

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

### Introduction

1. 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.

### Key principles

2. 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 the party or candidate – can be questioned

### What the law says

3. An individual may only vote once for each contest in each election and not for more than the number of seats available in that election.
4. A voter's signature or mark must always be their own.
5. An individual may not vote for, or as, someone else unless they are formally appointed to act as their proxy. If an individual steals someone else's vote they may be prosecuted for making a false statement or oath, forgery, using, or uttering as genuine, a false instrument or pretending to be someone else (personation).
6. 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.

7. It is an offence to offer money, food, drink, entertainment or other gifts to persuade someone to vote, or not to vote.
8. 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>1</sup>
9. It is an offence to supply false information to the Electoral Registration Officer for any purpose connected with the registration of electors.<sup>2</sup>

**See section on 'Election offences and penalties' for further information on specific electoral and general offences of which you should be particularly aware.**

## Applications for postal voting

10. 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.
11. 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.
12. 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.
13. 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.
14. If you are given a completed application form, you should forward it directly and without delay to the local Electoral Registration Officer.
15. The Electoral Registration Officer may check the signature on an absent voting application against any other copies of the elector's signature or

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<sup>1</sup> Section 62A(2) and 115(2), Representation of the People Act 1983 (RPA 1983), Regulation 79, Paragraphs 10 and 11, Schedule 2, European Parliamentary Elections Regulations 2004 (EPE Regulations 2004) (as amended).

<sup>2</sup> Section 13D, RPA 1983.

date of birth which they hold or is held by any authority which they are authorised to inspect.<sup>3</sup>

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

## Postal voting ballot papers

17. You should not touch or handle anyone else's ballot paper. If you are asked for assistance in completing a ballot paper, you should always refer the voter to the Returning Officer's staff at the elections office who can arrange a home visit if necessary. Assistance will also be available for electors at polling stations.
18. 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.
19. 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 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.
20. 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.
21. If you are in any doubt about the probity or propriety of your actions, you should ask yourself the question, '**What would a reasonable observer think?**' This draft code has been prepared based on this test, as advocated by the Third Report of the Committee on Standards in Public Life.<sup>4</sup>

### **Agreed December 2006 and current for elections in 2009.**

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<sup>3</sup> Regulation 51A, Representation of the People (England and Wales) Regulations 2001 (2001 Regulations) (as amended); Paragraph 19, Schedule 2, EPE Regulations 2004 (as amended).

<sup>4</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, (1997, London: The Stationery Office).

# Election offences and penalties

## Introduction

There are a number of specific electoral offences and some general offences which candidates, agents and supporters should be particularly aware of during their campaign. This is not intended to be a comprehensive list and independent legal advice should be sought if necessary. Details are given in brackets about in which court an offence may be tried and the maximum penalty for the offence. Prosecutions<sup>5</sup> under the Representation of the People Act (RPA) 1983 or the European Parliament Elections (EPE) Regulations 2004 must be brought within 12 months of the commission of the offence. However, if there are exceptional circumstances and there has been no undue delay in the investigation the time limit may be extended to not more than 24 months after the offence was committed. Any application to extend the deadline must be brought within one year of commission of the offence.<sup>6</sup>

## Offences and penalties

### Bribery

A person is guilty of bribery if they directly or indirectly give money to or procure an office 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>7</sup> (Penalty: up to one year in prison on indictment and/or an unlimited fine).

### 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>8</sup> (Penalty: up to one year in prison on indictment and/or an unlimited fine).

### 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 impede or prevent the voter from freely exercising their right to vote.<sup>9</sup> This latter offence can also be committed where a person intends to impede or

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<sup>5</sup> Section 168 and 169, RPA 1983; Regulation 109 and 110, EPE Regulations 2004.

<sup>6</sup> Section 176 RPA 1983; Regulation 114(3), EPE Regulations 2004.

<sup>7</sup> Section 113(2), RPA 1983; Regulation 77, EPE Regulations 2004.

<sup>8</sup> Section 114(2), RPA 1983; Regulation 78, EPE Regulations 2004.

<sup>9</sup> Section 115(2), RPA 1983; Regulation 79, EPE Regulations 2004.

prevent the free exercise of a vote even where the attempt is unsuccessful.<sup>10</sup> (Penalty: up to one year in prison on indictment and/or an unlimited fine).

## Secrecy

Everyone involved in the electoral process should be aware of the secrecy of the ballot and should not breach it. The Returning Officer will give everyone who attends the opening or counting of ballot papers a copy of parts of the requirement of secrecy.<sup>11</sup> (Penalty: up to six months in prison or £5,000 fine)

## Personation

It is an offence to commit, aid, abet, counsel or procure the offence of personation. 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.<sup>12</sup> (Penalty: up to two years in prison on indictment and/or unlimited fine).

## 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. 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>13</sup> (Penalty: up to six months in prison and/or £5,000 fine).

## 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 to which a person is not entitled.<sup>14</sup> (Penalty: up to two years in prison and/or £5,000 fine).

## 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

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<sup>10</sup> Section 115, RPA 1983; Regulation 79, EPE Regulations 2004.

<sup>11</sup> Section 66, RPA 1983; Regulation 29, EPE Regulations 2004.

<sup>12</sup> Section 60, RPA 1983; Regulation 23, EPE Regulations 2004.

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

<sup>14</sup> Section 62A, RPA 1983; Paragraphs 10 and 11, Schedule 2, EPE Regulations 2004.

appointment and inducing or procuring another to commit one of the above offences.<sup>15</sup> (Penalty: up to £5,000 fine).

## Non-electoral offences

There are also a number of non-electoral offences which may be relevant, for example:

- making a false statement under the Perjury Act 1911
- forgery
- using a false instrument under the Forgery and Counterfeiting Act 1981
- conspiracy to defraud, and
- perverting the course of justice

In Scotland:

- a false statement is a false oath under Section 44 of the Criminal Law (Consolidation)(Scotland) Act 1995
- forgery is known as 'uttering as genuine a false document' under Scots common law
- harassment is not a criminal offence in Scotland, but a person could be charged with breach of the peace (under common law) or a civil action could be taken
- vandalism is an offence under the 1995 Act

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<sup>15</sup> Section 61, RPA 1983; Regulation 24(3), EPE Regulations 2004.