

# Guidance on fraud prevention and detection at the Scottish Parliamentary and local government elections in May 2007

March 2007

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## Summary

This document is designed to alert police forces to issues that may arise in the run-up to the Scottish Parliamentary and local government elections on 3 May 2007. It also considers issues related to the conduct of the poll, and offers guidance on how to carry out appropriate risk assessment of these and related events.

The opportunities for electoral fraud at the last UK Parliamentary general elections in May 2005 were given considerable prominence by the media. Fortunately, very few of the relatively small number of allegations of electoral malpractice were of any substance; the Electoral Commission is aware of only one locality where there may be potential for prosecution. Much of this success is due to higher-profile policing and extra vigilance at the local level.

Whatever the reality of the situation, the possibility exists that electoral fraud could occur at the May 2007 elections. It is good practice to be prepared for such eventualities and this document seeks to provide advice and guidance to Chief Constables to assist their preparations.

The following guidance provides an explanation of:

- electoral registration procedures
- voting and counting procedures
- the role of different participants
- potential offences
- protocols about who does what in relation to investigations of alleged offences
- powers of arrest, maximum penalties and time limits for prosecution
- access to documents

A checklist of actions developed from the experience of policing recent elections in Great Britain is also provided to assist with the development of an appropriate force-wide strategy.

## Threat assessment and control strategy checklist

The following checklist of measures and responses adopted at recent elections will help you to manage the risk of personation, fraud and other offences that might arise in the May 2007 Scottish elections.

### General

- A force threat assessment and control strategy should identify where advice could be provided at election time for all staff and the public. It should provide named point of contact details at the appropriate unit and/or force level. This should include a strategy for communication with stakeholders.
- Establish a strategic command structure for the entire election process.

- All briefings should make reference to the current guidance. This should help to:
  - prevent and deter fraudulent electoral activity
  - encourage the proper responses to any allegations of fraudulent electoral activity
- A force media strategy should be prepared for the election to cover prevention, investigation and arrest situations. This should also include liaison with the Electoral Commission's press team as required.
- During the election period, all officers should be issued with a pocket guide that sets out election offences, suggested actions and contacts. A pocket guide has been produced by the Electoral Commission in conjunction with the Association of Chief Police Officers in Scotland.
- The Electoral Commission has advised electoral administrators that they should have an initial election meeting with the police at the earliest opportunity and another around 12 April 2007, following the deadline for nomination of candidates, when security issues will be clearer.

## Prevention and reduction

- Intelligence gathering self-evidently has a role to play in preventing and reducing crime. In the context of the May 2007 Scottish elections, it is important to identify whether the level of risk locally warrants the creation of a specific task force.
- As part of coordinating the flow of intelligence, consider whether all information or intelligence logs relating to election fraud should be sent to a designated unit.
- The designated unit should be expected to carry out analytical work to help develop appropriate control strategies in conjunction with force intelligence capabilities.
- The designated unit should act as a reference or advice point for officers dealing with allegations of election fraud, malpractice or other suspicious electoral issues.
- Identify a named contact in each local authority election office and notify each local authority of a police Single Point of Contact (SPOC) who will liaise with the appropriate unit.
- The designated unit should create a full list of SPOC contact details and circulate it to all Police Divisions.
- Pre-election planning meetings should be held between the local authority named contact and police SPOC.

- The appropriate unit should liaise directly and on a daily basis with the named local authority contact for each council area in the run-up to polling day.
- A local police officer (preferably the named SPOC) should attend and give input to any candidate and election agent briefing by the (Depute) Returning Officer. In most areas these will tend to take place in April 2007.
- The police should encourage the Returning Officer to 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.
- The police should encourage the Returning Officer to 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, preferably one that includes space for a signature if the elector is willing to give one.
- Similarly, the police should encourage the Returning Officer to provide the Presiding Officer at each polling station with a form on which to record details of any attempted or alleged personation and with advice on what action they might take, while ensuring that they consider their own safety, and that of all other people present, as a priority.
- In areas of high risk, consideration should be given to escorting the transfer of ballot boxes from polling places to the count, together with overnight security of ballot boxes where appropriate.
- A force media strategy should be prepared to promote confidence in the electoral process, while emphasising fraud prevention measures and the approach to allegations of electoral malpractice.
- A direct police hotline should be established for advice on election malpractice throughout polling hours on election day.
- Where appropriate, the force student liaison officer should offer to assist the Returning Officer in making the delivery of postal votes to multi-occupied student properties more secure.

## Investigation

- A pocket guide for police officers setting out election offences, penalties and contact details will be provided for individual officers through the police service. A copy is provided at Appendix A. It lists the offences (shown at Appendix B) and includes space to identify force and Police Division SPOC names and contact details. Arrangements should be made to issue these to all appropriate officers.

- Consider setting up a team to proactively follow up issues identified by intelligence and investigate allegations of election malpractice.
- Make arrangements for this team to be available out of hours for advice, with contact routed via the Force Control Room.
- Consider and state whether allegations of election malpractice and complaints will be reported both at Police Division and centrally.
- Consider what level of resources will be made available to investigate complaints or allegations of different types of election fraud.
- Decide whether the relevant Police Division should be expected to make initial enquiries and then, if the nature and extent of the allegations warrant further advice, contact the appropriate unit.
- The appropriate investigating unit should make arrangements to liaise with the Procurator Fiscal.
- All election issues that require advice from the Procurator Fiscal should be directed via the appropriate unit.

## Conclusion

This guidance sets out many of the issues that are worth considering in preparing a force threat assessment and control strategy.

A risk assessment guide is provided at Appendix F, together with a threat assessment checklist at Appendix G, to help with the design and implementation of an appropriate force-wide response.

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# 1 Purpose

1.1 The Association of Chief Police Officers in Scotland and the Electoral Commission are promoting throughout Scotland the following guidance on fraud prevention and detection at the Scottish Parliamentary and local government elections. The guidance has been sent to each Chief Constable, Returning Officer and Electoral Registration Officer with the recommendation that it is promoted in individual local authority areas.

1.2 The Electoral Commission is committed to ensuring that elections are conducted in a fair and inclusive manner and in accordance with the law.

1.3 Returning Officers, working with the police, are recommended to take comprehensive steps to minimise the potential for possible fraud in the election process.

## What elections are taking place?

1.4 On 3 May 2007, elections will be held to the Scottish Parliament and to all 32 Scottish councils.

### Scottish Parliament elections

1.5 Scottish Parliament elections use a type of proportional representation called the Additional Member System (AMS).

1.6 Under AMS, each voter has two votes:

- constituency vote – one vote to elect one Member of the Scottish Parliament (MSP) for their local constituency
- regional vote – one vote to elect seven MSPs from among lists put forward by political parties and from among individual candidates standing in a larger electoral area known as a region

1.7 There are 73 Scottish Parliamentary constituencies and eight Scottish Parliamentary regions. One MSP is elected from each constituency and seven MSPs are elected for each region, making a total of 129 MSPs.

### Local government elections

1.8 Previously, local government elections have used a first-past-the-post system to elect councillors, based on the election of one councillor to each council ward. On 3 May 2007, this will change to a form of proportional representation known as Single Transferable Vote (STV), which was introduced by the Local Governance (Scotland) Act 2004. The size of each council ward will be increased and either three or four councillors will be elected to each ward.

1.9 Each voter at the Scottish local government elections has one vote and will be asked to rank candidates in order of preference (1, 2, 3, 4, etc.) rather than by making a single choice with a cross (X). Voters may rank as many or

as few candidates as they wish. If a voter's first choice of candidate has already won enough votes to be elected, then their vote is transferred to their second choice and potentially on to their third choice and so on, until either three or four candidates have been elected, depending on the size of the ward.

1.10 More information on the AMS and STV electoral systems is available on [www.votescotland.com](http://www.votescotland.com).

## Election roles and responsibilities

1.11 Elections in each area are the responsibility of the appropriate Returning Officer. There are three types of Returning Officer.

- **Constituency Returning Officers** for Scottish Parliamentary constituencies, each of which is responsible for the administration of the election and the count in their area.
- **Regional Returning Officers** for Scottish Parliamentary regions, who are responsible for certain aspects of the poll relating to the regional elections. Regional Returning Officers are not responsible for the conduct of the elections or for the count – these tasks are instead the responsibility of the Constituency Returning Officers in each region.
- **Local Government Returning Officers**, who for the 3 May elections by law are the same people as the Constituency Returning Officers and who are responsible for the administration of the local government election and count in their area.

