

# Part D – Absent voting

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# 1 Integrity issues and personal identifiers

1.1 Postal voting has become a major project within the overall election process, in terms of the management of staff and resources, technology and dealing with integrity issues. Additionally, postal voting has recently attracted considerable media and public attention both in terms of the management of the process and, more particularly, in terms of integrity issues. Effective planning and preparation are essential to ensuring the success of this part of the administration of the election.



Part B, 'Preparing for a local government election', provides a project management approach to delivering the election and includes advice on effective procurement and contract management.

## Integrity issues

1.2 With regard to integrity issues, Electoral Registration Officers and Returning Officers are uniquely placed to identify incidents and patterns of activity that might indicate misconduct. The EAA and amendment regulations introduced further checks into the process and a summary of the key changes is below.



### Summary of integrity provisions:

- collection and verification of personal identifiers – signatures and dates of birth – of all absent voters
- ability to check signatures and dates of birth on absent vote applications with any other signatures or dates of birth held by the Electoral Registration Officer, or by the local authority in records that the Electoral Registration Officer is authorised to inspect for the purposes of their registration duties<sup>1</sup>
- requirement for a reason to be given if an elector wants their postal vote sent to an address other than the address at which they are registered
- requirement for the outcome of all postal voting applications to be acknowledged
- an increase in the length of time available for the police to carry out investigations into electoral fraud
- introduction of a new offence – where an individual applies for a postal or proxy vote as some other person, otherwise makes a false statement in connection with an application for a postal or proxy vote, induces an Electoral Registration Officer or Returning Officer to send a postal vote or associated communication to an address which has not been agreed by the person entitled to vote, or causes a postal or proxy voting communication not to be delivered to the intended recipient<sup>2</sup>

<sup>1</sup> Regulation 51A, RPR 2001.

<sup>2</sup> Section 62A, RPA 1983, as inserted by Section 40, EAA.

- a new procedure providing for electors who attend polling stations and claim not to have applied for a postal vote to be offered a tendered ballot paper
- a new procedure for electors attending polling stations who have lost or not received their postal ballot papers to be offered a tendered ballot paper after 5pm on polling day
- a new procedure for an elector to check with the Returning Officer whether their returned postal vote has been received
- the production of a marked postal voters list, available for inspection after the election
- a procedure for the retrieval of cancelled postal ballot papers

1.3 The judgment in two Birmingham local government election petition cases in 2004 makes it clear that it is not the role of the Returning Officer to investigate possible fraud:

The Returning Officer has no duty to investigate electoral offences and no resources to do so either. More to the point... the Returning Officer has no power to investigate.<sup>3</sup>

1.4 This is reaffirmed at paragraphs 142 and 143 of the judgment, the former of which also covers some of the functions of the Electoral Registration Officer. It is important to make a distinction between the powers of the Electoral Registration Officer to 'investigate' whether an application is genuine and more general investigation into electoral offences, which could be taken to include formally interviewing people and taking statements. Such formal investigations are a matter for the police.

1.5 This being the case, if any Electoral Registration Officer or Returning Officer has concerns about fraudulent applications, or suspicions of fraudulent activity, or receives any allegations about possible absent voting fraud, these should be reported to the police for further investigation. Early liaison with the police Single Point of Contact (SPOC) during the planning process should highlight when the key aspects of the postal voting process, including issue and opening sessions, are to take place and should lead to the agreement of action to be taken if any suspicions arise.

## Postal voting, houses in multiple occupation and establishments

1.6 There is a perception that electoral fraud can be more easily perpetrated in houses in multiple occupation (HMOs) and other multi-electoral establishments. For example, it is sometimes feared that residents in nursing homes, care homes and other sheltered accommodation who rely on carers for assistance might be unduly influenced or have their vote stolen. There is

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<sup>3</sup> Paragraph 139 of the full judgment, *In the matter of a local government election for the Bordesley Green Ward of the Birmingham City Council held on 10<sup>th</sup> June 2004 and in the matter of a local government election for the Aston Ward of the Birmingham City Council held on 10<sup>th</sup> June 2004*. See [www.hmcourts-service.gov.uk/cms/2384.htm](http://www.hmcourts-service.gov.uk/cms/2384.htm).

potential in any HMO or similar multi-electoral establishment where residents do not have a secure mailbox, such as in student accommodation or bedsits, for postal ballots to be intercepted and used fraudulently.

1.7 Some Returning Officers have recognised that visiting domiciliary and care staff may be asked to assist with postal ballots, and that each will have access to numerous electors. There may therefore be some benefit, if only for the avoidance of doubt, in offering advice to such care staff in advance of the election as to the response they should give if approached by such electors. In particular, it should be made clear that a power of attorney does not allow someone to vote on behalf of another person.

1.8 If there is a doubt as to whether postal ballots will be correctly delivered, Returning Officers could arrange to hand deliver postal ballot papers to HMOs, and could attempt to identify a responsible person to distribute the envelopes within the property.

1.9 There may be some added benefit in communicating the postal voting process in advance of the election and, in particular, deterring fraud by emphasising:

- that the elector's vote should be their own
- the need for secrecy when voting
- the Electoral Registration Officer and Returning Officer's willingness to refer any suspicious application or postal ballot to the police for investigation
- the penalties that may be applied

## 2 Absent voting timetable and information

2.1 The purpose of this section is to outline the timetable of events for absent voting, and to provide some advice on communicating the absent voting process.

### Timetable for absent voting

2.2 Deadlines for absent vote applications are statutory.<sup>4</sup> There can be no extension to any of the deadlines for any reason.

2.3 Deadlines for absent voting are calculated by excluding *dies non*, which are Saturdays, Sundays, Good Friday and any other bank holiday.<sup>5</sup> Throughout this guidance, references to 'working' days appear where the time period in question is calculated by excluding *dies non*.

2.4 The deadline for changes (including cancellations) to existing postal, proxy and postal proxy applications is 5pm, 11 working days before the date of the poll.<sup>6</sup>

2.5 The deadline for new postal and postal proxy applications is also 5pm, 11 working days before the date of the poll.

2.6 The deadline for new proxy (not postal proxy) applications (excluding proxies on the grounds of medical emergencies) is 5pm, six working days before the date of the poll.<sup>7</sup>

2.7 There is also a provision which allows a proxy to be appointed in the case of a medical condition, illness or disability arising after the deadline for ordinary proxy applications, subject to the appropriate attestation being provided. The closing date for this is 5pm on polling day.<sup>8</sup> Mental health patients who are detained under civil powers are also entitled to appoint a proxy after 5pm on the sixth working day before the date of the poll up to 5pm on polling day.

2.8 These deadlines, and those for issuing replacement postal ballot packs, should be clearly communicated to electors, candidates and agents.

### Communicating the postal voting process

2.9 It is good practice for any promotional material about postal voting to provide information on the postal voting process.

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<sup>4</sup> Regulation 56, RPR 2001.

<sup>5</sup> Please note: Maundy Thursday is no longer a *dies non*. Part 4, Schedule 1, EAA.

<sup>6</sup> Regulation 56(1), RPR 2001.

<sup>7</sup> Regulation 56(2), RPR 2001.

<sup>8</sup> Regulation 56(3A), RPR 2001.



The Returning Officer is required to send poll cards to postal and postal proxy voters as well as to polling station voters and proxy voters. See Part C, 'Action before the poll', Section 7, 'Production and distribution of poll cards'.

2.10 Returning Officers must issue to postal voters such information as they think appropriate about how to obtain guidance in other formats, such as translations into languages other than English (and, in Wales, Welsh), Braille, graphical format and audio.<sup>9</sup>



### **Communicating the absent voting process**

In addition to the information required on the poll cards for postal and postal proxy voters, many Electoral Registration Officers already provide information about the absent voting process, either with application forms or at council locations and on council websites.

In such cases, it is good practice to communicate clearly the deadlines for the receipt of postal and proxy applications (including making changes to any existing arrangement) and the date on which it is expected that postal ballot papers will be sent out, bearing in mind that factors such as possible printing or postal delays could result in papers arriving later than planned. This information may assist electors, including those working overseas, in deciding whether postal voting will be an appropriate way for them to choose to cast their vote.

Posting timely and relevant information on the council's website will help in the dissemination of information to voters.

## Confirming receipt of postal voting statements

2.11 With the introduction of a marked postal voters list, which is produced by marking the postal voters list and proxy postal voters list on the return of a postal voting statement,<sup>10</sup> there is now a facility for the Returning Officer to confirm to a postal voter whether or not their postal vote has been marked as received back by the Returning Officer.<sup>11</sup>

2.12 It is important to note that this Regulation also includes a provision for the Returning Officer to confirm whether the number of the ballot paper issued to the elector or their (postal) proxy has been recorded on either of the two lists that are required to be kept and used for matching up documents where either the postal voting statement or the ballot paper has been received without the other.

2.13 Where a request for such confirmation is received, the Returning Officer is required to 'satisfy' themselves that the request has been made by the elector or their proxy before providing the confirmation.<sup>12</sup> The Regulation does

<sup>9</sup> Rule 22(2), LEPAR 2006.

<sup>10</sup> Regulation 84(7), RPR 2001.

<sup>11</sup> Regulation 84A, RPR 2001.

<sup>12</sup> Regulation 84A(3), RPR 2001.

not specify how such requests are to be made or received, and it is anticipated that many requests may be made by the telephone in the first instance. The Returning Officer should therefore specify which methods may be used to make the request, and may also request evidence of the elector's identity before providing such confirmation. It will be for the Returning Officer to determine how they are to be satisfied in any particular case.

