement postal ballot pack.
72. The Commission has also encouraged Returning Officers/Counting Officers to supply each Presiding Officer with a form on which to record the details of electors claiming not to have applied for a postal or proxy vote. They may also encourage Presiding Officers to ask the aggrieved elector to sign the form so that their signature can be checked after polling day against the one on the application form held at the elections office. A template form issued by the Commission is shown in Appendix D. In the vast majority of cases, electors forget that they have applied for a postal vote for all elections and there is no malpractice.
73. If there is a pattern of tendered ballot paper requests which appears suspicious and warrants investigation, the Returning Officer/Counting Officer may wish to draw this to the attention of the police.

## Postal vote opening, the verification and the count

74. Once the Returning Officer/Counting Officer takes delivery of returned postal ballot envelopes, they must be kept in a secure place and the process thereafter is closely scrutinised.
75. The opening of returned postal ballot envelopes may take place on several occasions in the days before polling day, as well as during polling day and at the count following the close of poll. Candidates/registered campaigners and/or their agents will be advised

of the date and time when these openings will take place and will be invited to observe the proceedings.

76. A formal procedure is set out for the opening of returned postal ballot envelopes. At the opening, the postal voting statement is checked to see that all fields have been completed and that the number on the postal voting statement tallies with that on the ballot paper envelope. This is called the postal voting verification process and no votes are counted at this stage.
77. Returning Officers/Counting Officers are now obliged to check a sample of at least 20% of returned postal voting statements at each opening session. This further check requires a comparison of the signature and date of birth provided on the statement against the personal identifiers collected before the election. The Commission has advised Returning Officers/Counting Officers that:
  - where possible they should check 100% of returned postal voting statements
  - they may wish to seek advice from the police or other services on their signature-checking plans
  - if identifiers provided on the postal voting statement do not match those supplied at application, they consider whether referral to the police for investigation is warranted
78. The verification and count will usually take place at one or more central locations. The contents of each ballot box from the polling stations are first checked to verify that the number of ballot papers they contain matches the number of ballot papers issued by the Presiding Officer.
79. Once the number of ballot papers in a box is verified, they are then mixed with the contents of other verified boxes and the counting of the votes cast for each candidate then takes place.
80. An issue has previously arisen as to the validity of (postal) ballot papers that appear to be altered, either with a clearly different writing instrument or with correction fluid. Returning Officers/Counting Officers have been advised that any such ballot papers should be treated by count staff as 'doubtful' at first count, and put forward for adjudication. This is where the Returning Officer/Counting Officer decides on their validity in the presence of candidates and agents. While such ballot papers may still be counted if they otherwise meet the requirements for validity, the Returning Officer/Counting Officer may consider packaging them separately in case of later challenge.

81. Everyone who attends either the opening of the postal votes or the verification and count is bound to secrecy.<sup>62</sup> Nobody is allowed to reveal how any elector has voted should they inadvertently gain such information. Only the Returning Officer and the Returning Officer's staff and the Counting Officer and the Counting Officer's staff are allowed to touch the ballot papers.

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<sup>62</sup> Section 66, RPA 1983.

# Appendix C – Advice for Presiding Officers on personation

1. By the day of the election a Presiding Officer should understand the level of police presence and police response that a polling station may expect.
2. Where an incident occurs at a polling place that a Presiding Officer believes may constitute an offence, then they may consider calling the police and asking those involved to await the arrival of a police officer.
3. Where there is confrontation, or a reasonable expectation of confrontation, then the Presiding Officer should consider their own safety and the safety of all other people present as a priority.
4. In such circumstances, confrontation should be avoided but consideration may be given to other ways of supporting a police investigation, such as:
  - 1) recording a full description of the suspect:  
gender; ethnicity; colour; height;  
any individual or distinctive features including their clothing
  - 2) recording details of accomplices
  - 3) recording registered numbers of vehicles
  - 4) preserving items touched by a person involved in an incident, if it is safe to do so, until the arrival of a police officer
5. The form on the reverse of this advice may be used to record events.
6. If possible, the Presiding Officer should seek corroboration from another person to what they have witnessed, especially the description of the suspect in the event the suspect leaves before police arrival. All written or otherwise made notes should be signed, timed and dated by all staff witnessing the incident.

## Statutory questions

Where personation may be suspected, Presiding Officers and poll clerks are strongly advised to refrain from asking anything other than the two statutory questions. Asking other questions may constitute an informal interview and jeopardise the possibility of bringing a successful prosecution.

No other questions may be asked of the voter by election staff.

If further investigation is deemed necessary, the matter should be referred to the police.