1.12 In each instance the Returning Officer is likely to be a senior council employee, normally the Chief Executive, but while undertaking this role they are independent of the local authority and carry personal liability. The task of managing the election will usually be carried out by one or more Depute Returning Officers, who may be appointed to fulfil specific tasks, such as conducting the count or collecting postal ballots at the close of poll from the Royal Mail sorting office.

1.13 The Returning Officer appoints other staff to assist on polling day. These may include:

- **Presiding Officers**, who are responsible for the conduct of the poll and for maintaining order in the polling station. Where there is more than one polling station in a polling place, one of the Presiding Officers (often known as the Presiding Officer (Number one station)) has overall responsibility for the conduct of the polling place.
- **Poll Clerks**, who assist the Presiding Officer.
- **Information Officers**, whose role is to provide information to the public on the voting process.

1.14 Each Returning Officer takes allegations of electoral fraud seriously. Where suspicions are aroused and, after checking information held by the appropriate authority, deemed worthy of referral to the police for investigation,

the Returning Officer should report the matter to the police and assist where possible.

1.15 The police will fully investigate the allegation and will report to the Procurator Fiscal as appropriate. The Returning Officer should be kept apprised of progress unless this is deemed inappropriate (for example, where the Returning Officer was a witness to an alleged offence).

1.16 A summary of electoral fraud offences under the Representation of the People Act (RPA) 1983 and related offences under other legislation is included at Appendix B. This summary also suggests appropriate action in each case.

1.17 In conjunction with political parties, the Electoral Commission has produced the 'Code of conduct for political parties, candidates and canvassers on the handling of postal vote applications and postal ballot papers in Scotland'. This sets out a summary of the law and offers advice about how these individuals should conduct themselves during an election campaign. In itself the Code does not have the force of law but it carries weight because the main parties have indicated their intention to follow the Code. The Code is included at Appendix C.

1.18 Some Returning Officers may introduce, and encourage candidates and agents to sign up to, local agreements on electoral matters that are additional to the national Code. You should ask the Returning Officer if one has been agreed, or is proposed, in your area.

## Election offences

1.19 The law specifies a number of offences and illegal practices in relation to elections. These offences are listed in Appendix B.

1.20 The RPA 1983 defines offences for electoral registration in the UK as a whole, and applies to registration in respect of both Scottish Parliamentary and local government elections. Offences related to voting and the conduct of Scottish Parliamentary elections are principally specified in the secondary legislation for the election.<sup>1</sup> The RPA 1983 also specifies offences related to voting and the conduct of Scottish local government elections.

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<sup>1</sup> The Scottish Parliament (Elections etc.) Order 2007 (hereafter referred to as the Scottish Parliament Order).

## 2 Alertness to potential fraud

2.1 There is the potential for fraud to occur throughout the electoral process. There is little evidence of serious or sustained attempts at fraud; it has been limited to a few high profile situations, none of which have occurred in Scotland. However, since the potential exists, vigilance is essential.

### Electoral registration

2.2 The Electoral Registration Officer is appointed by the council to prepare and maintain the register of electors and list of absent voters within the council area. With the exception of Dundee City Council, all Scottish councils have appointed the local Assessor as the Electoral Registration Officer. Each Electoral Registration Officer is accountable to an electoral registration committee or joint board.

2.3 From August each year a new electoral register is compiled and this is published by 1 December. The (self-appointed) head of each household is required to complete the canvass form in respect of everyone in the household over the age of 18 and those who will become 18 during the life of the register, then sign and return it to the Electoral Registration Officer.

2.4 Two electoral registers are created following the canvass: one for UK Parliamentary elections and one for local government elections. For practical reasons, these two registers are combined. The local government register is used for elections to the Scottish Parliament. Citizens of EU countries who are resident in the UK may register to vote at local government elections and can therefore vote at Scottish Parliamentary elections as well.

2.5 Since 2001 it has also been possible to register to vote on an on-going basis at any time throughout the year. This allows people who move house to voluntarily supply updated details. The process is called rolling registration. The latest a person can register to vote at the May 2007 elections is 18 April 2007.

2.6 It is possible for some electors, such as students, 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.

2.7 It is an offence to supply false information to an Electoral Registration Officer for any purpose connected to electoral registration.<sup>2</sup>

2.8 There can be two main motives for fraudulent registration:

- To register fictitious people at an address in order to fraudulently obtain credit. Fraudulent voting may be a by-product of such a practice.

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<sup>2</sup> Section 13D, RPA 1983, as amended by Section 15, Electoral Administration Act 2006 (EAA).

- To attempt to unlawfully influence the outcome of elections by registering fictitious or ineligible people. If the Electoral Registration Officer has good reason to suspect that fraudulent registration has taken place the police should be informed. An early, positive and well-publicised response may help to deter other attempts.

## Poll cards

2.9 Returning Officers send out poll cards as soon as practicable after the publication of the notice of election; this must be published between 22 March and 2 April 2007. They 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 confirmation 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.

## Absent voting

2.10 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 an application in writing by the elector to the Electoral Registration Officer.

2.11 The Electoral Registration Officer 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 is responsible for issuing postal votes to electors and for administering proxy votes.

2.12 To avoid double voting, where the Returning 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.<sup>3</sup>

## Proxy voting

2.13 An elector may appoint a person to vote on their behalf; this is known as a proxy vote. 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 it does not need to be attested. For example, if the elector knows they will be abroad on polling day 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 and they must either sign to state that the person chosen to act as proxy is willing to do so, or the proxy may sign the application to that effect.

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<sup>3</sup> Schedule 4, Rule 9, Scottish Parliament Order.

2.14 Written confirmation of the proxy voting arrangement **must** be sent to both the elector and the proxy. This is an important anti-fraud requirement.

2.15 The appointed proxy may apply to vote by post, both with respect to their own vote and the vote of the elector for whom they have been appointed proxy.

2.16 A new provision for the May 2007 elections will enable voters to apply for a proxy vote if they become physically incapacitated between the close of the period for new proxy applications (25 April 2007) and 5pm on polling day. 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.

2.17 The Electoral 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 be made to alert the appropriate Presiding Officer to the new appointment. Electoral administrators will be alert to any abuse of this facility.

## Postal voting

2.18 Postal voting has become increasingly popular since it became available on demand in 2001. We recognise that this is an area which requires increasing vigilance.

2.19 Electors may apply for a postal vote for a particular election, a specified period or permanently. It is also possible to make an application for a postal vote to be sent to another address, for example if the elector is going to be away on holiday.

2.20 In a few areas there has been evidence of significant numbers of postal votes being redirected to a communal or 'warehouse' address and being completed by someone other than the elector. A new security measure for 2007 is that the elector must now give a reason why they wish their postal ballot paper to be sent to another address. The Electoral Registration Officer's power to check a signature on a postal vote application against any signature previously provided by the applicant to the Electoral Registration Officer or the Returning Officer is now expressly permitted.<sup>4</sup> The following steps are intended to deal with problems that may arise.

### **Applications for postal votes**

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

- the full name of the applicant

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<sup>4</sup> Regulation 51A, Representation of the People (Scotland) Regulations (RPR) 2001, as amended by the Representation of the People (Scotland) (Amendment) Regulations 2006.

- the address where the applicant is or will be registered
- whether it is for an indefinite or definite period or for one election only
- whether it is for UK Parliamentary elections, local elections<sup>5</sup> or both
- the date of birth of the applicant, and
- the date the application is made

2.22 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 postal voting pack is to be directed. These measures are intended to prevent someone seeking to commit fraud by applying for a postal vote and redirecting that vote without the knowledge of the voter.

### **Redirecting postal votes**

2.23 Electors can request that their postal ballot pack be sent to an address different from their registered address. They can make this request at the time of application or any time thereafter, and 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.

2.24 Some Electoral Registration 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. While this is seen as an aid to security, the completion of such a form is not however required by law.

2.25 In order to show vigilance and combat potential fraud, Electoral Registration Officers have been advised to monitor the instances of postal vote redirection requests. 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 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 police response at this stage may serve to demonstrate the seriousness with which such matters are regarded.