2.14 Once satisfied of the elector's identity, the Returning Officer should consult their list of returned postal votes. This list may well be an electronic list and could be generated and held by signature and date of birth checking systems used for the verification of absent voting identifiers. Where this is the case, it should be ensured that the list can be easily accessed, for example that there is the ability for daily data downloads or a daily printout, in order to be able to respond to voters' queries as to whether or not their postal vote has been received back. The elector should also be told if they appear on either of the two lists of rejected votes and if they do, should then be told on which of the lists they appear.

## 3 Applications

### Content and supply of forms

3.1 The application form for an absent vote is not prescribed, although some parts of the form require information to be presented in a specific format.

3.2 There are a number of pieces of information that must be included on an absent vote application by law.<sup>13</sup> In normal circumstances, the application must be made in writing, be dated, and include the following information:

- the full name of the elector
- the address where the elector is (or has applied to be) registered to vote
- the elector's signature
- the elector's date of birth
- whether the application is for a particular election, a particular period or an indefinite period, and if it is for a particular period it should specify that period
- whether it is for Parliamentary elections, local government elections or both
- in the case of a postal vote application, the address where the postal ballot pack should be sent, and if this is a different address from that at which the elector is registered (or has applied to be registered) to vote, a reason for the redirection
- in the case of an application for a proxy vote, the full name and address of the proxy
- in the case of an application for a proxy vote, the grounds on which the applicant claims to be entitled to a proxy vote

3.3 Where an applicant is unable to provide a signature, they must provide reasons with their application for their request to have the signature requirement waived, along with the name and address of any person who has assisted them with the completion of the application.<sup>14</sup> Further guidance on the waiver procedure can be found in Section 5, 'Postal voting', below.

3.4 Although there is no prescribed form for applying for an absent vote, the regulations require that on an application the personal identifiers (i.e. the signature and date of birth) be set out in a manner that is sufficiently clear and unambiguous as to allow electronic scanning into the Electoral Registration Officer's record by configuring the information as follows:<sup>15</sup>

1. The signature shall appear against a background of white unlined paper of at least 5 cm long and 2 cm high, and
2. The applicant's date of birth shall be configured numerically in the sequence of date, month and year, namely DD MM YYYY.

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<sup>13</sup> Regulation 51, RPR 2001.

<sup>14</sup> Regulation 51(2)(f), RPR 2001.

<sup>15</sup> Regulation 51(3A), RPR 2001.

3.5 This provision is limited to requiring the information to be configured in the above two ways. It does not mean that Electoral Registration Officers can impose any other conditions on the way the information is configured, even if to do so would make it easier to scan the identifiers: for example, the Electoral Registration Officer cannot mandate a certain thickness or colour of paper for an application – as long as the identifier fields feature the required contrast and the application meets all the other legislative requirements, the form must be accepted.

3.6 The location of the signature and date of birth on an application form is not prescribed. If the signature and date of birth fields are set out so as to meet the size and format requirements outlined above, wherever that may be on the form, they must be deemed to be sufficiently clear and unambiguous and therefore capable of being electronically scanned, and so will be in accordance with the regulations.

3.7 The design of absent vote application forms is crucial to facilitate the provision and data capture of personal identifiers.

3.8 Many Electoral Registration Officers design their own absent vote application forms to suit their local circumstances. The collection of personal identifiers means that ensuring that the requirements are clear and easily understood during the form design stage is particularly important. For example, the Commission recommends that the date of birth boxes be positioned above the signature on the form and that the date of application section be below the signature, in order to reduce the incidence of applications where the date of birth is not given correctly.

3.9 In addition to those produced by Electoral Registration Officers, a number of other organisations, including the Commission and political parties, also produce application forms. The Commission has produced application forms in a format agreed by the Ministry of Justice to ensure that the identifiers can be scanned in correctly. Although they may differ slightly from those produced by individual councils or parties, the Commission's generic forms were designed to meet, and passed, the requirements of all scanning companies. Copies of the Commission's application forms are available to order free of charge. Order details can be found in Part A, 'Context', Section 6, 'Resources'.

3.10 Electoral Registration Officers might find it helpful to liaise with the local political parties to ensure that they are aware of the requirements governing the manner in which the fields to collect the applicant's signature and date of birth are to be set out and, if necessary, to provide them with a suitable template copy for any applications that they may issue. The major political parties have been informed of the agreed print constraints and have amended their form design accordingly.

3.11 Electoral Registration Officers must accept any application that arrives in the prescribed format – i.e. with the date of birth and signature fields as

prescribed.<sup>16</sup> Whatever software system is used must be able to accept applications if these provisions are fulfilled, and applications should not be rejected on the grounds that they are not made on a form produced by the Electoral Registration Officer.

3.12 It is essential for Electoral Registration Officers to consider how they will capture information from forms that they have not produced themselves and from any applications that are not provided on a specific form.

3.13 An application for an absent vote does not have to be made on a particular form, although in all circumstances the personal identifiers provided must be clear and unambiguous by being configured as required by the regulations. An application can be in the form of a letter, as long as it contains all the information required in law for an application to be valid.

3.14 Electoral Registration Officers must supply, free of charge, a reasonable quantity of absent vote application forms to people who wish to use them in connection with an election.<sup>17</sup> This includes political parties.

3.15 In addition to the requirement to provide a date of birth, a number of other changes have been introduced in the last few years with regard to absent vote applications. These include:

- Voters may apply for a postal vote at the same time as they apply to be registered to vote.<sup>18</sup>
- The Electoral Registration Officer may check the signature and date of birth on an absent vote application form against any other signature or date of birth for that elector that they, the local authority by which they were appointed, or the Returning Officer, may hold.<sup>19</sup>
- If an elector requests that their ballot paper be sent to a different address from the one at which they are registered, they must supply a reason as to why they want their ballot paper sent to this alternative address.<sup>20</sup>
- The outcomes of all absent vote applications must be acknowledged by the Electoral Registration Officer.<sup>21</sup>
- Deadlines for certain applications have changed: the deadline for applications for new postal and postal proxy votes and amendments to existing postal and proxy votes is 5pm on the eleventh working day before the poll; the deadline for new proxy (not postal proxy) votes is 5pm on the sixth working day before the poll.<sup>22</sup>
- There is provision for appointing a proxy on the grounds of a medical emergency after 5pm on the sixth working day before the day of the poll up to 5pm on polling day.

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<sup>16</sup> Regulation 51(3), RPR 2001.

<sup>17</sup> Regulation 4, RPR 2001.

<sup>18</sup> Paragraphs 3(1)(a) and 4(1)(a), Schedule 4, RPA 2000.

<sup>19</sup> Regulation 51A, RPR 2001.

<sup>20</sup> Regulation 51AA and 51B, RPR 2001.

<sup>21</sup> Regulation 57, RPR 2001.

<sup>22</sup> Regulation 56, RPR 2001.

- There is provision for mental health patients detained under civil powers to appoint a proxy after 5pm on the sixth working day before the day of the poll up to 5pm on polling day.
- The Form K – statement as to postal ballot papers – must be completed at local government elections, and a copy forwarded to the Commission and the Secretary of State between 10 and 15 calendar days after polling day.<sup>23</sup>

3.16 Further details on these changes are given in the relevant section of this guidance.

## Receipt of applications

3.17 Absent vote applications must be made in writing. This covers applications sent by fax as long as they are in a legible and unambiguous form capable of being used for subsequent reference, and the personal identifiers are set out in the prescribed manner.<sup>24</sup> It is worth ensuring that there is sufficient fax toner and paper in the electoral services office, particularly close to the deadline for applications.

3.18 Applications can also be accepted as a scanned attachment to an email, although there must be a signature on the attachment. Ensure that whatever system is used for capturing the identifiers has the capacity for dealing with signatures that are transmitted by these means.



At any briefing sessions conducted for candidates and agents, it should be explained that any party workers collecting postal vote application forms from electors should deliver the forms directly to the Electoral Registration Officer.

The associated risks arising from delayed delivery of application forms, such as the disenfranchisement of voters, should be emphasised. Candidates and agents should also be reminded of the statutory deadlines for absent vote applications, and of the need for applicants to provide dates of birth and signatures in the prescribed format. The Commission has agreed a Code of conduct relating to postal votes with the major political parties, and this could be distributed at the briefing sessions. A copy of this Code is contained in the Commission's *Guidance for candidates and agents*.

## Checking signatures and dates of birth on application forms

3.19 The regulations allow Electoral Registration Officers to compare a signature or date of birth on an absent vote application against any other signature or date of birth that they may hold, or that is held by their employing local authority or by the Returning Officer.<sup>25</sup> It may often be the case that an

<sup>23</sup> Regulation 91(1)(b) and (5), RPR 2001.

<sup>24</sup> Regulations 5 and 51, RPR 2001.

<sup>25</sup> Regulation 51A, RPR 2001.

Electoral Registration Officer will not hold a signature for an individual applying for an absent vote and so there will be nothing to check the signature against. The person signing the household canvass form does not have to print their name and so it is not always obvious which of the persons on the form has actually signed it, if indeed the name of the person signing it is actually included on the form. The Electoral Registration Officer may, however, hold a rolling registration form for a particular individual, which could be checked.

3.20 It is clearly for Electoral Registration Officers to determine how much checking they wish to do to satisfy themselves as to the authenticity of a signature, taking into account available resources and access to the signatures held. If an Electoral Registration Officer does have any suspicions about a particular application that can be substantiated, these should be reported to the police.

3.21 The integrity of the absent voting identifier record is key to the integrity of the identifier verification during the postal vote opening stage.

## Processing absent vote applications

3.22 Absent vote applications should be processed as soon as practicable after receipt. This becomes more important as the deadlines approach.

3.23 If high levels of absent vote applications are received, particularly as the deadlines approach, it may be necessary to bring in additional staff to process the applications.

3.24 It is important that all staff, in particular those who are not experienced in processing applications, are aware of the statutory requirements that they should be checking for in absent vote applications.



A template of instructions for temporary staff involved in the receipt and checking of absent vote application forms is provided in Section 11, 'Resources'.