## Statement supporting an allegation of personation<sup>63</sup>

Statement of (print name in block capitals) .....

This statement, consisting of .... page(s), each signed by me, is true to the best of my knowledge and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated ..... (insert day, month and year)

On ..... (insert day, month and year) I was in attendance  
at ..... polling station, at  
..... (address)  
in the following capacity:

Presiding Officer/Poll Clerk/Candidate/Agent/Police Officer (please delete as appropriate) or other (please state) .....

At ..... am/pm, I/the Presiding Officer asked the person seeking to vote the statutory questions:

1. In response to the first statutory question (regarding the person's identity being the same as the person named on the register of electors)  
The person (who I know/believe to be ..... ) replied  
'.....'

2. In response to the second statutory question (regarding whether the person had already voted other than as a proxy voter)  
The person (who I know/believe to be ..... ) replied  
'.....'

Signature of the person making the statement .....

Witnessed by (signature)  
.....

(print name) .....

Further comments or personal descriptions may be added on the reverse of this form or on another piece of paper. Please make sure each sheet is signed and witnessed.

\_\_\_\_\_

<sup>63</sup> CJ Act 1967, s.9; MC Act 1980. ss.5A(3) and 5B: Criminal Procedures Rules 2005, Rule 27.1.

# Appendix D – Polling station log for electors arriving to vote but shown as absent voters

Polling station log

Polling station number:
-------------------------

Electors marked as absent voters who claim not to have requested a postal or proxy vote

*Date* .....

Polling station address:

.....  
.....  
.....

(to be completed by the Presiding Officer)

This log will not be looked at until after the election.

The purpose of this log is to provide additional information that can help Electoral Services to improve the service we provide.

Thank you for completing this log.

Please hand this log to the reception staff at the count.

Signature of Presiding Officer .....



# Appendix E – Maintaining order outside polling stations

## Background

1. The Commission and the Association of Chief Police Officers (ACPO) believe that good order should be maintained outside polling stations. However, on occasion, incidents which result in complaints or allegations being made to the police or Returning Officer do arise in the vicinity of polling stations. This appendix is designed to help the police think about how best to approach the issue and offers some practical steps to help them reduce the likelihood of problems arising and deal with any that occur.
2. This appendix is addressed to the police single point of contact (SPOC) officer but may be of use to the Returning Officer, Presiding Officers, Poll Clerks and other staff of the Returning Officer. It is issued jointly by the Electoral Commission and ACPO.

## Underlying principle/priority

3. The priority for the police is to protect the right of voters to freely cast their votes, and also the right of campaigners to campaign. Any police action should be clear that these priorities are protected.
4. The process of going in person to a polling station to cast a vote is seen by many as not only a civic duty but also a social event. It is an opportunity to meet friends, neighbours and even a candidate or an agent before or after casting their vote. This interaction is a natural part of a democratic society and should not be discouraged. This should be a primary consideration for the Presiding Officer, Returning Officer, candidate, agent, teller or police officer before action is taken to disperse people who may congregate outside a polling station.
5. To some people a group of people outside a polling station may seem to be entirely innocent and without malicious intent; however, others may perceive this as threatening and obstructive. The situation may become aggravated where there is close political rivalry with one side being suspicious of the actions of another or simply wishing to present the other party in a bad light. It is difficult to decide how best to respond to such a situation without offending one side or the other. The clearest guide is that the interests of the voter should take priority.

## Potential offences

6. While there is an offence of undue influence (set out in this guidance in Chapter 3 at paragraph 3.11 and at Appendix A on page 64), there is a range of other powers available to the police when considering how to address such incidents. Some examples are listed below:
  - Highways Act 1980 – Section 137 – obstruction of the highway
  - Public Order Act 1986 – Sections 4, 4A and 5 – threatening behaviour/harassment
  - Criminal Justice Act 1988 – Section 39 – common assault/battery
  - Offences Against the Person Act 1861– Section 47 – assault causing actual bodily harm
  - Criminal Damage Act 1971 – Sections 1, 1(2) and 2 – damage to property
  - Common Law power of arrest in relation to breach of the peace

## Working to prevent incidents outside polling stations

7. Those standing for election or campaigning and their supporters should be committed to do all they can to encourage electors to turn out and vote. The Commission recommends that the Returning Officer arranges a meeting with candidates, agents, tellers and campaigners at the earliest opportunity following the publication of the notice of election or referendum to communicate the same message to all concerned. This will ensure that everyone is aware of the local circumstances and conducts their campaign within the same guidelines. It may pre-empt problems by discussing campaigning in and around polling places and the conduct of tellers, and reaching consensus amongst those present as to what is acceptable, especially with regard to whether to gather elector numbers as voters either enter or leave the polling station. Guidance should be distributed at pre-election/referendum meetings.
8. Specific preparations that may help to prevent or deal with issues are listed below:
  - The SPOC should agree the approach to be adopted and the standards of acceptable behaviour with the local authority contact, parties, candidates and campaigners before the election.
  - The SPOC may ask the local authority contact to see whether Presiding Officers can monitor and advise on alleged incidents outside their polling station.