2.26 Although the Electoral Registration Officer may refer such requests to the police, the Returning Officer must still issue the postal ballot pack as soon as practicable.<sup>6</sup>

### **The postal ballot pack**

2.27 The Returning Officer will send every elector who has registered to vote by post a postal ballot pack. Each pack will contain:

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<sup>5</sup> The local government register is used for elections to the Scottish Parliament.

<sup>6</sup> Schedule 4, Paragraph 7, Scottish Parliament Order.

- two ballot papers (one for each of the Scottish Parliamentary and local government elections)
- an envelope marked with the letter A
- a postal voting statement
- a larger envelope marked with the letter B, and
- a set of instructions for the voter

2.28 In each ballot pack, the ballot papers and the postal voting statement issued to each postal voter will display unique identifying marks, for example a barcode. The mark on the postal voting statement will enable the production of the list of returned postal voting statements. The marks on each ballot paper help to verify that it has been correctly issued, enable each ballot paper to be identified when being scanned by the electronic counting machines at the count, and assist if the result is challenged. Envelope A will also carry corresponding marks or have a window through which a mark can be seen.

2.29 The Scottish Parliamentary constituency and regional ballots will be printed together on the face of a single sheet of paper, with the regional election on the left-hand side and the constituency election on the right. A separate ballot paper will be issued for the local government elections.

2.30 Once the voter has marked their ballot papers in secret, they should seal them in envelope A. The postal voting statement should be completed by the voter and then placed with envelope A into the return envelope (envelope B). Envelope B should be sealed and sent back to the Returning Officer. The return envelope may be marked with purple flashes to make it more easily visible.

2.31 The police 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 they will be delivered 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. It is thought that the period immediately following the delivery of the postal ballots is when fraudulent activity, especially attempts to persuade electors to hand over their unopened ballot papers to another person, is most likely to occur.

2.32 Royal Mail should be approached by the police SPOC to see what assistance they can give in identifying and preventing possible postal voting fraud. For example, they may alert the police where large numbers of postal ballots are directed to a single or questionable address, they may ensure that their local collection mailboxes are emptied more frequently during the period when most postal votes are returned to avoid them overflowing, and a procedure should be agreed upon in the event of a mailbox that possibly contains completed postal ballots suffering an arson attack.

### **Replacement ballots**

2.33 A replacement postal ballot paper may be issued by the Returning Officer where the original postal ballot paper is spoilt, lost or not received **up until 5pm on polling day.**

2.34 The Electoral Commission recommends that applicants for a replacement postal ballot paper should be asked to call in person at the office of the Returning Officer where possible; however replacements may be issued by post.

2.35 Where an elector claims that they have not received their postal ballot papers (this is described as 'lost' in the legislation) the Returning Officer may only issue replacement postal ballot papers if they are satisfied as to the voter's identity and have no reason to doubt that the postal voter did not receive the original postal ballot paper.

2.36 The Returning Officer may consider asking the elector to confirm in writing that the ballot paper is lost or has not been received and must maintain a list of lost ballot papers.

2.37 The Electoral Commission has circulated guidance on what proof of identity may be appropriate in these circumstances and advised each Returning Officer to consider, prior to the election, which of the measures in the guidance will be adopted locally.<sup>7</sup> These will usually be one form of photo-document showing the elector's name or two documents linking the elector's name and address with the current entry on the register of electors.

2.38 Where ballot papers have been spoilt, all postal voting documentation must be returned to the Returning Officer before a replacement 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 may wish to follow the Electoral Commission's guidance procedure for the replacement of lost ballot papers.

### **The postal voting statement**

2.39 The postal voting statement is an important document. The elector must sign it to say they are the person to whom the ballot papers were sent. There is no longer a requirement for the voter's signature to be witnessed as was formerly the case with the declaration of identity. The postal voting statement has replaced the declaration of identity. The process of checking postal voting statements is described below.

2.40 **The elector must complete their ballot papers in secret.** The elector should contact the Returning Officer if they need assistance to complete a ballot paper, and this advice is included in the postal ballot pack.

### **Reducing the risk of undue influence**

2.41 Postal voters may deliver their voting papers to a polling station in their constituency on polling day if they so choose.

2.42 In order to minimise the potential for undue influence being placed on a voter when they complete their postal vote, the Returning Officer should identify and publicise locations where the voter will have the opportunity to

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<sup>7</sup> Electoral Commission circular EC07/2004, 'Guidance to Returning Officers on proof of identity required for the issue of replacement ballot papers', 12 February 2004.

cast their vote in secret and to access the assistance of a trained, impartial officer should they require assistance in voting. These locations may include the elections office and a polling station in their area on polling day.

### **Tracking returned postal ballots**

2.43 Postal voters are able to ask the Returning Officer whether their postal ballot papers are recorded as being received by the Returning Officer. Returning Officers have been advised to establish a system for doing this, and also to consider monitoring such requests for any suspicious patterns. Should a pattern raise any suspicion of malpractice that can be substantiated, Returning Officers have been advised to refer the matter to the police for investigation.

2.44 At the May 2007 elections, Returning Officers will be required to compile a list of returned postal voting statements and separate lists of unmatched postal voting statements and unmatched ballot papers. This may be of assistance to Returning Officers and the police if allegations of postal voting malpractice are made.

## **Polling places**

2.45 The term polling place is used to describe the building in which polling takes place, while polling station describes the actual room used. A polling place may contain more than one polling station. Each elector is allotted to a specific polling station; this information is included on the poll card sent by the Returning Officer.

### **Police support**

2.46 The police will decide the level of police support required at polling places in discussion with the Returning Officer. Police officers may be present on duty inside polling stations at any time, although it is the Presiding Officer's duty to maintain order.<sup>8</sup> In many areas, it is now common practice to provide mobile policing support to polling places.

### **Who can be present in polling places?**

2.47 The law restricts who may be present inside a polling station. Only the following people may be present at a combined Scottish Parliamentary and local government election, in addition to the Returning Officer and their staff:

- voters and children under the age of 18 who are accompanying them
- companions of voters with disabilities
- representatives of the Electoral Commission
- observers accredited by the Electoral Commission<sup>9</sup>
- observers authorised by the local government Returning Officer

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<sup>8</sup> Schedule 2, Rule 42, Scottish Parliament Order.

<sup>9</sup> Accredited observers will be issued with photographic identification which they must show on request.

- candidates at the elections (although not more than one candidate from a party's list of candidates may attend at any one time)
- candidates' election agents, and polling agents appointed to the specific polling station (not more than one per candidate)
- police officers on duty

2.48 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. The Presiding Officer may instruct a person to leave, and may instruct their removal by the police or a person appointed by the Returning Officer.

2.49 Candidates, their election agents, specifically appointed polling agents and official observers may enter polling stations to observe proceedings. They may also make allegations of personation and require action of the Presiding Officer. Candidates and agents may mark 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>10</sup>

### **Candidates, election agents and polling agents**

2.50 Candidates, their election agents and polling agents may enter polling stations to cast their own vote, if they are on the register of electors, and to observe proceedings. They cannot interfere with the voting process nor influence voters and if such action takes place the Presiding Officer may exclude them.

### **Tellers**

2.51 It is a well-established practice for candidates, or their agents, to appoint 'tellers', **positioned outside the polling place**, to record the names and/or elector numbers of electors who have voted. Tellers should not be confused with party agents whose appointment and duties are described in legislation. 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 elector number as they enter or leave the polling place. Voters are under no obligation to provide this information.

2.52 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, party campaigns or undertake any other activity particularly associated with one party or candidate.

2.53 Presiding Officers have responsibility for ensuring that electors are given an opportunity to cast their vote in a free and fair manner. Any decision regarding the location or behaviour of tellers is a matter for the Presiding Officer and Returning Officer. Should tellers, or anyone else, irritate voters,

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<sup>10</sup> Article 32, Scottish Parliament Order and Section 66, RPA 1983.

cause a nuisance or obstruct the polling station, and the Presiding Officer is 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.

2.54 Although not mandatory, the Commission has issued more detailed guidance to tellers in its *Guidance for candidates and agents*.<sup>11</sup>

### **Campaigning in the environs of polling places**

2.55 While it is clear that campaigning cannot happen within a polling station, there is no legal clarity on activities around polling places. The overriding purpose for providing polling stations is to provide electors with a place in which they can quietly and privately cast their vote free of any intimidation (whether real or perceived) and in which the secrecy of the ballot is respected. Electors should be able to enter and leave the surrounding area in the same manner.

2.56 The Returning Officer will not allow any campaign activity, such as the display and distribution of any election material, to be undertaken in the polling place itself.