## 4 Proxy and postal proxy voting

4.1 A person can apply to vote by proxy for a definite or indefinite period, or for one election only, and may not have more than one proxy at any time.<sup>26</sup>

### Proxy applications for a definite or indefinite period

4.2 There are a number of acceptable reasons in law in respect of which a person can choose to apply to vote by proxy for an indefinite or definite period of time. These reasons are:<sup>27</sup>

- blindness
- other disability
- occupation/employment/service/attendance on a course
- registered as a service voter or overseas voter
- journey necessary by sea or air to get from the registered address to a polling station

4.3 Proxy applications for an indefinite or definite period require attestation, and the reason why a proxy vote is needed must be stated or indicated on the application.

### Proxy applications for a particular election

4.4 Applications for a proxy vote for a particular election do not require attestation, but the applicant must specify the circumstances by which they cannot reasonably be expected to vote in person.<sup>28</sup> The decision as to whether the reason given is satisfactory and whether the elector cannot reasonably be expected to vote in person is made at the Electoral Registration Officer's discretion.

### Applying to vote by proxy

4.5 A proxy vote application must be made in writing, but can be in any format: a letter, a fax or a proxy application form are all acceptable, as long as the application contains the necessary information as set out in law, including meeting the requirement that the personal identifiers (the applicant's signature and date of birth), are configured as specified in the regulations.<sup>29</sup>

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<sup>26</sup> Paragraphs 3, 4 and 6, Schedule 4, RPA 2000.

<sup>27</sup> Paragraph 3(3), Schedule 4, RPA 2000.

<sup>28</sup> Paragraph 4(2), Schedule 4, RPA 2000.

<sup>29</sup> Regulation 51, RPR 2001.

4.6 The following information must be included in a proxy vote application in order for it to be valid:<sup>30</sup>

- the full name of the elector
- the elector's date of birth
- the elector's signature
- the address in respect of which the applicant is (or has applied to be) registered to vote
- the grounds on which the elector claims to be entitled to vote by proxy
- the full name and address of the proxy
- the family relationship between the elector and proxy (if any)
- whether the application is for a particular election, a particular period or an indefinite period, and if it is for a particular period it should specify that period
- whether it is for Parliamentary elections, local government elections or both

4.7 The application must also be dated by the elector.

4.8 A proxy application for an indefinite or definite period, or for one election only, must contain the full name and address of the person they wish to appoint as a proxy, together with the family relationship between the applicant and the proxy, if any.<sup>31</sup> The applicant must either:

- sign a statement stating that they have consulted the proxy and that that person is able and willing to be appointed as a proxy, or
- have the proxy sign a statement themselves stating that they are able and willing to be appointed as the applicant's proxy.

4.9 All electors wishing to appoint a proxy are required to supply their personal identifiers. If a person appointed as a proxy wishes to apply for a postal vote, they will also have to supply their identifiers.

**Table 1: Identifier requirements**

Method of voting	Identifiers required	
	Elector	Person appointed as proxy
Proxy to vote at polling station	Yes	No
Proxy to vote by post	Yes	Yes

4.10 Where an applicant is unable to provide a signature, they must provide, together with their application, reasons for their request to have the signature requirement waived, along with the name and address of any person who has assisted them with the completion of the application.<sup>32</sup>

<sup>30</sup> Regulations 51 and 52, RPR 2001.

<sup>31</sup> Regulation 52, RPR 2001.

<sup>32</sup> Regulation 51(2)(f), RPR 2001.



Further information regarding the waiver provisions can be found in Section 5, 'Postal voting', below.

## Attestation

4.11 Those having to make a journey by sea or air to get to a polling station do not require their application to be attested.<sup>33</sup> The Electoral Registration Officer will be able to verify whether a journey by sea or air is required to get to the polling station from their own local knowledge.

4.12 If a proxy application is being made for an indefinite or definite period for reason of blindness, some other disability, occupation, employment, service or attendance on a course, the application must be attested by one of the people specified below.<sup>34</sup>

### Disability or blindness

4.13 Forms should be attested by:<sup>35</sup>

- a registered medical practitioner or registered nurse treating the applicant for their disability or from whom the applicant is receiving care in respect of that disability
- a Christian Science practitioner treating the applicant for their disability or from whom the applicant is receiving care in respect of that disability
- a person registered as a member of a profession to which the Health Professions Order 2001 applies (i.e. arts therapists, chiropodists, clinical scientists, dieticians, medical laboratory technicians, occupational therapists, orthoptists, paramedics, physiotherapists, prosthetists and orthotists, radiographers, and speech and language therapists) treating the applicant for their condition or from whom the applicant is receiving care in respect of that disability
- a registered dentist, dispensing optician, optometrist, pharmaceutical chemist, osteopath or chiropractor treating the applicant for their disability or from whom the applicant is receiving care in respect of that disability
- the manager, warden or matron of a residential or care home, where the applicant states that they reside in such an establishment
- the manager (or their authorised representative) of a hospital registered in accordance with Section 145 of the Mental Health Act 1983
- a registered social worker who has arranged care or assistance for the applicant
- a registered chartered psychologist who is treating the applicant for their condition or from whom the applicant is receiving care in respect of that disability

<sup>33</sup> Paragraph 3(3)(d), Schedule 4, RPA 2000.

<sup>34</sup> Regulations 53 and 54, RPR 2001.

<sup>35</sup> Regulation 53, RPR 2001.

4.14 An applicant who is registered blind does not have to have their application attested if they specify that they are registered blind by the local authority.<sup>36</sup> Also, an applicant who states that they are in receipt of the higher rate of the mobility component of a disability living allowance because of the disability or medical condition specified in their application does not require attestation of their application.<sup>37</sup>

4.15 In all circumstances, except for an application made by an elector detained in a hospital under Section 145 of the Mental Health Act 1983, the person attesting the form must also state their name and address, the qualification held by virtue of which they are attesting the application, and that to the best of their knowledge and belief the applicant cannot reasonably be expected to go to the polling station or to vote there unaided by reason of their disability, and that the medical condition or disability is likely to continue either indefinitely or for a period specified by the attestor.<sup>38</sup>

4.16 Where an application is made by an elector detained in a hospital under Section 145 of the Mental Health Act 1983, the person attesting the form must also state their name, the position held in the hospital, a statement confirming that they are authorised to make the attestation, details of the statutory provision under which the applicant is liable to be detained, and that to the best of their knowledge and belief the applicant cannot reasonably be expected to go to the polling station or to vote there unaided by reason of their disability, and that the medical condition or disability is likely to continue either indefinitely or for a period specified by the attestor.<sup>39</sup>

## Occupation/employment/service voter/attendance on a course

4.17 Forms should be attested:<sup>40</sup>

- by the applicant's employer, or an employee delegated to do so on the employer's behalf, or
- if the applicant is self-employed, by a person aged 18 years or over who knows the person but is not related to them, or
- if the applicant is attending a course, by the tutor of that course or the principal of the educational institution where the course is taking place, or an employee delegated to do so on the principal's behalf

## Requirements to act as proxy

4.18 In general terms, any person is capable of being appointed to vote as proxy for another, subject to the following restrictions:<sup>41</sup>

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<sup>36</sup> Regulation 53(5)(a), RPR 2001.

<sup>37</sup> Regulation 53(5)(b), RPR 2001.

<sup>38</sup> Regulation 53(4), RPR 2001.

<sup>39</sup> Regulation 53(5A), RPR 2001.

<sup>40</sup> Regulation 54, RPR 2001.

<sup>41</sup> Paragraph 6, Schedule 4, RPA 2000.

- those subject to legal incapacity (age apart) to vote in that election as an elector
- those who are neither a British citizen, a qualifying Commonwealth citizen, a citizen of the Republic of Ireland, or a citizen of another European Union member state<sup>42</sup>
- those who have not reached the age of 18 years<sup>43</sup>

## Limits on numbers of proxies

4.19 A person may not have more than one proxy at any time.<sup>44</sup>

4.20 A person is not entitled to vote as proxy at the same local government election in any electoral area on behalf of more than two electors. The only circumstances in which a person can act as proxy for more than two electors is if they are the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the elector.<sup>45</sup> There is no limit to the number of these close relatives that a proxy may vote on behalf of.

4.21 It is not an offence to be appointed as proxy by more than two people but it is an offence to vote for more than two close relatives (as defined above) in the same ward.

## Acknowledging proxy and postal proxy applications

4.22 When an Electoral Registration Officer has granted an application to vote by proxy, they must confirm in writing to the elector that the proxy has been appointed, the name and address of the proxy and the duration of their appointment.<sup>46</sup> A proxy must also be notified of their appointment.<sup>47</sup> The form of the proxy paper for this purpose is prescribed.<sup>48</sup>

## Proxies for medical emergencies



An elector may appoint a proxy up to **5pm** on polling day, if they became disabled after 5pm on the sixth working day before the day of the poll, i.e. they could not have applied for an absent vote under the normal procedure.

4.23 The application form will need to be attested by an appropriate person from the list of persons shown above who may attest proxy applications made on the grounds of disability or blindness. The application must include, to the best of the knowledge and belief of the person attesting the form, the date that

<sup>42</sup> Paragraph 6(4), Schedule 4, RPA 2000.

<sup>43</sup> Paragraph 6(5), Schedule 4, RPA 2000.

<sup>44</sup> Paragraph 6(2), Schedule 4, RPA 2000.

<sup>45</sup> Paragraph 6(6), Schedule 4, RPA 2000.

<sup>46</sup> Regulation 57(2), RPR 2001.

<sup>47</sup> Paragraph 6(9), Schedule 4, RPA 2000.