- If they are unable to speak to all participants at a meeting organised by the Returning Officer, the SPOC may contact agents for each party or candidate before the poll to seek their advice in helping to prevent issues involving their supporters that may arise before or during the poll and on what they are prepared to do to speedily resolve any issue that does arise.
- The SPOC should agree with the local authority contact how quickly operational support should be deployed to resolve an incident at or in the vicinity of a polling station. This may vary according to the identified level of risk.

## What to do when there are concerns about maintaining order outside a polling station

9. Everyone should be alert to whether voters are affected by the behaviour outside polling stations.
10. Tellers are an established part of the democratic process although they have no standing in law. They are usually volunteers for candidates, parties or campaigns who are positioned outside a polling station to ask voters for their elector number to see whether their supporters have turned out. Voters who have not yet been to vote during polling day may then be contacted and persuaded to vote, which may help to increase turnout. However, tellers may be seen as impeding, obstructing or intimidating electors on their way into the polling station/place. Any decision regarding the location or behaviour of tellers is a matter for the Presiding Officer and Returning Officer/Counting Officer; tellers must comply with their instructions.
11. Any complaint about behaviour in the vicinity of a polling station should be directed to the relevant Presiding Officer in the first instance so that the matter can be dealt with and monitored by the polling station staff. However, while Presiding Officers have responsibility for ensuring that electors are given an opportunity to cast their vote in a free and fair manner, their power to act does not go beyond the polling station.
12. If it is not possible to contact the Presiding Officer, or the matter cannot be resolved by the Presiding Officer to the complainant's satisfaction, contact should be made with the Returning Officer or a member of the Returning Officer's staff.
13. The Returning Officer or their staff may try to resolve the matter by a direct approach to those causing concern. If this is not possible, the Returning Officer or their staff should contact the candidate, the candidate's agent or, if the candidate is standing for election on behalf of a political party, that party's officers and advise the police.

14. It may be that a complaint is made directly to the SPOC or the local police. If the informal actions outlined above do not resolve the problem, it would be appropriate to consider the use of the powers set out in paragraph 6 or indeed ask people to move.
15. The evidence we have gathered supports the view that no person has been prosecuted for undue influence during the last 10 years. It is most likely that remedial action by the police, for example by asking people to move, has had the desired effect without the need to resort to prosecution, especially where there was no intention to cause undue influence.
16. Presiding Officers, Returning Officers and Counting Officers have been advised that if they are in doubt, they should consider: 'What would a reasonable observer think?' This consideration should be applied to the actions of anyone in the vicinity of a polling station.

# Appendix F – Access to election and referendum documents, documents open to public inspection and documents requiring a court order

## Introduction

1. Early and regular contact between the police Single Point of Contact Officer (SPOC) and the elections office should foster a greater understanding of each other's role. This is essential should an issue arise later in relation to electoral law and procedures.

## Basis for storage of records

2. After each election, the Returning Officer/Counting Officer has to seal into packets the documents used in the election or referendum. These packets are then kept in storage for at least one year and retained by the Electoral Registration Officer.<sup>64</sup>
3. The legislation allows some of these documents to be made available for public inspection, but others would only be available for inspection after obtaining a court order. In broad terms, documents are available for public inspection unless they are ballot papers and corresponding number lists or are such that inspecting them might lead someone to see how an elector has voted.
4. In addition to the election and referendum documents specified, there are other documents used in the electoral process, such as electoral registration forms and application forms for postal votes, both of which are kept by the Electoral Registration Officer, and candidates' nomination papers, which need some detailed explanation. For some of

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<sup>64</sup> Rule 57, Schedule 1, Representation of the People Act 1983 (RPA 1983; Rule 54, Principal Area Rules 2006..

the forms in this group, the law does not specify whether they are available for public inspection. The three lists of documents below show:

- those which are specified in law as available for public inspection
- those which are specified as not available for public inspection and therefore only available for inspection following a court order
- those over which there is some doubt about whether they are available for inspection or not, or where some comment is needed