2.57 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 places. Cars being used in campaigns that are also used to transport voters may need to wait for the voter while they are in the polling station, but this should not be unduly prolonged.

2.58 The Presiding Officer will not allow large groups of a candidate's supporters or detractors to gather in the environs of the polling place. They will be particularly alert to actions that may lead to electors feeling intimidated or influenced. Influencing includes deterring an elector from voting at all as well as influencing them to vote (or not) for a particular candidate.

2.59 It is for the Returning Officer and Presiding Officer to decide whether particular campaign activities conducted in the environs of a particular polling place should be permitted to continue or should be dispersed, bearing in mind the necessity to balance the competing needs of campaigners and electors. The Returning Officer may call upon the police to ensure public order at or near polling places.

### **Personation**

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

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<sup>11</sup> Available on [www.votescotland.com](http://www.votescotland.com) and [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

2.61 At a polling station, if suspicions of personation are aroused when issuing a ballot paper, the Presiding Officer may put two statutory questions to the person applying for a ballot paper. These are:

- 'Are you the person registered in the register of electors for this election as follows? **(Read the whole entry from the register)**', and
- 'Have you already voted at this election... otherwise than as a proxy for some other person?'<sup>12</sup>

2.62 If the answers to these questions are 'yes' and 'no' respectively, the Presiding Officer must issue the person with a ballot paper. No proof of identity or poll card needs to be produced.

2.63 Variants of these questions are specified for use where a person requesting a ballot paper as a proxy voter is suspected of personation.

2.64 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 may order a police officer to arrest the applicant.<sup>13</sup> The order of the Presiding Officer under this rule shall be sufficient authority for the police officer. A person arrested under this rule shall be dealt with as a person taken into custody without a warrant.

2.65 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 to supply this to all Presiding Officers. A copy of the advice and template is included at Appendix D.

2.66 Candidates and 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

2.67 The register at each polling station will be marked to show where an elector has chosen to vote by post. These electors must not be issued with further ordinary ballot papers at the polling station. An elector may claim not to have applied for a postal vote despite being recorded as having done so.

2.68 A new provision for the May 2007 elections will, however, allow the Presiding Officer to issue a pink tendered ballot paper where an elector, who is registered as a postal voter, arrives at a polling station and claims not to have received their postal ballot. However, the Commission has advised Returning Officers and Presiding Officers that where this situation arises early enough on polling day, the elector should be encouraged to call in person at

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<sup>12</sup> Schedule 2, Rule 44, Scottish Parliament Order.

<sup>13</sup> Schedule 2, Rule 45, Scottish Parliament Order.

the offices of the Returning Officer before 5pm, so they can be issued with a replacement postal ballot paper.

2.69 If there is a pattern of tendered ballot paper requests which appears suspicious and warrants investigation, the Returning Officer may wish to draw this to the attention of the police.

## Postal vote opening

2.70 Once the Returning Officer takes delivery of postal votes they must be kept in a secure place and the process thereafter is closely scrutinised.

2.71 The opening of returned postal ballots 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 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.

2.72 A formal procedure is set out for the opening of postal votes. At the opening of each postal vote 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. No votes are counted at this stage.

2.73 An issue has arisen in recent years as to the validity of ballot papers that appear to be altered, either with a clearly different writing instrument or with correction fluid. Returning Officers have been advised that where identified any such ballot papers should be put forward for adjudication, where the Returning 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 may consider packaging them separately in case of any later challenge.

## The count

2.74 Polls close at 10pm on polling day, 3 May 2007. Following close of poll, the Presiding Officer will seal the ballot boxes and prepare separate packets of related documents (e.g. unused ballot papers). These will then be delivered to the Returning Officer at the appropriate count centre.

2.75 Counts will be held in each local authority area. At each count, at least one constituency election will be counted with that part of the regional vote that relates to that area. There will also be a further count for the local government elections.

2.76 It is expected that all counts at the May 2007 elections will be conducted electronically. Instead of being counted by hand, ballot papers will be scanned in each count centre by machine in order to facilitate the production of results.

2.77 Police forces should liaise with the Returning Officer in the normal way to determine the required level of policing support at the count.

2.78 Everyone who attends either an opening of postal votes or a count is bound to maintain the secrecy of the ballot.<sup>14</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 are allowed to touch the ballot papers.

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<sup>14</sup> For Scottish Parliamentary elections, Article 32, Scottish Parliament Order. For local government elections, Section 66, RPA 1983.

## 3 Election expenses

### Candidates' spending and donations

3.1 The Scottish Parliament Order specifies a series of controls on Scottish Parliamentary candidates' spending during an election campaign. The RPA 1983, which has been much amended over recent years, specifies similar controls for local government candidates. The Electoral Commission has produced separate guidance for Scottish Parliamentary and local government candidates, setting out the requirements of this legislation. These are available on our website and by contacting the Commission directly.

3.2 Both Scottish Parliamentary constituency candidates and local government candidates must declare the spending made to promote their candidature within 35 days of the declaration of result. Where results are declared on Friday 4 May 2007, returns must be made by 8 June 2007. Declarations must be made in writing to the Returning Officer and are available for public inspection. Scottish Parliamentary candidates and local government candidates must also include in their returns a statement of the donations they received to finance their campaigns.

3.3 The Electoral Commission is responsible for monitoring compliance with the legislative controls by Scottish Parliamentary candidates and agents. The Commission is not required to review Scottish local government returns, although it may do so.

3.4 The police are responsible for the investigation of alleged and suspected breaches of financial controls created by law and do so in liaison with the Procurator Fiscal.

### Parties' spending and donations

3.5 The Political Parties, Elections and Referendums Act 2000 (PPERA) regulates spending by and donations to political parties, including in connection with election campaigns. Spending to promote candidates put forward by a party for an election to a Scottish Parliamentary region is classed as party spending and must be included in the party's return.

3.6 The Electoral Commission is responsible for receiving parties' returns and monitoring compliance with the legislative controls.

3.7 Protocols between the Electoral Commission and the Association of Chief Police Officers in Scotland describe the roles of each of these organisations in the investigation of suspected breaches of these controls. A copy of these protocols is attached at Appendix E.

### Third party spending

3.8 Individuals or organisations may campaign for or against a political party contesting a Scottish Parliamentary election. The law requires such

people or organisations to be registered with the Electoral Commission if they intend to spend more than £5,000 during the regulated period, which for the 3 May 2007 elections commenced on 3 January 2007. These organisations are called Registered Third Parties and are subject to a regulatory regime monitored by the Electoral Commission.<sup>15</sup>

3.9 Individuals or organisations may spend not more than £500 promoting or disparaging a candidate (be that a constituency or individual candidate or a candidate on a regional party list) at a Scottish Parliamentary election during the regulated period for candidates, which commences not sooner than the dissolution of the Parliament.<sup>16</sup> Strict limits are similarly in place on the amount that may be spent promoting or disparaging a candidate at a Scottish local government election.<sup>17</sup>

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<sup>15</sup> Part VI, PPERA.

<sup>16</sup> Article 41, Scottish Parliament Order.

<sup>17</sup> Section 75(1ZA), RPA 1983.

## 4 Action in response to allegations of electoral fraud

4.1 Any instance of fraud identified by the Returning Officer or the Electoral Registration Officer and allegations of electoral fraud or coercion that can be substantiated should be reported without delay to the police SPOC in the appropriate unit.

4.2 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 in the election process. The nature and scope of any investigation will be at the discretion of the Procurator Fiscal in liaison with the senior investigating officer. Where possible, the police will keep the Returning Officer or Electoral Registration Officer informed of progress with any investigation.

4.3 A list of 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 H. Advice is also given about the length of time documents may be retained.

4.4 If deemed appropriate, the police will carry out the necessary investigations into the alleged offence with a view to submitting a report to the Procurator Fiscal. The Procurator Fiscal will consider the evidence and all of the circumstances of the case in order to reach a decision as to whether criminal proceedings are appropriate.

4.5 The Electoral 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 contesting the Scottish Parliamentary elections.

4.6 The Electoral Commission contact is:

Iain Kearton  
Senior Officer  
The Electoral Commission  
28 Thistle Street  
Edinburgh EH2 1EN

Tel: 0131 225 0202  
ikearton@electoralcommission.org.uk

4.7 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 there should be no coercion or criminalisation of any party or candidate not wishing to be included. The Electoral Commission is willing to assist as a point of reference for news releases especially prior to any arrest or prosecution.