<sup>48</sup> Paragraph 6(9), Schedule 4, RPA 2000; Regulation 57(3) and Form E, RPR 2001.

the person became ill or disabled, which must be after 5pm on the sixth working day before polling day if the application is to be accepted.<sup>49</sup>

4.24 The application must be made to the Electoral Registration Officer. If the application is made on polling day or after the list of proxies has been despatched to the polling station, it will be necessary to find a way to communicate the information to the Presiding Officer at the polling station where the proxy will be voting, as clearly they will not be on the list of proxies originally supplied.

4.25 It is suggested that the proxy of any voter whose application has been accepted should be given a letter authorising them to act as a proxy, which should include details of the person for whom they are voting. The proxy should be instructed to take that authorisation with them when they go to vote, and hand it to the Presiding Officer. The letter can then be retained with the list of proxies as a record that the proxy has been issued with a ballot paper. It is also suggested that every effort be made to contact the appropriate Presiding Officer directly to warn them that an emergency proxy has been appointed, particularly as there is actually no requirement in law that the proxy must provide any documentation in order to be permitted to vote on behalf of the elector who is ill or disabled. Wherever possible, it is recommended that a supplementary list of proxies be issued to the polling station, which should then be added to the list originally supplied.



See Part E, 'The poll', Section 2, 'Polling day issues for the Returning Officer and staff', for further consideration of the emergency proxy provisions.

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<sup>49</sup> Regulation 55, RPR 2001.

## 5 Postal voting

5.1 There are no restrictions on who can vote by post. Any elector can choose to apply to vote by post if they so wish, provided that they are registered to vote or have applied to be so registered.

### Applying to vote by post

5.2 A postal vote application must be made in writing, but can be in any format: a letter, a fax or an absent vote application form are acceptable, as long as the personal identifier information (signature and date of birth) is clear and unambiguous, and provided in the format prescribed in the regulations.

5.3 The following information must be included in a postal vote application in order for it to be valid:<sup>50</sup>

- the full name of the elector
- the elector's date of birth
- the elector's signature
- the address where the elector is (or has applied to be) registered to vote
- the address where the postal ballot pack should be sent, and if this is a different address from that at which the elector is registered (or has applied to be registered) to vote, a reason for that redirection<sup>51</sup>
- whether the application is for a particular election, a particular period or an indefinite period, and if it is for a particular period it should specify that period
- whether it is for Parliamentary elections, local government elections, or both

5.4 The application must also be dated by the applicant.

### Waivers

5.5 Where an applicant is unable to provide a signature, they may request that the Electoral Registration Officer waive the requirement for a signature to be provided. Any such request must include the reason(s) for the request, along with the name and address of any person who has assisted the applicant with the completion of the application.

5.6 The Electoral Registration Officer should satisfy themselves that 'the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write'.<sup>52</sup> The level of proof or evidence that is needed in order to be satisfied must be a local decision, but the Commission advises that Electoral Registration Officers should be alert to the potential for the waiver to be used as an attempt to avoid security measures. The policy for responding to requests for waivers should be robust, to ensure the integrity of

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<sup>50</sup> Regulation 51, RPR 2001.

<sup>51</sup> Regulations 51AA and 51B, RPR 2001.

<sup>52</sup> Paragraphs 3(8) and 4(5), Schedule 4, RPA 2000.

the voting system while still allowing such electors access to the absent voting system.

5.7 Regulation 51A of the RPR 2001 provides that the Electoral Registration Officer may satisfy themselves that the applicant is unable to provide a signature or a consistent signature due to a disability or the inability to read or write. Therefore, this provides a power and not a duty. However, to ensure that the new measures work to their fullest extent, the Commission's view is that the Electoral Registration Officer should take active steps to be so satisfied.

5.8 Some Electoral Registration Officers may take the view that they only need to exercise this power in the event that they have concerns or doubts about a particular application or because there has been a pattern of such applications that arouses suspicion. The Commission advises, however, that this power should be exercised more consistently and routinely, and that the same steps be applied to each application for the grant of a waiver.

5.9 The legislation does not specify the steps an Electoral Registration Officer may wish to take in order to be so satisfied. It does not, for example, introduce an attestation procedure, as exists for some types of proxy voting.

5.10 The legislation does, however, require the name and address of the person assisting the elector who is requesting the waiver.<sup>53</sup> In the Commission's view, this provides an opportunity for a straightforward process by which the Electoral Registration Officer can satisfy themselves as per Regulation 51A(b). For example, the Electoral Registration Officer could ask the person assisting the applicant to confirm that, to the best of their knowledge and belief, the elector in question is unable to provide a signature or a consistent signature due to a disability or the inability to read or write. The Electoral Registration Officer could provide this in the form of a simple declaration that could be signed by the person assisting the elector.

5.11 The Electoral Registration Officer may also wish to consider drawing attention, on any such declaration, to the offence of providing false information in connection with an application for an absent vote.<sup>54</sup> This is a summary offence with a maximum penalty of six months' imprisonment or a £5,000 fine.

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<sup>53</sup> Regulation 51(2)(f), RPR 2001.

<sup>54</sup> Section 13D, RPA 1983, as inserted by Section 15, EAA.

Such a declaration could take the following form:

The elector named above is unable to provide a consistent signature owing to

- a disability
- an inability to read or write

Name of person assisting the elector.....

Address of person assisting the elector .....

Signature of person assisting the elector .....

Date of declaration .....

Note: It is an offence to provide false information to an Electoral Registration Officer in connection with an application for a postal or proxy vote.

5.12 The Commission believes that this would be a reasonable measure that the Electoral Registration Officer could use in order to be satisfied under Regulation 51A(b).

5.13 Any Electoral Registration Officers considering preparing their own forms and declarations to be completed by the elector themselves should bear in mind that if an elector is unable to provide a signature or a consistent signature, it may be the case that they would be unable to complete any additional forms, and to issue such forms may cause distress or confusion. Electoral Registration Officers have no power to investigate or make medical judgements on the nature or extent of an elector's disability.

5.14 Some Electoral Registration Officers may be considering using an attestation system to provide assurance as to the veracity of the request for a waiver. The Commission recognises that such an attestation is specifically provided for in the case of a permanent proxy as the means by which the Electoral Registration Officer should satisfy themselves, but no such provision has been included for an absent voter identifier waiver, and so the use of such an attestation is not recommended.

5.15 Electoral Registration Officers have no ability to 'investigate' waiver applications. It is the Commission's view that the Electoral Registration Officer's power in determining a waiver application is limited to the taking of reasonable steps to satisfy themselves that the applicant is unable to provide a signature or a consistent signature due to their disability or an inability to read or write, as outlined above.

5.16 It is important for Electoral Registration Officers to remember that the decision to grant a waiver is theirs, and if they are not satisfied as to the authenticity of the request following any appropriate enquiry, it should be refused. If a waiver request is refused, then the absent vote application must be rejected and the applicant notified in writing of the reasons for the decision. If, however, the Electoral Registration Officer is satisfied as to the waiver and the accompanying absent vote application, then confirmation of its acceptance must be given in writing to the elector.

5.17 The Electoral Registration Officer should remain vigilant as to any trends which may be revealed through the receipt of waiver requests. Any trends such as large numbers of applications assisted or signed by one person with no plausible explanation, or large numbers of applications from one street or area with no plausible explanation (such as the type of residences in that location), should raise suspicions. The Commission is happy to discuss any concerns that Electoral Registration Officers have on this point.

### Redirection of postal ballot papers

5.18 The regulations make no provision for an Electoral Registration Officer to reject an application if they are not satisfied with the explanation provided for requesting redirection. This being the case, it is recommended that, for the purposes of determining applications, the Electoral Registration Officer should accept postal vote applications at face value if an explanation for redirection is given. It should be noted that the regulations provide that the elector must explain why their circumstances are such that they wish an alternative address to be used – they could not simply say, for example, ‘because I prefer it that way’.<sup>55</sup>

5.19 There are many reasons why a person may wish their postal vote to be sent to an alternative address – they may be on holiday, be in hospital, have post sent to their work address, and so on. If no explanation of their circumstances is given, an Electoral Registration Officer may wish to check with the elector and obtain an explanation, or could choose to reject the application on the grounds that it does not meet the prescribed requirements, notifying the elector accordingly.



It is important for Electoral Registration Officers to be vigilant as regards emerging patterns of applications, particularly where there is a request for redirection to an address other than the address at which the elector is registered. If the reason for any particular application does cause suspicion because of its nature, or because of other circumstances linking the application to others in the area or to a particular address, this should be reported to the police, even though the Electoral Registration Officer may have no grounds on which to reject such applications. In particular, it is recommended that the Electoral Registration Officer agree with their police contact a threshold number of applications being directed to any one address, and consider notifying the police if this threshold is reached.

### Acknowledging the outcome of postal vote applications

5.20 Electoral Registration Officers are required to write to **all** applicants to notify them whether their application has been accepted or rejected.<sup>56</sup> This is a requirement for all postal voters even if they apply close to the deadline for applications to take effect at a particular election, and regardless of whether the application is for one election, a particular period or indefinitely. This

<sup>55</sup> Regulation 51AA(2), RPR 2001.

<sup>56</sup> Regulation 57, RPR 2001.

acknowledgement is useful, both for the elector to check the details of their absent vote, including the date of birth supplied on the application, and in increasing the security of the system. It is good practice, where possible, to acknowledge postal vote redirection requests to both the registered and redirection addresses.



The acknowledgement serves a number of purposes:

1. It gives the elector an opportunity to check that the information they gave on their application has been processed correctly. It also confirms whether their application has been granted or rejected.
2. It provides an opportunity to safeguard against potential malpractice, or misunderstanding on the part of the elector. If an elector receives an acknowledgement for a postal vote that they have not requested, or were not aware they had requested, the receipt of the acknowledgement would give the elector an opportunity to contact the Electoral Registration Officer.
3. Any such responses, along with notifications of non-delivery, should be monitored and where suspicions are aroused the police should be advised of the circumstances.