## Access to documents

### Election and referendum documents available for public inspection<sup>65</sup>

5. The prescribed documents are:
  - the ballot paper accounts (the record by each Presiding Officer of the ballot papers issued for each polling station), statements of rejected papers, and result of verification of ballot paper accounts
  - the tendered votes list (the list showing where a different coloured ballot paper is issued to an elector because the polling station register is marked as if that elector has already voted or the elector claims never to have received their postal ballot, or where the elector claims not to have applied to vote by post)
  - the lists of voters with disabilities
  - the votes marked by the Presiding Officer
  - the declarations made by voters with disabilities
  - the packets containing marked copies of the registers and lists of proxies
  - the marked copies of the absent voters list and the list of postal proxies
  - the postal voting statements
  - the postal ballot paper envelopes

### Election and referendum documents not available for public inspection<sup>66</sup>

6. Legislation designed to protect the secrecy of voting requires an application to the local County Court to inspect the prescribed election documents. However, if there is an election petition then the application must be to the High Court or the Election Commissioner in charge of any arraigned Election Court.<sup>67</sup> The prescribed documents are:

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<sup>65</sup> Rule 57, Schedule 1, RPA 1983; Regulations 118 and 119, Representation of the People (England and Wales) Regulations 2001 (2001 Regulations).

<sup>66</sup> Rule 57, Schedule 1, RPA 1983; Rule 61, Regulation 118, 2001 Regulations.

<sup>67</sup> Local Elections (Principal Areas) (England and Wales) Rules 2006, Rule 53; Section 2(2) for applications applicable to local, Parliamentary and European elections.

- the packets of ballot papers (a separate packet each for counted, rejected, spoiled and unused, and tendered ballot papers)
- the corresponding number list (by which an elector could be identified)
- the postal ballot papers marked 'rejected' (those rejected at the opening of the postal ballot envelopes because they did not have a matching postal voting statement or other reason)
- the certificates of employment on duty on day of poll

## Other electoral and referendum documents

7. The documents described in this section are those that might be useful in any investigation of malpractice, but about which electoral law is silent as to whether they are available either for public inspection or for inspection by others.

### Electoral registration forms and rolling registration forms

8. There is nothing in electoral legislation that specifically mentions whether these forms can be inspected by the public or the law enforcement agencies. However, because they contain information that does not appear on the published electoral register – for example, the signature of the householder, information about over-70s for jury selection, information about nationality and information about service voters – most Electoral Registration Officers treat them as being confidential between the householder or applicant and the Electoral Registration Officer. If this situation arises it can often be resolved by using police powers such as the service of a Data Protection Notice or an application for a Production Order or Search Warrant. However, if a court order is required this must be obtained from the County Court.
9. There may be an issue about how long electoral registration forms and rolling registration forms are kept. Although the law does not specify a period of time, good practice suggests that these forms be kept for at least one year to match the period of time the electoral register they relate to is in force, or maybe for two years given that a name cannot be deleted from the register unless no form has been received from a property for two years. Many authorities now scan forms into an electronic form, making storage much less of a problem, so some may keep at least an image for more than two years. The length of time electoral registration forms are kept depends on the procedures, facilities and storage space of each local authority. If an investigation is launched, early consideration should be given to what papers, if any, need to be retained for longer than is normal practice for the authority. If necessary, the powers set out in the previous paragraph may be used in this case.

### Applications for absent votes

10. Again, the law does not specify whether these forms should be made available for public inspection, but most Electoral Registration Officers would be reluctant to make them available for confidentiality reasons. It

is likely that the forms would be kept for at least as long as the absent vote is in force and maybe longer, again depending on each local authority's storage space. The powers set out above relating to inspection and retention of registration documents also apply here.

#### Candidates' nomination papers

11. These papers will be useful in any investigation that relates to an allegation of a false statement by a candidate or a false signature by a subscriber when these are required for an election. However, the legislation is quite specific about the inspection of nomination papers and it differs for different elections.
12. For local government elections, the nomination papers are open to public inspection, but only between the close of nominations and the day before the election.
13. The law does not specify how long local government nomination papers should be kept. However, the Commission has recommended that the Returning Officer should keep all nomination papers for one year. It is likely that they would be kept with the rest of the election documentation held by the Electoral Registration Officer, but practice will vary between local authorities and some authorities might decide to destroy them immediately.
14. For Parliamentary elections, there is no right of public inspection of nomination papers. The law does not specify how long they should be kept, although the home address form must be destroyed three weeks after the Returning Officer has returned the writ stating the name of the member elected.<sup>68</sup>

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<sup>68</sup> Rule 33A, Schedule 1, RPA 1983.