4.8 The force press officer may wish to make contact with the Electoral Commission's Senior Media Relations Officer, Liz Hutchinson on 020 7271 0527 or at [ehutchinson@electoralcommission.org.uk](mailto:ehutchinson@electoralcommission.org.uk).

Signed

Handwritten signature of Neil Richardson in black ink, with a horizontal line underneath.

ACC Neil Richardson  
Association of Chief Police Officers  
in Scotland

Signed

Handwritten signature of Sir Neil McIntosh in black ink.

Sir Neil McIntosh CBE  
Commissioner  
The Electoral Commission

**February 2007**

## Appendix A – Guidance to police officers for Scottish elections in May 2007 (pocket guide)

This document provides a summary of guidance to police officers for the 2007 Scottish elections.

## Guidance to Police Officers for Scottish elections in May 2007

Also see: [www.electoralcommission.org.uk/elections/election2007.cfm](http://www.electoralcommission.org.uk/elections/election2007.cfm)

### Introduction

Please note that the role of the police in elections 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 Single Point Of Contact or the Procurator Fiscal should be sought if necessary. The Representation of the People Act (RPA) 1983 regulates conduct at local government elections and all electoral registration issues, while conduct at the Scottish Parliamentary elections is regulated by a separate Order.

All forces have a **Single Point Of Contact (SPOC)** for advice relating to elections at either divisional or force level.

Your SPOC is:

Contact number(s):

Your election advice SPOC is contactable through your force control room.

Most offences are classified as corrupt or illegal practices. **Corrupt practices** may be tried by indictment or summary proceedings. On indictment, the maximum penalty is 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 to vote or refrain from voting. Corrupt practice, Scottish Parliament (Elections Etc.) Order 2007 (SPO), Article 76 and Representation of the People Act (RPA) 1983, s113.

### 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 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

It is also an offence to aid or abet the commission of the above offences.

Corrupt practice, SPO, Article 28 and RPA 1983, s62B.

### 2 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. Can include threats of harm of a spiritual nature.

Corrupt practice, SPO, Article 78 and RPA 1983, s115.

### 3 Treating

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.

Corrupt practice, SPO, Article 77 and RPA 1983, s114.

## Suggested action for all cases

- Preserve evidence.
- Respect 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.
- Act positively:
  - Consider s13 Criminal Procedure (Scotland) Act 1995 to obtain personal information from suspect and note explaining under caution.
  - Consider s14 Criminal Procedure (Scotland) Act 1995 and detain suspect for the purposes of carrying out further investigations.
- Consider advice from a senior officer, your SPOC or the Procurator Fiscal.
- Inform Returning Officer and Electoral Commission via police SPOC.

Prosecutions under the Scottish Parliament (Elections etc.) Order 2007 (SPO) or the Representation of the People Act (RPA) 1983 must be brought within 12 months of the commission of the offence.

### 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. Further, 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. It is an offence to commit, aid, abet, counsel or procure the offence of personation.

Corrupt practice, SPO, Article 26 and RPA 1983, s60.

## 6 Multiple voting and proxy voting offences

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 in the same or in more than one local election area; applying for a proxy without cancelling a previous proxy appointment and inducing or procuring another to commit one of the above offences. Illegal practice, SPO, Article 27 and RPA 1983, s61.

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.

**Prevention is better than cure.**

### Remember:

- preserve evidence (e.g. CCTV, forensic)
- seek advice of a supervisor or senior officer

Be guided within the polling station by the Presiding Officer and their staff.

## Tellers

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

## 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 of the secrecy requirements. Breaching the secrecy requirements is 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, SPO, Article 32 and RPA 1983, s66.

## Other offences

**There are also some non-electoral offences which may be relevant, such as:**

- **perverting the course of justice – taking steps to destroy in advance evidence which might lead to the detection of a serious crime**
- **false accusation – any person who makes a false accusation of crime against a named individual**
- **wasting police time – any person who maliciously makes a false statement to the police with the intention and effect of causing a police investigation**
- **conspiracy to defraud**
- **assault, public order and criminal damage offences**

Ensure all crime (as above) is recorded in line with the Scottish Crime Recording Standard. Advice can be found on the PINS, via your SPOC, and from the Electoral Commission on 0131 225 0202.

**Know your Presiding Officer:** they may call upon a constable to eject someone from a 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.

**Polling station:**

**Presiding Officer:**

Be aware of the general duty to promote good race relations under the Race Relations (Amendment) Act 2000.

Police presence during voting gives an opportunity for the police to promote excellent community relations in all aspects.

## Other matters

**Postal votes:** candidates, canvassers and agents are discouraged from handling postal votes. They should advise voters who are unable to return or post 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 is found to have several or large numbers of these, then potential wrongdoing should not be ruled out.

## 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.

Unlike the offence of falsely applying to vote by post or by proxy (see 5 overleaf), it is not necessary to establish an intention to gain, or deprive another, of a vote, money or property.

Summary offence, with a maximum penalty of six months imprisonment or a £5,000 fine, or both. RPA 1983, s13D.

## 9 Tampering with nomination/ballot papers etc.

It is an offence to deface or fraudulently destroy a nomination paper, a ballot paper, a postal voting statement or an official envelope used in connection with voting by post. It is also an offence to fraudulently take any ballot paper out of the polling station or to forge or counterfeit a ballot paper or the official mark on any ballot paper.

Summary offence, with a maximum penalty of three months imprisonment or a £5,000 fine, or both, SPO, Article 30 and RPA 1983, s65.

## Appendix B – Election offences, penalties and suggested action

There are a number of specific electoral offences and some general offences of which candidates, agents and supporters should be particularly aware during their campaign. This is not intended to be a comprehensive list and legal advice should be sought if necessary.

Most offences under electoral law 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 two years and/or a fine. **Illegal practices** are summary offences and the maximum penalty is a £5,000 fine.

Prosecutions under the Scottish Parliament (Elections etc.) Order 2007 or the Representation of the People Act (RPA) 1983 must be brought within 12 months of the commission of the offence.<sup>18</sup>

### 1 Corrupt practices

#### 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 vote, for a particular candidate; or to vote or refrain from voting.<sup>19</sup>

#### Treating

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>20</sup>

#### 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.<sup>21</sup>

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<sup>18</sup> Schedule 6, Scottish Parliament Order and Section 176, RPA 1983.

<sup>19</sup> Article 76, Scottish Parliament Order and Section 113, RPA 1983.

<sup>20</sup> Article 77, Scottish Parliament Order and Section 114, RPA 1983.

<sup>21</sup> Article 78, Scottish Parliament Order and Section 115, RPA 1983.

## Personation

It is an offence to commit, aid, abet, counsel or procure the offence of personation.<sup>22</sup> This is where any individual votes 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. Further, 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.

Personation may attract a sentence of up to two years' imprisonment on indictment.<sup>23</sup>

## False application to vote by post or by proxy (new offence)

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>24</sup> 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 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

It is also an offence to aid or abet the commission of the above offences.

## 2 Illegal practices

### Multiple voting and proxy voting offences

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 in the same, or in more than one, local election area; applying for a proxy without cancelling a previous proxy appointment and inducing or procuring another to commit one of the above offences.<sup>25</sup>

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<sup>22</sup> Article 26, Scottish Parliament Order and Section 60, RPA 1983.

<sup>23</sup> Schedule 6, Scottish Parliament Order and Section 60(1)(a)(i), RPA 1983.

<sup>24</sup> Article 28, Scottish Parliament Order and Section 62B, RPA 1983.

<sup>25</sup> Article 27, Scottish Parliament Order and Section 61, RPA 1983.

### 3 Other election offences

#### 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 a copy of extracts from Article 32 of the Scottish Parliament (Elections etc.) Order 2007. For elections to Scottish local government, the relevant persons will be given a copy of Section 66 of the RPA 1983.

Any breach of Article 32 or Section 66 is a summary offence punishable with a maximum penalty of six months' imprisonment or a fine of up to £5,000.

#### Tampering with nomination/ballot papers, etc.

It is an offence to deface or fraudulently destroy a nomination paper, a ballot paper, a postal voting statement or an official envelope used in connection with voting by post. It is also an offence to fraudulently take any ballot paper out of the polling station or to forge or counterfeit a ballot paper or the official mark on any ballot paper.