Acknowledging postal vote applications is **compulsory**: all applicants must be notified as to whether their application has been granted or refused and, where the application has been refused, the reason for its refusal must also be given.

## Receipt of only one identifier

5.21 Electors who apply for an absent vote are required to provide both their date of birth and signature, or obtain a waiver of the signature requirement. All applications require either both identifiers, or the waiver of the signature requirement and the date of birth. If applications, excluding those accompanied by a waiver of the signature requirement, are received with only one identifier, the Electoral Registration Officer should, where possible, make further enquiries with a view to obtaining the 'missing' identifier. If the 'missing' identifier is not submitted, the application must not be allowed.

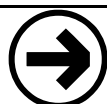
## 6 Absent voting records and lists

6.1 The Electoral Registration Officer must compile a list of all absent voters, which includes all postal, proxy and postal proxy voters.

### Supply of absent voters lists to candidates, election agents, registered political parties and elected representatives

6.2 Elected representatives, candidates, registered political parties and local constituency parties may request that the Electoral Registration Officer supply, as soon as practicable after the request is made and free of charge, a copy of:<sup>57</sup>

- the current version of the absent voting record which would, in the event of a particular election being called, be included in the absent voters lists to be used at that election, and
- the current or final version of the absent voters lists for a particular election



For a definition of candidate, refer to Part C, 'Action before the poll', Section 2, 'Register of electors'.

It is important to remember that a person cannot become a candidate for a particular election until, at the earliest, publication of the notice of election.

6.3 Any such request must be made in writing and must specify which records or lists are required, whether the request relates to the current and/or the final lists, and whether the information should be supplied in data or paper format.<sup>58</sup>

6.4 There are no restrictions on the number of times that an eligible person may apply for copies of the documents. Each application should be dealt with separately.

6.5 Where a request is made for the supply of a final copy of the postal voters list, the Electoral Registration Officer must supply the information as soon as practicable after the deadline for the receipt of postal voting applications at 5pm on the eleventh working day before the date of the poll.<sup>59</sup> Similarly, the finalised list of proxies must be supplied as soon as practicable after the sixth working day before the poll,<sup>60</sup> and then be updated to take account of any changes that occur as a result of any emergency proxy applications granted after that deadline.<sup>61</sup>

<sup>57</sup> Regulation 61, RPR 2001.

<sup>58</sup> Regulation 61, RPR 2001.

<sup>59</sup> Regulation 61(5), RPR 2001.

<sup>60</sup> Regulation 61(6), RPR 2001.

<sup>61</sup> Regulation 61(7), RPR 2001.

6.6 Where elected representatives, candidates, registered political parties and local constituency parties are provided with a copy of the current absent voting record and/or the final list, they may only use the information for research or electoral purposes and for any purposes compatible with the restrictions applicable to the use of the full register of electors by that recipient.<sup>62</sup>

## Inspection of absent voting records

6.7 The Electoral Registration Officer is required to make both the current version of the absent voting record and, when published, the final version of the absent voters lists available for public inspection at their office.<sup>63</sup> However, for a person to inspect the record or lists, they must first make a request in writing, specifying:<sup>64</sup>

- which records or lists are required
- whether the request relates to the current and/or final lists
- who will be inspecting the information
- the date on which they would like to make their inspection
- whether they would prefer to inspect the information in printed or data format

6.8 The Electoral Registration Officer must make the information available **under supervision** as soon as practicable after the date of receipt of the request.<sup>65</sup>

6.9 As soon as practicable after 5pm on the sixth working day before the poll, the Electoral Registration Officer must make available for public inspection a copy of the final lists of absent voters, which must be updated to take account of any emergency proxy applications that are granted after that time.

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<sup>62</sup> Regulations 61(3) and 61A, RPR 2001.

<sup>63</sup> Regulation 61(10), RPR 2001.

<sup>64</sup> Regulation 61(11), RPR 2001.

<sup>65</sup> Regulation 61(12), RPR 2001.

## 7 The issue and distribution of postal ballot packs



Where elections are combined, the relevant Returning Officers can agree to take the proceedings on the issue and receipt of postal ballot papers together. Those Returning Officers with combined principal area and parish or community council elections will need to consider whether this is appropriate, or if the proceedings should be kept separate. Regardless of which approach is taken, all local authorities that are running combined elections will need to consider the impact of combination on the resources required for the issue and distribution of postal votes, and the workflows to be followed.

### Royal Mail good practice guidance

7.1 Royal Mail has produced good practice guidance on postal voting. This includes protocols on all aspects of the postal voting process and working relationships with Royal Mail. It has been put together to address issues surrounding the increasing levels of postal voting and how to manage the process effectively. This guidance should be referred to by those planning to use Royal Mail to deliver postal votes.

### Persons entitled to be present

7.2 The only persons entitled to be present at the issue of postal votes are the Returning Officer, their staff, representatives of the Commission and any observers accredited by the Commission.<sup>66</sup> Candidates and their agents are not permitted to attend.

### Secrecy requirements

7.3 The Returning Officer must ensure that every person who is present at the issue of postal votes is given a copy of the secrecy requirements as prescribed in Section 66(4) and (6) of the RPA 1983.<sup>67</sup>



A copy of the notification of secrecy requirements is provided in Section 11, 'Resources'.

### Timing of the issue<sup>68</sup>

7.4 It is the decision of the Returning Officer when the issue of postal votes should take place, although postal votes cannot be issued until after 5pm on the eleventh working day before the election.

<sup>66</sup> Regulation 67, RPR 2001 and Sections 6A to 6E, PPERA.

<sup>67</sup> Regulation 70, RPR 2001.

<sup>68</sup> Regulation 71, RPR 2001.



It is good practice to issue postal votes to all who have applied, including long-term postal voters, as soon as practicable after the deadline for new applications for postal votes and for changes to be made to existing postal votes, 11 working days before the date of the election. This allows a maximum amount of time for ballot papers to be despatched and for the voter to return them. Returning Officers may need to consider additional staffing in order to ensure that all postal ballots can be issued as soon as possible after the deadline for applications. Consideration may also be made to issuing ballot papers that are going outside the UK first, for example those being sent to service voters.

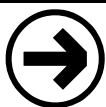
## Preparation of postal vote stationery

7.5 The EAA introduced a number of changes in respect of the administration of the postal voting process, and these have implications for how postal voting stationery is prepared and produced. It is vital to ensure that there are sufficient ballot papers and enough of the other stationery required to be able to meet demand in the event of a late surge in applications.

7.6 There have traditionally been two main methods of preparing postal vote stationery: in-house, whereby postal vote stationery is printed and prepared by electoral services staff or in-house printers; and outsourced printing, whereby postal vote stationery is printed by an external printing house.

7.7 The regulations require that the postal voters list and the proxy postal voters list be marked to confirm that a postal voting statement has been received back by the Returning Officer.<sup>69</sup> In addition, at any time after the issue of postal votes up to the close of poll, electors are able to ask for confirmation as to whether their postal vote has been received back.<sup>70</sup> These requirements have implications for the production of the postal vote stationery, in that Returning Officers will need to ensure that they are able to easily mark the receipt of postal voting statements on the postal voters list and proxy postal voters list.

7.8 It may be possible to undertake this recording task manually by reference to the ballot paper number which must be printed on the postal voting statement, but where a Returning Officer wishes to automate or part-automate the process, consideration will need to be given as to whether the stationery can be produced in-house or will need to be outsourced.



The stationery associated with postal voting is prescribed in regulations. In order to avoid any potential challenge to the postal voting process, the Returning Officer must, therefore, be satisfied that the postal vote stationery used is lawful. The responsibility for complying with the law remains with the Returning Officer, even if contractors are used.

<sup>69</sup> Regulation 84(7), RPR 2001.

<sup>70</sup> Regulation 84A, RPR 2001.



See also Part B, 'Preparing for a local government election', Section 2, 'Managing contractors and suppliers'.

7.9 Other factors that will need to be considered include the following.

If printing in-house:

- How many postal votes are to be issued?
- Will staff resources be available to oversee the printing of the stationery without impacting on the administration of other facets of the election?
- Are there sufficient printing facilities and stationery available?

If outsourcing production:

- Does the printer's stationery comply with legislation?
- How many local authorities is the company printing stationery for? (This may impact on whether they can cope with increased demand.)
- Where is the order in the company's schedule of work?
- Will the printer be able to print large numbers of postal vote packs?
- Will the printer be able to manage an increased number of postal votes if numbers of applications increase unexpectedly?
- Will the printer be able to guarantee secure data transfer and delivery of stationery?
- What quality control measures does the printer have in place?
- How will the printer facilitate the Returning Officer or staff visiting the premises during production, if required? In addition, how will they facilitate attendance by representatives of the Commission and any observers accredited by the Commission?
- What previous relevant experience does the printer have?
- Can the printer provide suitable references?
- Does the contract include essential conditions relating to adherence to deadlines?



Where the process is to be automated, it is strongly recommended that 'live' proofs of any items that contain barcodes be requested in advance, so that a check can be done to ensure they scan correctly. All systems should undergo advance 'live' testing to ensure that print quality, including paper quality, is compatible with the scanners to be used.

## Logistics

7.10 The issue of postal votes is a crucial part of the administration of the election, and despite the fact that the deadline for receipt of applications has been moved back to 11 working days before the election, the time for issuing remains tight.

7.11 This alone can create logistical difficulties for the timely and successful issue of postal votes. When combined with other factors, such as difficulties recruiting staff or large numbers of applications arriving close to the deadline for receipt of applications, the issuing of postal votes can become problematic.

If not managed correctly, this could potentially put the administration of the election at risk.

7.12 There are, however, measures that can be put in place to reduce the risk to the successful conduct of the election in terms of the production and issuing of postal votes, some of which are described below.