# Appendix G – Threat assessment and control strategy checklist

Table G1: Threat assessment and control strategy checklist

	Action	Lead officer	Completion date	
			Target	Actual
General measures and responses				
1.	Establish a Gold Command structure at the earliest opportunity for the entire election and referendum process.			
2.	Identify a central unit as the lead on election and referendum issues. In most forces this is likely to be the Economic Crime Unit. Whatever central unit is chosen, the term 'appropriate unit' will be used in this document.			
3.	Prepare a force threat assessment and control strategy to identify where advice should be provided during the election or referendum period for all staff and the public. It should provide named point of contact details at the appropriate unit and force levels. This should include a strategy for communication with all stakeholders.			
4.	Make reference to this current guidance at all briefings. This should help to prevent and deter electoral malpractice and encourage the proper responses to any allegations of electoral malpractice.			

Table G1: Threat assessment and control strategy checklist

	Action	Lead officer	Completion date	
			Target	Actual
5.	Prepare a force media strategy for the election and referendum to cover prevention, investigation and arrest situations. This should include liaison with the Commission's media relations team as required.			
6.	The Commission has advised Returning Officers and Counting Officers that they should have an initial meeting with the police at the earliest opportunity and another following the deadline for nomination of candidates or appointment of registered campaigners when security issues will be clearer.			
7.	Use the <i>Guidance on policing elections</i> pocket guide for police officers, produced by ACPO and the Commission. It sets out electoral offences, penalties and contact details and has been produced for individual officers throughout the force area. It lists the offences and includes space to identify force and Basic Command Unit (BCU) SPOC names and contact details. It will be despatched to SPOCs in advance of the elections and referendums. The force SPOC should make arrangements to ensure that every officer on duty over the election and referendum period is issued with a copy of the pocket guide.			
Prevention and reduction measures and responses				
8.	Identify whether the level of risk			

Table G1: Threat assessment and control strategy checklist

	Action	Lead officer	Completion date	
			Target	Actual
	locally warrants the creation of a specific task force in the context of elections and referendums in 2011. Intelligence gathering has a key role to play in preventing and reducing crime. Electoral administrators, political parties, party officials, registered campaigners and candidates may be able to assist.			
9.	Consider whether all information or intelligence logs relating to election-related crime should be sent to a designated unit, as part of co-ordinating the flow of intelligence. This unit should be expected to carry out analytical work to help develop appropriate control strategies in conjunction with force intelligence capabilities.			
10.	Ensure that the appropriate unit acts as a reference or advice point for officers dealing with allegations of electoral malpractice. The unit should ensure that its role and contact details are made known to every BCU.			
11.	Identify a named contact in each local authority election office and notify each local authority of a police SPOC who will liaise with the appropriate unit.			
12.	Ensure that the appropriate unit creates a full list of SPOC contact details and circulate it to all BCUs.			
13.	Hold a pre-election and referendum planning meeting			

Table G1: Threat assessment and control strategy checklist

	Action	Lead officer	Completion date	
			Target	Actual
	<p>between the Returning Officer/Counting Officer or the local authority named contact and the police SPOC as soon as possible. Another should be held as soon as practicable after the last date for withdrawal of nominations. A checklist setting out the topics that might be discussed is included in the 'Police SPOC meeting with named local authority contact' section, paragraph 4.8 onwards. The Returning Officer/Counting Officer may also hold pre-election/referendum planning meetings with political party representatives (agents) or registered campaigners.</p>			
14.	<p>Ensure that the appropriate unit liaises directly on a daily basis with the named local authority contact for each council area, from a mutually agreed date until the count has been concluded.</p>			
15.	<p>Ensure that a local police officer (preferably the named SPOC) attends and gives input to any briefings for candidates, election agents and registered campaigners given by the Returning Officer/Counting Officer. As a guide, in most areas for elections and referendums in May, this will tend to take place between March and April.</p>			
16.	<p>Ensure that the police ask the Returning Officer/Counting Officer if they maintain a record of electors who claim not to have voted by post or not to have</p>			

Table G1: Threat assessment and control strategy checklist

	Action	Lead officer	Completion date	
			Target	Actual
	requested a postal vote although official records show them as having done so. The same should apply in relation to voting by proxy. Such records may provide leads for the investigation of potential malpractice.			
17.	Ensure that the police ask the Returning Officer/Counting Officer if they provide the Presiding Officer at each polling station with a form on which to record details of any attempted or alleged personation, and advice on what action they might take. Ensure that they consider their own safety and that of all others present as a priority (see Appendix C).			
18.	Ensure that the police ask the Returning Officer/Counting Officer if they provide the Presiding Officer at each polling station with a form on which to record details of any elector arriving to vote who is registered as a postal voter. The Commission has recommended that the form includes space for a signature if the elector is willing to give one (see Appendix D).			
19.	Ensure that the police and the Returning Officer/Counting Officer discuss arrangements for the security of any ballot boxes before, during and after polling. For example, in areas of high risk, consideration should be given to escorting the transfer of ballot boxes from polling stations to the count, as well as to the			