These are summary offences, with a maximum penalty of three months' imprisonment or a £5,000 fine, or both.<sup>26</sup>

#### False registration information and false postal/proxy voting application (new offence)

It is an offence to supply false information 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>27</sup>

Unlike the offence of falsely applying to vote by post or by proxy (above), 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' imprisonment or a £5,000 fine.

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<sup>26</sup> Article 30, Scottish Parliament Order and Section 65, RPA 1983.

<sup>27</sup> Section 13D, RPA 1983, as amended by Section 15, EAA.

## 4 Other general offences

There are also some non-electoral offences which may be relevant, such as:

- perverting the course of justice – taking steps to destroy in advance evidence which might lead to the detection of a serious crime
- false accusation – any person who makes a false accusation of crime against a named individual
- wasting police time – any person who maliciously makes a false statement to the police with the intention and effect of causing a police investigation
- conspiracy to defraud
- assault, public order and criminal damage offences

## 5 Additional advice proposed for the purpose of guidance to police

Further legal comment is available to police officers on the Police Information Net for Scotland (PINS).

Suggested action for all cases:

- Preserve evidence.
- Respect 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 ensure that a mutually beneficial way forward is agreed.
- Invite party for interview under caution.
- Consider advice from the Procurator Fiscal.
- Inform the Returning Officer and the Electoral Commission via the police Single Point Of Contact (SPOC).

For undue influence:

- Also consider substantive offences, threats to commit damage, assault and public order.

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

## 1 Introduction

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

## 2 Key principles

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

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

## 3 What the law says

- An individual may only vote once for each contest in an election.
- A voter's signature or mark must always be their own.
- An individual may not vote for, or as, someone else unless they are formally appointed to act as their proxy. If an individual steals someone else's vote they may be prosecuted for making a false statement, forgery, using a false instrument or pretending to be someone else (personation).
- An individual may not exert, or attempt to exert, undue influence to persuade or force someone to vote, not to vote, or to vote a certain way. Someone who prevents or deters the voter from freely exercising their right to vote, or attempts to do so, may be found guilty of undue influence.
- It is an offence to offer money, food, drink, entertainment or other gifts to persuade someone to vote, or not to vote.
- It is an offence to falsely apply for a postal or proxy vote as some other person. It is also an offence to otherwise make a false statement or otherwise induce the Returning Officer to either send a postal ballot paper or other election mail to an address which has not been agreed by the person entitled to the vote, or to cause a postal ballot paper not to be delivered to the intended recipient.<sup>28</sup>

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<sup>28</sup> Sections 62A(2) and 62B(2), RPA 1983, as inserted by Section 40, EAA and Section 15, Local Electoral Administration and Registration Services (Scotland) Act 2006 respectively.

- It is an offence to supply false information to the Electoral Registration Officer for **any** purpose connected with the registration of electors.<sup>29</sup>

**See Appendix B, 'Election offences, penalties and suggested action' for further information on specific electoral and general offences of which you should be particularly aware.**

## Applications for postal voting

- If you develop a bespoke application form, it should conform fully with the requirements of electoral law, including all the necessary questions and the options open to electors.
- Electors should be encouraged to ask for the postal vote to be delivered to their registered home address, unless there are compelling reasons why this would be impractical. This reason must be stated on the application form.
- Because of the risk of suspicions that the application may be altered and the risk of the application form being delayed or lost in transit, the local Electoral Registration Officer's address should be the preferred address given for the return of application forms.
- If an intermediary address is used, forms should be despatched unaltered to the relevant Electoral Registration Officer's address within two working days of receipt.
- If you are given a completed application form, you should forward it directly and without delay to the local Electoral Registration Officer.
- The Electoral Registration Officer may check the signature on an absent voting application against any other copies of the elector's signature which they hold or is held by any authority which they are authorised to inspect.<sup>30</sup>
- The Electoral Registration Officer must confirm in writing to all successful applicants that they will receive a postal ballot.

## Postal voting ballot papers

- You should not touch or handle anyone else's ballot paper. If you are asked for assistance in actually completing a ballot paper, you should always refer the voter to the Returning Officer's staff at the elections office who can arrange a home visit if necessary. Assistance will also be available for electors at polling stations.
- It is absolutely clear that anyone acting on behalf of a party should not solicit the collection of any ballot paper. Wherever practical, the voter should be encouraged to post or deliver the completed ballot paper themselves.
- It is recognised that people working for a party may be approached by a voter who is unable to post their ballot paper or make arrangements for it

<sup>29</sup> Section 13D, RPA 1983, as inserted by Section 15, EAA.

<sup>30</sup> Regulation 51A, RPR 2001, as amended by the Representation of the People (Scotland) (Amendment) Regulations 2006.

to be returned in time. If you are asked to take the completed ballot paper, you should ensure that the voter has sealed it first and then post it or take it to a polling station or office of the Returning Officer immediately, without interfering in any way with the package.

- If you are with a voter when they complete their ballot paper, remember they should complete it in secret. Equally, you should ensure that the voter seals the envelopes personally and immediately. If you are asked to give advice, it is acceptable and often helpful to explain the voting process but do not offer to help anyone to complete their ballot paper.

If you are in any doubt about the probity or propriety of your actions, you should ask yourself the question, '**What would a reasonable observer think?**' This code has been prepared based on this test, as advocated by the Third Report of the Committee on Standards in Public Life.<sup>31</sup>

**The Electoral Commission**  
**December 2006**

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<sup>31</sup> Committee on Standards in Public Life, *Standards in Public Life: Standards of Conduct in Local Government in England, Scotland and Wales, Third Report*. Chairman Lord Nolan. (The Stationery Office: London, 1997).

## Appendix D – Advice to Presiding Officers regarding personation

- 1 By the day of the election a Presiding Officer should have some understanding of the level of police presence/response that a polling station may anticipate from the local police.
- 2 Where an incident that a Presiding Officer believes may constitute an offence occurs inside or in near a polling station, 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 recording registered numbers of vehicles and preserving items touched by a person involved in an incident if it is safe to do so until the arrival of an officer.
- 5 Should an incident arise, the following form, 'Statement supporting an allegation of personation', may be used to make a record of events.

# Statement supporting an allegation of personation

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.....May 2007

On 3 May 2007 I was in attendance at

..... polling station, at  
.....(address).

in the following capacity:

Presiding Officer/Poll Clerk/candidate/agent/police officer (please delete)  
or other, please state.....

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

1. 'Are you the person registered in the register of electors for this election as follows ...?', who then read the entry from the register, namely

.....

The person (who I know/believe to be ..... ) replied

'.....'

2. The Presiding Officer then asked them:

'Have you already voted at this election, otherwise than as a proxy for some other person?'

The person (who I know/believe to be ..... ) replied

'.....'

Signature of person making statement .....

Witnessed by (signature) ..... (print name) .....

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

## Appendix E – Protocols between the Association of Chief Police Officers in Scotland and the Electoral Commission for dealing with offences created by the Political Parties, Elections and Referendums Act 2000

1. The main provisions of the Political Parties, Elections and Referendums Act 2000, which will be referred to within this document as ‘the Act’, came into force on 16 February 2001. The Electoral Commission was created under provisions of the Act on 30 November 2000. Section 145 of the Act places upon the Commission the general function of monitoring compliance with:
  - 1.1. The restrictions and other requirements imposed by or by virtue of Parts III to VII, and
  - 1.2. The restrictions and other requirements imposed by other enactments in relation to:
    - 1.2.1. Election expenses incurred by or on behalf of candidates; or
    - 1.2.2. Donations to such candidates or their election agents.
2. The Electoral Commission has responsibility for monitoring compliance with the Act and for conducting initial enquiries into alleged breaches. The Act provides for both criminal and civil penalties. The Commission is not a prosecuting authority and therefore any decision to undertake a prosecution will be taken by the Crown Office and Procurator Fiscal Service.
3. These protocols provide guidance as to the process by which allegations of breaches of the Act are to be pursued and in particular, the respective roles of the Police Force for the area where the offence has been committed, the Crown Office and Procurator Fiscal Service and the Electoral Commission.
4. In cases where allegations of failure to comply with the provisions of the Act are reported to officers within the host Force, complainants will be informed that the Electoral Commission is the responsible body for monitoring compliance with the Act and they will be referred to that body.
5. When information is discovered by a police officer in the course of his or her duty which indicates that a breach may have been committed under the Act, officers will record details and notify the Electoral Commission in writing of the following information:
  - 5.1. the nature of the alleged breach that may have been committed