### Production checks

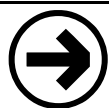
7.13 During the production of postal ballot packs, the Returning Officer should implement quality assurance procedures to monitor the supplier's performance throughout the printing process. Returning Officers should consider having staff in attendance when the postal ballot packs are being printed, and discussions to facilitate this should occur at the time the contract is negotiated.

7.14 Returning Officers should carry out frequent checks on the process. Where possible, it is suggested that the Returning Officer or a senior member of their staff check the beginning and end of the print runs for each polling district for accuracy. Random spot checks within polling districts should also be carried out so that a representative cross section can be checked.

7.15 Clear guidelines for handling checked ballot papers (including the reporting of errors and the generating of any replacements, if required) should be agreed with the printer in advance. A record of each ballot paper checked should be kept.

7.16 Where the issue of postal ballots has been outsourced, particular attention should be paid to checking that:

- the number of the postal ballot paper is correctly marked on the postal voting statement that accompanies it
- the unique identifying mark appears on each ballot paper as designed
- electors' names and addresses are accurate
- there is no bleeding of ink and the print quality is acceptable
- all details are printed accurately
- all required items are in the outgoing envelope, including the correct ballot paper for the ward



Further information on managing contractors and suppliers can be found in Part B, 'Preparing for a local government election', Section 2, 'Managing contractors and suppliers'.

7.17 Remember that any staff of a contractor employed on this process are covered by the secrecy requirements and should therefore be given a copy of Section 66(4) and (6) of the RPA 1983.

## Practical considerations when issuing postal ballots in-house

7.18 It is advisable to plan a schedule for issuing postal votes with some flexibility built in, particularly in terms of resources for additional issuing should this prove necessary. It is the responsibility of the Returning Officer to appoint sufficient staff to issue postal votes.

7.19 Particular measures that can assist in the smooth running of the issuing process are as follows:

- Some stationery can be prepared in advance: for example, consider the overprinting of envelopes with the return address and ward name, and the numbering and addressing of outgoing envelopes.
- Prepare boxes of equipment for each main issue, which could include:
  - postal voters list
  - stamping instruments (if being used)
  - corresponding number lists
  - statement of postal votes issued
  - set of envelopes for the corresponding number lists
  - pens
  - pencils
  - bulldog clips
  - paper clips
  - rubber bands
  - control sheets
  - rulers
  - pencil sharpeners
  - staff signature sheet
- Talk through the postal vote issue process and have written instructions available for staff. Ensure sufficient supervision is in place, particularly when using staff with little or no experience of issuing procedures.
- Train supervisors to ensure that they can direct the process efficiently and effectively.
- Instruct supervisors to carry out spot checks regularly during each issue of postal ballots to ensure that the correct details appear on the stationery and that the correct stationery is in the outgoing envelope.

## What the voter should receive

7.20 Each person who has applied for a postal vote must receive a **ballot paper** for the correct ward in the prescribed form.<sup>71</sup>

7.21 They must also receive a **postal voting statement**, which must be in the prescribed format.<sup>72</sup> The elector must correctly complete this with their date of birth and signature in order for their ballot paper to be included in the count. The postal voting statement must include the number of the ballot paper being issued with the statement. It must also contain another unique

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<sup>71</sup> Rules 16, 22(1), and Appendix of forms, Schedule 2, LEPAR 2006.

<sup>72</sup> Rule 22(1) and (3), and Appendix of forms, Schedule 2, LEPAR 2006.

identifying mark, which could be a barcode but could be in another format. This mark does not have to be connected to the unique identifying mark on the ballot paper: it may be the same but equally it could be different or connected. This mark is to identify the particular postal voting statement for the benefit of automatic verification systems and the production of marked postal voters lists rather than to identify the ballot paper issued with that postal voting statement. The statement must include the voter's name. The postal voting statement also contains the prescribed instructions for how to vote by post.

**7.22 'A' envelope** – This prescribed envelope should be marked with the letter 'A', the words 'ballot paper envelope' and the number of the ballot paper.<sup>73</sup> The 'A' envelope may have a window through which the number on the ballot paper can be displayed as an alternative to printing the ballot paper number on the envelope.

**7.23 'B' envelope** – This prescribed envelope is for the return of the postal voting statement and the 'A' envelope, and should be marked with the letter 'B' and the address of the Returning Officer.<sup>74</sup>

**7.24 Instructions** – As stated above, the postal voting statement contains the prescribed instructions for voting by post and must be sent to the voter. In addition, the Returning Officer must also issue to those entitled to vote by post such information as they think appropriate about how to obtain:<sup>75</sup>

- translations into languages other than English and, in Wales, Welsh of any directions to voters or guidance for voters sent with the ballot papers
- a translation into Braille of the directions or guidance
- graphical representations of the directions or guidance
- the directions or guidance in any other form (including audible format)

**7.25 Outgoing envelope** – This envelope, containing all of the above items, will be addressed to the elector at the address they have asked for the ballot paper to be sent to and which is shown in the postal voters list or the proxy postal voters list.<sup>76</sup>

## Procedure for issuing postal votes<sup>77</sup>

**7.26** The issuing process can be summarised as follows:

- Each postal ballot paper must bear the official mark (either by being stamped with a stamping instrument or by bearing some other security marking such as a watermark or an underprint) **and** contain a unique identifying mark on the reverse. This unique identifying mark must be unique to the ballot paper, and could be a barcode or could take some

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<sup>73</sup> Regulation 74(3), RPR 2001.

<sup>74</sup> Regulation 74(2), RPR 2001.

<sup>75</sup> Rule 22(2), LEPAR 2006.

<sup>76</sup> Regulation 72(7), RPR 2001.

<sup>77</sup> Regulation 72, RPR 2001.

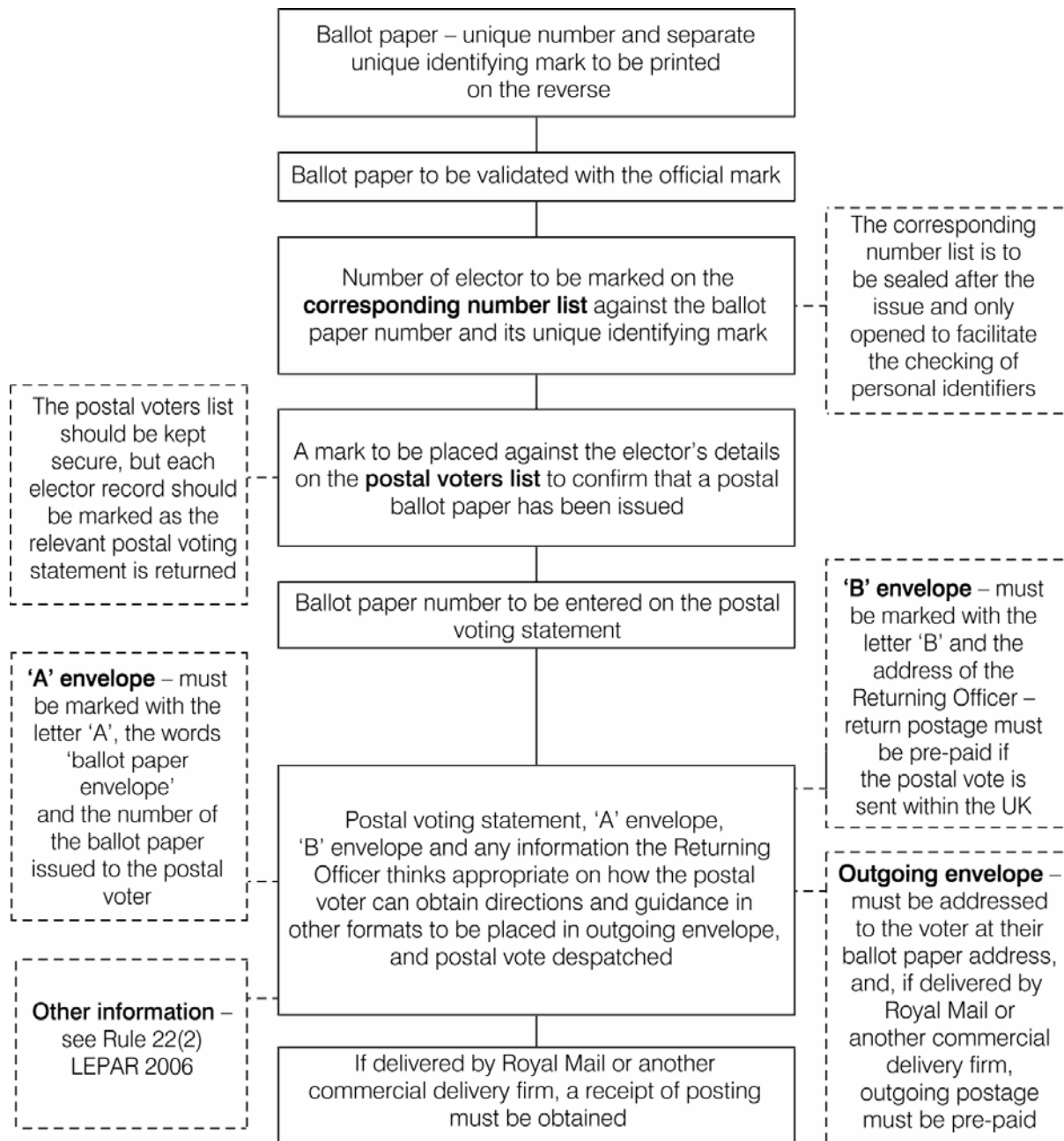
other form such as the ballot paper number with the addition of a prefix or suffix. Each postal ballot paper must also be uniquely numbered.