Table G1: Threat assessment and control strategy checklist

	Action	Lead officer	Completion date	
			Target	Actual
	overnight security of ballot boxes where appropriate.			
20.	Prepare a force media strategy to promote confidence in the electoral process, while emphasising fraud prevention measures and the approach to allegations of electoral malpractice.			
21.	Establish a direct police hotline, via Gold Command, for advice on electoral malpractice throughout polling hours on polling day and through to the declaration of the result(s).			
22.	Raise awareness of security issues by ensuring that the force Student Liaison Officer is invited to assist the Returning Officer/Counting Officer in making the delivery of postal votes to multi-occupied student properties more secure, if appropriate. The force Student Liaison Officer may assist in identifying key contacts who are prepared to take responsibility for ensuring that the postal ballots are delivered to the intended recipients.			
<b>Investigation measures and responses</b>				
23.	Consider setting up a team to proactively follow up issues identified by intelligence and investigate allegations of electoral malpractice identified by intelligence.			
24.	Make arrangements for this team to be available out of hours for			

Table G1: Threat assessment and control strategy checklist

	Action	Lead officer	Completion date	
			Target	Actual
	advice, with contact routed via the Force Control Room.			
25.	Consider and state whether allegations of electoral malpractice and complaints will be reported both at BCU level and centrally.			
26.	Consider what level of resources will be made available to investigate complaints or allegations of different types of electoral malpractice.			
27.	Decide whether the relevant BCU should be expected to make initial enquiries and then, if the nature and extent of the allegations warrant further advice, contact the appropriate unit.			
28.	The appropriate unit should make arrangements to liaise with the Special Crime Division of the Crown Prosecution Service (CPS) and ensure that all the electoral and referendum issues that require advice from the Special Crime and Counter Terrorism Division of the CPS are directed via the appropriate unit.			
29.	Put arrangements in place to ensure that the police election SPOC completes returns to the Police National Information and Co-ordination Centre (PNICC) on time, and ensure that PNICC is alerted at the earliest opportunity to any major allegation of electoral malpractice.			

# Appendix H – Code of conduct for campaigners: postal voting, proxy voting and polling stations

A revised and extended version of the Code of conduct has been agreed for use in 2013 by the parties and is set out on the following pages.

It is available as a stand-alone document on our website at:

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

# Code of conduct for campaigners: postal voting, proxy voting and polling stations

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 Postal and proxy vote applications

- 1.1 Campaigners should ensure that any bespoke postal or proxy voting application forms conform fully to the requirements of electoral law, including all the necessary questions and the options open to electors.**

Campaigners can download a template form from our website at:

[https://www.aboutmyvote.co.uk/register\\_to\\_vote/postal\\_vote\\_application/blank\\_postal.aspx](https://www.aboutmyvote.co.uk/register_to_vote/postal_vote_application/blank_postal.aspx)

- 1.2 Campaigners should always explain to electors the implications of applying to vote by post or appointing a proxy.**

It is important that electors 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, campaigners should try to ensure that electors who are 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.

### Postal vote applications

- 1.3 Campaigners should not encourage electors to have their postal ballot pack redirected to anywhere other than the address where they are registered to vote.**

Electors 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. Electors must state on the application form the reason why they need their postal ballot pack sent to another address.

**1.4 Campaigners should ensure that the local Electoral Registration Officer's address is provided as the preferred address for the return of absent vote application forms.**

To minimise the risk of suspicions that completed applications could be altered or destroyed, campaigners should always provide the relevant Electoral Registration Officer's address as the preferred return address, even if an alternative address is also given.

**1.5 Campaigners should send on unaltered any completed application forms given to them to the relevant Electoral Registration Officer's address within two working days of receipt.**

To minimise the risk of absent vote applications being refused because completed forms arrive with the Electoral Registration Officer after the statutory deadline before a poll, campaigners must ensure that there is no unnecessary delay in forwarding on application forms which have been received directly.