- 5.2. full known details of any individuals and/or political parties that are believed to have caused the breach to arise
  - 5.3. any background information available including a summary of the circumstances of the discovery of the alleged breach
6. There may also be cases when police officers in the course of their investigations discover that breaches intrinsically linked with the offence under investigation have been committed under the Act. In these cases officers in charge of investigations will consult the Electoral Commission as to the best means by which the investigation into breaches of the Act will be pursued.
7. In cases where the Electoral Commission has, as a result of its own compliance work following an allegation, information that indicates that criminal offences may have been committed under the Act within a force area and the Commission has considered that the breaches are of sufficient severity that they believe prosecution action to be necessary, they will write to the National Casework Division at Crown Office, 25 Chambers Street, Edinburgh EH1 1LA with the following information:
  - 7.1. the nature of the alleged breach
  - 7.2. full known details of any individuals and/or political parties that are believed to have caused the breach to arise
  - 7.3. a written summary of the Electoral Commission's findings
  - 7.4. details of the Electoral Commission representative responsible for conducting the investigation
8. The Head of National Casework will be the point of contact for allegations reported to the National Casework Division by the Electoral Commission.
9. The National Casework Division will then consider the matter and, if further enquiries are deemed necessary, the papers will be sent to the appropriate Area Procurator Fiscal.
10. The Area Procurator Fiscal will consider whether to direct the police to fully investigate the matter and submit a report. During the course of any investigation carried out, the police should liaise with the Electoral Commission representative. Any decision to undertake a prosecution will be taken by the Crown Office and Procurator Fiscal Service.

11. These protocols will not affect any arrangements currently in place for undertaking investigations under the Representation of the People Act 1983.
12. These protocols will be subject to periodic review.

Signed

Handwritten signature of Neil Richardson in black ink, with a horizontal line underneath.

ACC Neil Richardson  
Association of Chief Police Officers  
in Scotland

Signed

Handwritten signature of Neil McIntosh in black ink, with a horizontal line underneath.

Sir Neil McIntosh CBE  
Commissioner  
The Electoral Commission

**February 2007**

# Appendix F – Risk assessment guide for the May 2007 Scottish elections

## Summary of work within the activity

- To provide for the safe policing response to a local election situation to enable free elections.

## Presented/potential hazards

- potential fraud
- assault (verbal)
- assault (physical)
- interference with free election process
- protest
- public disorder

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

### Pre-commitment planning

- ensure nomination of police SPOC
- liaison of SPOC with Returning Officer and Electoral Registration Officer
- 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)
- ensure liaison at strategic level between Returning Officer and Police Strategic Command
- ensure nomination of SPOC in appropriate units
- ensure intelligence distribution systems are effective both internally and externally
- research:
  - previous elections by 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
  - timing of election against any local issue (such as closure of a large local employer)

## Control/reduction measures

- force strategic command
- availability of force and unit SPOCs
- pre-event allocation of roles
- allocation of briefed police/community support officers to polling station/ geographic area
- locations warranting high-visibility police presence
- suitable contingency reserves in event of incident
- high visibility at count location
- availability of key network directory
- officers to be in possession of protective equipment

## Specific responsibilities

- appointment of force SPOC point of contact
- appointment of investigation team
- appointment of local SPOC

## Training requirements

- availability of election offence awareness packs for deployed staff
- training of SPOC/unit SPOC
- training of any dedicated investigation resource
- training of staff on conflict resolution/recognition, UDT, CS spray, baton, handcuffing
- dynamic risk assessment training
- first aid training
- public order training

## Appendix G – Threat assessment and control strategy checklist

	Action	Who	Date
General			
1. Force threat assessment and control strategy should identify where advice should be provided at election time for all staff and the public. It should provide named point of contact details at the appropriate unit and force levels.			
2. All briefings should make reference to the current guidance. This will help to prevent and deter fraudulent electoral activity, and encourage the proper responses to any allegations of fraudulent electoral activity.			
3. Force media strategy should be prepared for the elections to cover prevention, investigation and arrest situations.			
4. The Electoral Commission has advised electoral administrators that they should have an initial election meeting with the police and a second following the close of candidate nominations, when security issues will be clearer.			
5. Consider the establishment of a strategic command structure for the entire election process.			

	Action	Who	Date
<p>6. Issue all officers with the pocket guide that sets out election offences, suggested actions and contacts (included at Appendix A), and tailor it for local use by adding appropriate contact details.</p>			
<p><b>Prevention and reduction</b></p>			
<p>1. Intelligence gathering – identify whether the level of risk locally warrants the creation of a specific task force.</p>			
<p>2. Consider whether all information or intelligence logs relating to election fraud should be sent a particular unit.</p>			
<p>3. The appropriate unit should carry out analytical work to help develop appropriate control strategies in conjunction with force intelligence capabilities.</p>			
<p>4. The appropriate unit should act as a reference or advice point for officers dealing with allegations of election fraud or suspicious electoral issues.</p>			
<p>5. Identify a SPOC in each Electoral Registration Office and each local authority elections office and assign each one a police SPOC who will liaise with the appropriate unit.</p>			
<p>6. The appropriate unit should create a full list of SPOC contact details and circulate it as appropriate.</p>			

	Action	Who	Date
7. Pre-election planning meetings between the local authority and police SPOCs should be held.			
8. The appropriate unit should liaise directly and on a daily basis in the run-up to polling day with the local elections officer for each council area.			
9. Police should attend and give input to candidates and election agents with the Returning Officer.			
10. Police should encourage the Returning Officer to 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, preferably one that includes space for a signature if the elector is willing to give one.			
11. Police should encourage the Returning Officer to provide the Presiding Officer at each polling station with a form on which to record details of any attempted or alleged personation.			
12. Force media strategy should be prepared to promote prevention measures and the approach to allegations of electoral malpractice and circulated for officers.			
13. A direct police hotline should be set up under strategic command for advice on election fraud throughout polling hours on polling day.			

	Action	Who	Date
<p>14. Force student liaison officer should offer to assist the Returning Officer in making the delivery of postal votes to multi-occupied student properties more secure.</p>			
<p><b>Investigation</b></p>			
<p>1. Consider setting up a team to address proactive issues/investigate allegations of election malpractice identified by intelligence.</p>			
<p>2. Make arrangements for the team to be available out of hours for advice with contact routed via the force control room.</p>			
<p>3. Consider and state whether allegations of election fraud and complaints will be reported both to the appropriate unit.</p>			
<p>4. Consider what level of resources will be made available to investigate complaints or allegations of different types of election fraud.</p>			
<p>5. Decide the criteria under which allegations will be dealt with by the appropriate unit or centrally.</p>			
<p>6. The appropriate unit should make arrangements to liaise with the Procurator Fiscal.</p>			
<p>7. All election issues that require advice from the Procurator Fiscal should be directed via the appropriate unit.</p>			

# Appendix H – Storage of election documents, documents open to public inspection and documents requiring a court order

## Basis for storage of records

After each election, the Returning Officer has to seal up into packets the documents used in the election.

The law allows some of these documents to be made available for public inspection but others are only available for inspection after obtaining a court order. In broad terms, documents are available for public inspection unless they are ballot papers or are such that inspecting them might lead someone to see how an elector has voted.

## Scottish Parliamentary records

Following the conclusion of the Scottish Parliamentary count, the Returning Officer makes documents relating to the Scottish Parliamentary elections into bundles and transfers them to the Sheriff Clerk. These packets are kept in store for 12 months and then destroyed.

## Scottish local government records

Following the conclusion of the Scottish local government count, the Returning Officer makes documents relating to the Scottish local government elections into bundles and transfers them to the Proper Officer of the council. In many instances, the Proper Officer is the Chief Executive of the council, who may also be the Returning Officer. These packets are kept in store for 12 months and then destroyed.

## Types of records

The following materials are transferred to the appropriate person for both Scottish Parliamentary and local government elections. All materials are available for public inspection **except for those in bold**, which are only available for inspection after obtaining a court order.<sup>32</sup>

- **ballot papers**
- **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, etc.)
- ballot paper accounts (the record by each Presiding Officer of the ballot papers issued for each polling station)
- statement of rejected ballot papers
- statement of the result of the verification of the ballot paper accounts

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<sup>32</sup> Schedule 2, Part IV, Scottish Parliament Order and Schedule 1, Rule 55, Scottish Local Government Elections Order 2007.