- The elector's number must be marked on the **corresponding number list**, next to the number and unique identifying mark of the ballot paper issued to the elector. The corresponding number list used here is the version L1,<sup>78</sup> which is kept by the Returning Officer and is not the same as that to be sent to polling stations.
- A mark must be placed in the **postal voters list** (or the proxy postal voters list as the case may be) to indicate that a ballot paper has been issued to an elector, without showing the details of the particular ballot paper issued.
- The number of the postal ballot paper shall be marked on the postal voting statement sent with that ballot paper.
- The address to which the postal ballot pack should be sent is the address shown in the relevant postal voters list. In the case of a postal proxy, this is the address shown in the proxy postal voters list.

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<sup>78</sup> Where the election is combined with a parish or community council election, form M1 should be used.

**Figure 1: Postal votes issuing process**



## Record keeping

7.27 As postal voters are issued with their ballot paper and envelopes, the corresponding number list and the postal voters list (or the proxy postal voters list, as appropriate) need to be marked.

7.28 The corresponding number list records the details of which ballot paper is issued to which postal voter or proxy postal voter, along with the unique identifying mark applicable to each ballot paper. At the issue, the elector number must be marked on the list against the ballot paper number and its unique identifying mark. The corresponding number list is in effect the equivalent of the ballot paper counterfoils that used to be completed at the issue of postal ballot papers.

7.29 The corresponding number list relating to the ballot papers that have been issued must be sealed in a packet as soon as practicable after each issue of postal ballot papers, and can only be opened and inspected by the order of a court. New lists and associated packets are therefore required for each ward at every issue. It is suggested that the list is printed single sided and cut at the point where the last ballot paper was issued at any single issue of postal votes. The remaining corresponding number list can then be used at any further issuing sessions and for the issue of replacement postal ballot papers.

7.30 A mark should also be placed on the postal voters or proxy postal voters list as appropriate against the elector's name, to denote that a ballot paper has been issued to the elector or their proxy. As the postal votes are returned by voters, the Returning Officer will be required to mark the return of each postal voting statement on the postal voters and proxy postal voters lists, which will be used to confirm to electors and their proxies whether their postal vote has been received back during the election. After the election, the marked postal voters and proxy postal voters lists will be open for public inspection and made available for sale to the Electoral Commission, elected representatives, candidates, registered political parties and local constituency parties, police forces and government departments.<sup>79</sup>

7.31 For that reason, the marked postal voters list and proxy postal voters list should not be sealed in the appropriate packet until after the final opening of postal ballot papers has been completed, but must be kept secure until that time.<sup>80</sup> Separate packets should be made up for each ward.

7.32 Once the final opening of postal ballot papers is completed, the packets containing the marked postal voters and proxy postal voters lists should be sealed and stored in a secure place.

7.33 The marked postal voters and proxy postal voters lists may be held in electronic form. If this is the case, at the end of the process the electronic copy should be transferred to a physical form (such as burned onto a CD) and

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<sup>79</sup> Regulations 117 and 118, RPR 2001.

<sup>80</sup> Regulation 75, RPR 2001.

sealed into the packet. A paper copy of the marked lists should also be made and stored in the packet, ensuring that any damage caused during storage does not erase the lists.

## Despatch

7.34 The Returning Officer has a choice of three means for the delivery of postal ballot papers:<sup>81</sup>

- a universal service provider, within the meaning of the Postal Services Act 2000
- a commercial delivery firm
- staff appointed for the purposes of the election

7.35 If using a universal service provider or a commercial delivery firm for the delivery of postal votes, the number of envelopes must be counted and a receipt signed by those collecting the envelopes must be handed over to the Returning Officer.<sup>82</sup> Arrangements for the collection of postal votes being issued should be made in advance, with clear communication of the schedule for issuing.

7.36 If not delivering by hand using the Returning Officer's staff, postage must be pre-paid on the outgoing envelope, which is addressed to the postal voter, and postage must also be paid on all return envelopes, except where postal votes are being returned from outside the UK.<sup>83</sup>

7.37 Staff can be appointed by the Returning Officer to deliver the postal votes by hand. Staff appointed by the Electoral Registration Officer as canvassers may be suitable to deliver postal votes as they will be familiar with a particular area. Staff delivering postal votes may not be a suitable option in all types of area, and this will be for the Returning Officer to decide based on local circumstances.

7.38 Returning Officers may wish to identify local, non-local and non-UK ballot paper addresses and separate them out at issue, as they will require different delivery methods depending on their type.

7.39 **Postal votes to be delivered overseas.** Although overseas electors are not eligible to vote at local government elections, some electors who are resident in England or Wales may request that their postal vote be sent to an overseas address, for example if they are on holiday at the time of the election.

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<sup>81</sup> Regulation 76(1), RPR 2001.

<sup>82</sup> Regulation 76(2), RPR 2001.

<sup>83</sup> Regulation 76(3) and (4), RPR 2001.



If it is felt that it may not be realistic for a postal vote to be despatched, reach the voter and be returned to the Returning Officer before the close of poll, consideration should be given as to whether the elector should be advised to appoint a proxy as an alternative. It is, of course, the choice of the elector as to which method of voting they prefer, but it is good practice to advise the elector of the circumstances surrounding their choice.

It is good practice to send any postal votes that are to be delivered to overseas addresses via Air Mail as soon as possible after the eleventh working day before the poll. Liaison with Royal Mail about the higher cost of postage for sending items overseas via Air Mail is advisable. Return postage is not required to be included on the return envelope if the address provided by the elector is outside the UK.

**7.40 Local delivery** – If postal votes being sent to local addresses are to be delivered by a universal postal service provider or commercial delivery firm, outgoing postage will be required. Clearly, if the Returning Officer's staff are delivering postal votes, no outgoing postage will be required, although there will be a cost in staff fees and time. However, postage must still be pre-paid on the 'B' return envelope.

**7.41 Non-local delivery** – It is not feasible for the Returning Officer's staff to deliver postal votes to areas that are not in the local area. Therefore all non-local postal votes will require outgoing postage and will need to be delivered by a universal postal service provider or commercial delivery firm.

## Late issue of postal ballot packs

7.42 Occasionally envelopes, postal voting statements and ballot papers may be mismatched in packs, ballot papers may contain mistakes, or the additional information provided in the ballot pack may contain an error.

7.43 Returning Officers can correct procedural errors and they should attempt to rectify any such errors.<sup>84</sup> Although there is no direct provision to re-issue postal votes, the Commission believes that this power to rectify procedural errors can be read to encompass this process.

7.44 As the power is not defined and the intent is for the Returning Officer to actively correct any error they have made, the Commission considers that it would be appropriate to re-issue postal votes to correct an error where the Returning Officer considers it necessary to do so. The Returning Officer may decide to re-issue some or all of their postal votes depending on the circumstances: for example, if an error in collation affected a certain range of packs, only those packs may need to be re-issued.

7.45 The Returning Officer must be certain that any action will both rectify the error and not cause extra confusion or a different error. They should be confident that they know what went wrong and that their intended course of corrective action will be satisfactory.

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<sup>84</sup> Section 46, EAA.

7.46 When a postal vote has been re-issued the original must be cancelled and must not be allowed to go forward to the count.

7.47 Because of this, it may be appropriate when there are minor errors, such as when the additional instructions contain an error as to the number of candidates to select, to only re-issue to those who have requested a new postal vote after having received an offer of re-issue from the Returning Officer. If the decision is taken to re-issue to all postal voters in that area, those who were not present to receive the re-issued ballot could effectively be disenfranchised when their choice may be quite clear.

7.48 If the Returning Officer does decide that a re-issue is required and the error is one that may make the ballot paper or postal voting statement unusable, we advise that the Returning Officer re-issue the postal votes rather than simply offer to re-issue. Such circumstances may include having instructed the voter to mark an incorrect number of candidates on the top of the ballot paper itself, placing an emblem for the wrong party against a candidate on the ballot paper or omitting a candidate from the ballot paper.

7.49 Any actions taken in an attempt to rectify a procedural error should be made with the advice of legal counsel and carefully recorded.

## Late issue of postal ballot packs

7.50 The prescribed poll card for postal voters includes a date around which ballot papers will be sent out. The wording used clearly indicates that the date given is not a specific, guaranteed date but is the approximate date of issue, provided for the information of postal voters.

7.51 There is no prescribed last date for the issue of postal votes, although clearly the earlier they are distributed, the more opportunity electors have to complete and return their postal votes.

7.52 Returning Officers should keep a written record of their actions in order to show that they made every possible effort to ensure that postal ballot packs were despatched as soon as possible in the event of any question as to their running of the election.

## 8 Replacement postal votes

### Replacement of spoiled ballot papers<sup>85</sup>



An elector may apply for a replacement if they have spoiled **either** their ballot paper or their postal voting statement.

8.1 If a person spoils their postal ballot paper or postal voting statement, it is possible for them to obtain a replacement postal ballot pack if they follow the procedure below.

8.2 The spoiled ballot paper or spoiled postal voting statement should be returned to the Returning Officer, along with the remaining ballot paper, postal voting statement and return envelopes, regardless of whether or not they have been spoiled. A new postal ballot pack (ballot paper, postal voting statement and relevant envelopes) can then be issued to the elector.

8.3 Applications to apply for a replacement must be made to the Returning Officer by 5pm on polling day. Where an application is made before 5pm on the day before the poll, the Returning Officer may either hand a replacement postal ballot pack to the elector or cause it to be delivered to them. However, if the request for a replacement postal ballot pack is made after 5pm on the day before polling day, the replacement pack may only be handed to the elector.

8.4 Any returned spoiled ballot papers and postal voting statements have to be cancelled, and these documents should be sealed in a packet for spoiled postal ballot papers. The details of the returned spoiled ballot papers should be added to the list of spoiled postal ballot papers. This is an official document that records specified details where replacement papers have been issued, including to whom they have been issued.

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<sup>85</sup> Regulation 77, RPR 2001.