## Proxy vote applications

**1.6 Electors 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 electors, electors should not be encouraged 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 the voter 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 electors 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.**

Equally, you should ensure that the voter seals 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 not ask or encourage voters to give them any completed ballot paper or ballot paper envelope.**

Wherever practical, the voter should be encouraged to post or deliver the completed ballot paper themselves. While campaigners may be approached for help by a voter who is unable to post their ballot paper or make arrangements for it to be returned in time, other options for delivering the postal ballot pack – including relatives or neighbours, for example – should be explored before a campaigner agrees to deliver a postal ballot pack.

**2.4 If asked by a voter to take a completed postal ballot pack on their behalf, campaigners should immediately post it or take it directly to the office of the Returning Officer or to a polling station.**

To ensure completed postal ballot papers are received by the Returning Officer before the close of poll, and to minimise the risk of suspicions that they could be altered or destroyed, campaigners should ensure that there is no delay in forwarding on postal ballot packs which have been given directly to them. Campaigners should not allow large numbers of completed postal ballots to accumulate before forwarding them to the Returning Officer or handing them in at an appropriate polling station.

## 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. Campaigners should be careful, however, to ensure that their 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. Campaigners should ensure they 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 campaigners can report their 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 (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 March 2013**

# Appendix I – Guidance on policing elections and referendums – a police pocket guide

This is set out on the following pages.



The Electoral Commission

## Guidance on policing elections and referendums

Date of publication: February 2011  
See: [www.electoralcommission.org.uk/guidance](http://www.electoralcommission.org.uk/guidance)

### Introduction

Please note that the role of the police 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 CPS should be sought if necessary.

All forces have a **Single Point Of Contact (SPOC)** for advice relating to elections and referendums at either command unit or force level. Your election and referendum advice SPOC is contactable through your force control room.

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.

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.

### 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.

## 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 elections office to agree a mutually beneficial way forward.
- Act positively:
  - Consider inviting party for interview under caution.
  - Consider s24 PACE arrest (as amended by Serious Organised Crime and Police Act 2005).
- Consider advice from police SPOC and Special Crime Division of the Crown Prosecution Service.
- Inform Returning Officer, local Counting Officer and Electoral Commission via police SPOC.

Prosecutions under 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.

### 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 (eg CCTV, forensic, R v Turnbull)
- 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 your force SPOC is notified about any election or referendum related crime.**

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.

### 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 Electoral Registration 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 general duty to promote good race relations under the Race Relations (Amendment) Act 2000.

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

### Tellers

It is a well-established practice for candidates, their agents and campaigners to appoint 'tellers', positioned outside the polling station to record who has voted and see whether their supporters have turned out. Where tellers, or others, irritate voters, exert undue influence or obstruct the polling station, the Presiding Officer may seek assistance from the police to resolve the matter.

### 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.

**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.

# Appendix J – Protocol between the Electoral Commission and the Crown Prosecution Service

1. The following protocol was agreed between The Electoral Commission and The Crown Prosecution Service in May 2010.
2. The protocol will be reviewed annually.
3. Since the protocol was signed both The Electoral Commission and The Crown Prosecution Service have relocated to new premises.
4. The following contact details will be substituted in the protocol at the next review:

## The Electoral Commission

3 Bunhill Row  
London EC1Y 8YZ

Other contact details remain unchanged

## Crown Prosecution Service

Rose Court  
2 Southwark Bridge Road  
London SE1 9HS

Other contact details remain unchanged except for Donna Rayner and Asker Husain at the London CPS Office who have been replaced as contacts by Rosemary Fernandez (0203 357 0762) and Zoe Martin (0203 357 0279). See Chapter 5 of this guidance for their full contact details.

Insert Protocol here – 7 pages.

# Appendix K – Template Chief Executive/Chief Constable letter for candidates, agents and campaigners to agree to abide by the national code of conduct<sup>69</sup>

This is set out on the following pages.

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<sup>69</sup> This is based on an initiative set out in more detail in Electoral Commission Alert 121/2009.

Our Ref: /Your Ref: /Please Contact: /

Telephone: Fax: E-mail:

Date: [Month 2013]

To

All candidates, agents and campaigners

[List election and/or referendum and date]

Dear Candidate or Agent

**[Title of election and/or referendum and date]**

**From the Chief Constable of [insert force name] and the Returning/Counting Officer**

We are writing jointly to all candidates and agents in the forthcoming [Title of election and/or referendum and date]. We wish to underline the need for high standards of conduct to be maintained by all concerned.

You are, with this objective in mind, invited to sign the voluntary declaration, which appears at the end of the attached *Code of conduct for campaigners: postal voting, proxy voting and polling stations* which has been endorsed by the major political parties at Westminster, confirming that you and your supporters will comply with the Code. The Returning Officer would be pleased to receive a signed copy from you.