- 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)
- lists of votes marked by Presiding Officer
- lists of voters with disabilities assisted by a companion
- lists of votes marked by the Presiding Officer and the related statements
- lists of persons given ballot papers following correction of a clerical error in the electoral register
- declarations made by the companions of voters with disabilities
- **packets of the completed corresponding number lists** (which records the elector's elector number against the number on the ballot paper they were issued)
- **packets of certificates as to employment on duty on the day of the poll**
- packets containing marked copies of the electoral registers (including any containing corrections) and of lists of proxies
- marked copies of the absent voters list and the proxy postal voters list
- postal voting statements
- postal ballot paper envelopes
- **packets containing a complete electronic copy of the information stored in the electronic counting system held on a suitable storage device**

## Other records

In addition to the election documents specified, there are other documents used in the electoral process, for example electoral registration forms and application forms for postal votes (both of which are kept by the Electoral Registration Officer), and candidates' nomination papers (which are kept by the Returning Officer).

These types of document may be useful in any investigation of fraud, but the law is silent as to whether they are either available for public inspection or for inspection by others.

## Electoral registration forms/rolling registration forms

There is nothing in electoral legislation that specifically mentions whether these forms can be inspected by the public or law enforcement agencies. However, because they contain information that does not appear on the published electoral register (e.g. the signature of the householder, information about service voters, etc.), most Electoral Registration Officers treat them as being confidential between the householder and the Electoral Registration Officer, and will not allow them to be inspected without a court order.

In addition, there is an issue about how long these forms are kept. Again, the law does not specify. No period is specified in law and the length of time forms are kept will depend on the procedures, facilities and storage space available in each area.

## Applications for absent votes

The law does not specify a period for which these forms must be held but it is felt that most Electoral Registration Officers would be reluctant to make them available for confidentiality reasons.

It is likely that these forms would be kept for at least as long as the absent vote is in force and maybe longer, again depending on storage facilities.

## Candidate nomination papers

These papers might be useful in any investigation because they contain the signature of the witness to the candidate's nomination.

At Scottish local government elections, the nomination papers are open to public inspection, but only between the close of nominations and the day before the election.

As to how long these should be kept, again the law is silent. It is likely that most Returning Officers would keep them with the rest of the election documentation, but practice will vary according to circumstances.

## Appendix I – Table of dates for key stages in the May 2007 Scottish elections

<b>Event</b>	<b>Date</b>
Start of regulated period for expenditure by registered political parties and registered third parties:	Wednesday 3 January
Publication of the Notice of Election Not earlier than:	Thursday 22 March
Publication of the Notice of Election Not later than:	Monday 2 April
Delivery of nomination papers on any day after the date of publication of the Notice of Election	
Last day for new political parties intending to contest the elections to appear on the Commission's register:	Thursday 5 April
Last day for appointment of election agents and publication of Notice of Election Not later than:	4pm on Wednesday 11 April
Last day for the delivery of nomination papers Not later than:	4pm on Wednesday 11 April
Last day for withdrawal of nominations Not later than:	4pm on Wednesday 11 April
Making of objections to nomination papers Any time up to:	4pm (or exceptionally 5pm) on Wednesday 11 April
Publication of statements as to persons, parties and individual candidates nominated (if no objections made), including notice of poll and list of polling stations:	4pm on Wednesday 11 April
Publication of statements as to persons, parties and individual candidates nominated (if objections made), including notice of poll and list of polling stations Not later than:	4pm on Thursday 12 April
Last day for applications to be included on the register of electors to be used at the elections:	Wednesday 18 April

<b>Event</b>	<b>Date</b>
Last day for requests to change or cancel an existing postal vote or proxy appointment Not later than:	5pm on Wednesday 18 April
Last day for new applications to vote by post Not later than:	5pm on Wednesday 18 April
First day on which postal ballot papers can be sent by a Returning Officer Not earlier than:	5pm on Wednesday 18 April
Last day for new applications to vote by proxy (not postal proxy), except for medical emergencies Not later than:	5pm on Wednesday 25 April
Last day for notice of appointment of polling and counting agents:	Thursday 26 April
Last day for publication of notice in case of uncontested election:	Thursday 26 April
First day to issue postal ballot papers in response to requests to replace lost ballot papers:	Monday 30 April
<b>Polling day:</b>	<b>7am to 10pm on Thursday 3 May</b>
Last day to issue replacement postal ballot papers in response to requests to replace lost/spoilt postal ballot papers:	5pm on Thursday 3 May
Last day to apply for applications to vote by proxy on grounds of medical emergency:	5pm on Thursday 3 May
Last day to make alterations to the register of electors to correct a clerical error or to implement a court (registration appeal) decision Not later than:	9pm on Thursday 3 May
Verification of ballot paper accounts and counting of votes Commencing as soon as practicable after:	10pm on Thursday 3 May

<b>Event</b>	<b>Date</b>
Last day for receiving invoices for candidates' election expenses (assuming result is declared on 4 May):	Friday 25 May
Last day for the receipt of return and declaration of regional candidates' personal expenses (assuming result is declared on 4 May):	Friday 25 May
Last day for paying claims with respect to candidates' election expenses (assuming result is declared on 4 May and except where a court order is obtained):	Friday 1 June
Last day for receiving invoices for party election spending:	Saturday 2 June
Last day for the receipt of return of candidates' election expenses (assuming result is declared on 4 May):	Friday 8 June
Last day for payment by party of campaign spending invoices:	Monday 2 July
Last day for political parties to submit campaign spending return where spending is up to £250,000:	Friday 3 August
Last day for political parties to submit campaign spending return where spending is more than £250,000:	Saturday 3 November

# Appendix J – Checklist of items that may be discussed at meetings between police and local authority named contacts

## General

1. Identify named contacts for Returning Officer and Electoral Registration Officer activities in each area, and alternatives for each.
2. Identify the cover that will be in place for any planned periods of leave, especially in the period after polling day.
3. Exchange contact details for all, including out-of-hours numbers.
4. Identify and discuss any issues that have been experienced in the area in the past and any others that may need particular attention at elections in May 2007.
5. Identify locations that have historically had incidents or currently show potential for being at risk in May 2007. Ensure that the discussion does not focus exclusively on these areas and that any measures proposed are proportionate across the board.
6. Although elections staff are uniquely placed to identify fraud and are required to carry out some checks as required by electoral process, all guidance advises that 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 for investigation.

## Pre-election issues

1. **Registration issues**
  - a) suspicious rolling registration applications from December to April
  - b) postal and proxy applications: agree triggers for reporting/police response
2. **Candidates/agents briefing**
  - a) police attendance at briefings?
  - b) when will they be held?
  - c) Code of conduct on postal voting
3. **Media strategy**
  - a) police and council press officer contact details and briefing
4. **Public order and public safety issues**

## Election period issues

1. **Following close of nominations on 11 April 2007, meet to review strategy in view of issues particular to the contests**
2. **Matters arising from poll card issue**
3. **Postal ballot delivery**
  - a) Royal Mail or other means of delivery
  - b) delivery dates by area
  - c) liaison with Royal Mail
4. **Postal vote opening**
  - a) planned dates and times
  - b) police invitations and presence
  - c) special opening of suspicious postal ballots if needed
  - d) white powder in envelope procedures

## Polling day issues

1. **General**
2. **Polling station**
  - a) level of police support – dedicated to stations or mobile support
  - b) personation guidance and statement form
  - c) action in relation to a disturbance
  - d) tellers – Electoral Commission guidance and local arrangements
3. **Collecting 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) arrangements for overnight security of ballot boxes, if necessary
4. **The count**
  - a) where and when will it take place?
  - b) police presence and other security at the venue
  - c) procedure for dealing with suspicious postal voting statements
  - d) procedure for dealing with postal ballot papers marked with correction fluid
5. **Post-election issues**
  - a) allegations of malpractice
  - b) access to documents
  - c) recording of actions and audit trail

## 6. And finally...

This guidance should be read alongside:

- a) the force strategy, including election media strategy
- b) the Electoral Commission's *Guidance for candidates and agents: Scottish Parliamentary elections* and *Guidance for candidates and agents: Local government elections in Scotland*
- c) the Electoral Commission's *Managing the Scottish Parliamentary and local government elections: guidance for Returning Officers*