The Association of Chief Police Officers and the Electoral Commission have once again this year jointly agreed *Guidance on preventing and detecting electoral malpractice* for use at the elections and referendums in 2013 in England and Wales. The police and the Returning/Counting Officer's staff have a well established close working relationship and will work determinedly within the Guidance to prevent and detect any wrongdoing.

You are encouraged to make yourself familiar with the *Code of conduct for campaigners: postal voting, proxy voting and polling stations* and ensure that anyone who works for you in any capacity during the elections follows the Code strictly. You should, therefore, ensure that your campaign workers are familiar with its contents.

We wish to make it absolutely clear that any abuse of the arrangements for postal voting is very likely to constitute an offence under the Representation of the People Act 1983 and will not be tolerated. All candidates, agents and campaigners are expected to do all within their power to ensure that their campaign workers and supporters do not engage in any abuse of the system for postal voting or any other aspect of the arrangements for the election.

\Continued ...

**Chief  
Executive's  
Office**

[Title of election and/or referendum and date]

Any suspicion of unlawful conduct should be reported to the Returning/Counting Officer or the police. The Returning/Counting Officer may in turn refer the matter to the police. The [name of police force] and the Crown Prosecution Service will consider any evidence of unlawful conduct and, if necessary, prosecutions will be brought against offenders.

We are pleased that ACPO and the Commission are closely monitoring cases of alleged electoral malpractice in England and Wales. Of the very few cases where malpractice has been substantiated and where court proceedings were initiated, most have resulted in the offenders being given significant prison sentences.

Please be assured that we are committed to doing all we can to prevent any increase in the number of cases of alleged electoral malpractice at the 2013 election/referendum and that where allegations are made we will investigate and prosecutions may result.

Yours sincerely

(E-signature)

(E-signature)

(Name)

(Name)

Returning/Counting Officer

Chief Constable

Only the following slip should be completed and forwarded to the Returning Officer

## Please complete and forward to Returning Officer

I, (print name) .....standing as a candidate for

(print ward/division/other) .....of .....Council

agree to abide by the national *Code of conduct for campaigners: postal voting, proxy voting and polling stations*

Signed .....

Date .....

# Appendix L – Elections and voting systems used in the UK (2013)

1. This appendix sets out:
  - how votes are cast in different voting systems, and
  - what voting systems are currently used in elections and referendums across the UK
2. Details about how a referendum result or who is elected is worked out can be found on the Commission’s aboutmyvote website at [www.aboutmyvote.co.uk/how do i vote/voting systems.aspx](http://www.aboutmyvote.co.uk/how_do_i_vote/voting_systems.aspx).

Table K1: How votes are cast in different voting systems

Voting system	Method of voting
First-past-the-post (UK Parliamentary)	1 mark (X) for candidate of your choice
First-past-the-post (local government)	1 mark (X) for candidate of your choice <b>or</b> up to 3 marks (X) for the candidates of your choice (the number of votes you have depends on the number of seats being elected to at each election)
Closed list	1 mark (X) for the party or independent candidate of your choice
Single transferable vote	Numbering candidates in order of preference (write in 1, 2, 3...) You may vote for as few or as many of the candidates on the ballot paper as you wish
Supplementary vote	1 mark (X) for your first choice candidate in the first column 1 mark (X) for your second choice candidate in the second column

Table K2: Voting systems currently used in elections and referendums across the UK and in force for 2013

Type of election	Voting system used
UK Parliamentary	First-past-the-post (FPTP)
European Parliamentary	England, Wales, Scotland: Closed list Northern Ireland: Single transferable vote (STV)
Scottish Parliamentary	Additional member system (AMS): <ul style="list-style-type: none"> <li>• Constituency: FPTP</li> <li>• Regional: Closed list</li> </ul>
National Assembly for Wales	AMS: <ul style="list-style-type: none"> <li>• Constituency: FPTP</li> <li>• Regional: Closed list</li> </ul>
Northern Ireland Assembly	STV
London Mayoral & other elected Mayors in England	Supplementary vote (SV)
Greater London Assembly	Additional member system (AMS): <ul style="list-style-type: none"> <li>• Constituency: FPTP</li> <li>• Top-up: Closed list</li> </ul>
Local government: England & Wales	FPTP
Local government: Scotland & Northern Ireland	STV
Referendums	There is no fixed voting system for referendums. Usually, the outcome of the referendum is the answer that receives the most votes over the whole referendum area
Police and Crime Commissioner: England & Wales	Supplementary vote (SV)