## Replacement of lost ballot papers<sup>86</sup>



Prior to issuing a replacement for a postal ballot pack that has been lost or not received by the voter, the Returning Officer should check whether the postal voting statement originally issued has been marked as having been returned on the postal voters list or proxy postal voters list, as appropriate. If the postal voting statement has been marked as returned, the Returning Officer must remove the postal voting statement from the receptacle for postal voting statements and the ballot paper from the postal voters ballot box.<sup>87</sup>

It should be recognised that, in some cases, the elector may simply have forgotten that they had completed and returned their postal vote, and therefore erroneously applied for a replacement postal vote. However, it is suggested that, prior to sealing the retrieved postal voting statement in a packet (see below), the Returning Officer should consider using their powers to conduct an additional personal identifier verification<sup>88</sup> and compare the signature and date of birth on the statement with those contained in the personal identifiers record. If they are significantly different, the Returning Officer may wish to report the matter to the police.

8.5 Where a voter claims either to have lost or not to have received their postal ballot paper, postal voting statement or return envelopes, it is possible for a replacement postal ballot pack to be issued if the voter follows the procedure below.



Note that the description 'lost' includes a situation where a voter has themselves lost their ballot paper, postal voting statement or envelopes after receiving them from the Returning Officer, in addition to the situation where a voter claims not to have received their postal ballot pack.

As postal voters may now request, at any time after the issue of postal ballot papers and before the close of poll, confirmation as to whether their postal voting statement has been marked as having been returned on the postal voters list or proxy postal voters list as appropriate, electors who make such enquiries and are advised that their postal voting statement has not been received could potentially make a request to be issued with a replacement postal ballot pack. The Commission's view, however, is that the definition of 'lost' does not include the situation where the voter advises the Returning Officer that they have posted or otherwise returned their postal ballot pack, but the Returning Officer has not received it.

8.6 A voter can apply for a replacement postal ballot pack between the fourth day before polling day and 5pm on polling day. The application must include details of the voter's identity. If the voter still has the postal ballot

<sup>86</sup> Regulation 78, RPR 2001.

<sup>87</sup> Regulation 86A, RPR 2001.

<sup>88</sup> Regulation 85B, RPR 2001.

paper, postal voting statement and/or return envelopes, they must also return these.

8.7 Where an application is made before 5pm on the day before the poll, the Returning Officer may either hand a replacement postal ballot pack to the elector or cause it to be delivered to them. However, if the request for a replacement is made after 5pm on the day before polling day, the replacement pack may only be handed to the elector.

8.8 In the case where an elector has lost any part of their postal ballot pack themselves, they must return the remaining part to the Returning Officer when applying for a replacement. The Returning Officer must cancel these documents and make them up into a separate, sealed packet. This packet can subsequently be opened and additional cancelled documents added, if necessary.

8.9 A list of lost postal ballot papers is required to be completed by the Returning Officer to show details where replacements have been issued.

8.10 The Returning Officer must be satisfied as to the voter's identity and have no reason to doubt that the postal voter has either lost or did not receive the original postal ballot paper. Returning Officers will take their own view as to what they require in the way of identification in order to be satisfied as to the voter's identity. However, we have included some considerations and recommendations regarding proof of identity below.

### Proof of identity

8.11 Returning Officers will wish to balance the effort required to satisfy themselves of an elector's identity with the proper administration of the election process. In seeking proof of identity, Returning Officers should bear in mind that no proof of identity is required for electoral registration or to vote in person at a polling station. A balanced approach should be adopted that seeks to use some proof of identity that can be easily verified by election staff but that is not too onerous for the elector.

8.12 It is common practice for voters to contact the electoral services office by telephone to enquire about a replacement ballot paper if their postal ballot has failed to arrive. This is when election staff should advise about the procedure and what, if any, proof of identity will need to be produced before a replacement postal ballot pack will be issued.

8.13 Returning Officers may wish to be guided by the following in preparing an appropriate procedure for satisfying themselves as to the identity of an elector requesting a replacement postal ballot pack.

#### **Recommendation 1**

8.14 One primary proof of identity should be provided for the issue of a replacement postal ballot pack. This should be an official document that includes a photograph of the elector, together with the elector's name. The two most secure examples are:

- full, valid, current passport
- photocard driving licence

8.15 Other documents may be acceptable as a primary proof, as long as they have a sealed photograph. These may include:

- local bus pass
- student card issued by a recognised higher education body
- identity card issued by a recognised local employer

8.16 Some electors may have a good reason for being unable to produce one of these proofs of identity, for example those from a culture that precludes photographic images. In these circumstances, it is recommended that two examples drawn from the list of secondary proofs of identity (as set out below) should be provided.

### **Recommendation 2**

8.17 If the Returning Officer is still in any doubt about the identity of an elector requesting a replacement postal ballot pack, a secondary proof of identity could be sought. Secondary proofs of identity are much less secure than primary ones. Two secondary proofs of identity may also be requested if the elector cannot produce a primary proof.

8.18 Secondary proofs of identity may include:

- full driving licence (without photograph)
- council tax payment book or recent council tax bill
- council or social landlord rent book
- recent rent receipts or tenancy agreement
- allowance/benefits/pension book issued by the Department for Work and Pensions
- cheque book/cheque card/National Savings book
- recent bank/building society statement (not a store card statement)
- recent utility bill (two different ones are preferred – not a mobile phone bill)
- P45
- correspondence from a government department
- identity card issued by a member state of the European Union/European Economic Area, travel documents issued by the Home Office, certificate of naturalisation or registration
- letter (attested statement) from a responsible person such as a solicitor, doctor, minister of religion, teacher, hostel manager, social worker, district nurse, midwife or other responsible person, which says they know the elector and can confirm their name and address – some Returning Officers might include the elector's landlord or tenant in this category, and possibly stipulate that they must be on the electoral register
- National Health Service medical card or National Insurance card
- birth/adoption/marriage/divorce/deed poll or statutory declaration certificates (these are not considered very secure and should preferably have been issued within six months of the event to which they relate and not be replacements)

8.19 The following factors may also be worth considering:

- For added security, originals, not photocopies, of the proof of identity should be produced.
- The evidence provided by the voter should show a clear link between the name on the identifying document and the current entry on the electoral register.
- Birth certificates are not absolute proof of identity and so the voter may be asked to provide additional evidence to allow their identity to be checked.
- Where utility bills or bank statements are provided, it would be safer to ask for more than one, or at least a recent one (within the last three months).
- Cheque, bank or credit cards should be checked against the voter's signature.
- Before an attestation is sought, the voter should be advised that some signatories may charge a fee for the service.
- The Returning Officer should state that any proofs of identity will not be retained and that the documents will be treated confidentially.

### Tendered ballot papers

8.20 Electors marked as absent voters but who attend at the polling station after 5pm on polling day and claim that they have lost or not received their postal ballot papers can now be issued with a tendered ballot paper on satisfactorily answering the prescribed questions.<sup>89</sup>

8.21 If, however, an elector presents themselves at a polling station before 5pm on polling day, the elector should be encouraged to apply to the Returning Officer's office to have a replacement postal ballot pack issued. Tendered ballot papers cannot be issued to such electors until after the deadline to apply for replacement postal ballot packs has passed.

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<sup>89</sup> Rules 38 and 39, LEPAR 2006.

## 9 Receipt, opening and storage of postal votes

### Receipt of postal votes

9.1 A postal ballot paper or a postal voting statement may be returned separately to the Returning Officer by post or by hand to their offices, or by hand only to any polling station in the ward, before the close of poll.<sup>90</sup>

9.2 The postal ballot paper and/or the postal voting statement do not have to be returned in the covering envelope issued to the voter – the voter may use their own envelope.

9.3 Once the Returning Officer receives postal ballot papers, they should be secured in a 'postal voters ballot box'.<sup>91</sup> This box should be stored in a secure location until the opening of postal ballot papers.

### Security of postal ballots received

9.4 All postal ballots received either at the Returning Officer's office or at polling stations on polling day should be securely stored in an appropriate receptacle.

9.5 As soon as the Returning Officer receives covering envelopes or any other envelope purporting to contain a postal ballot paper, these should be stored in a postal voters ballot box, marked with the words 'postal voters ballot box' and the name of the electoral area.<sup>92</sup> All postal voters ballot boxes should be capable of being locked and sealed to ensure the security of the contents, and should be stored in a secure place until the next scheduled opening of postal votes.

9.6 Returning Officers may wish to designate an officer to ensure that all postal votes returned to the electoral services office before the close of poll are taken securely to the count. Returning Officers should take every precaution to transport postal ballots securely to the opening and count venues, particularly if these are not in the same building as the electoral services office.

9.7 The priority for postal ballots delivered to polling stations is to ensure that they are stored securely and out of the reach of voters. Returning Officers should emphasise to Presiding Officers the importance of maintaining the security of the postal ballots handed in, as they would with regard to the ballot box and other election documents.

9.8 In polling stations, the recommended practice is to have a packet clearly labelled as containing postal ballots returned by hand to the polling station, marked with the number of the polling station. Ensure that the size of the packet (or packets) is adequate to take a large number of postal ballots in

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<sup>90</sup> Rule 45(3) and (4), LEPAR 2006.

<sup>91</sup> Regulations 81 and 82, RPR 2001.

<sup>92</sup> Regulation 81, RPR 2001.

case more are received in this way than has previously been the case. Whatever the size or nature of the packet, it must be capable of being properly sealed and secured when postal votes are collected by the Returning Officer or transmitted to the appropriate venue at the close of poll. It is good practice to supply more than one packet to the Presiding Officer so that if the Returning Officer collects postal ballots from the polling station during polling day, the postal votes already received can be transmitted in one packet and the Presiding Officer still retains a packet for any further postal ballots handed in at the polling station before the close of poll.

9.9 An added security measure, which would also assist at the count, would be to ask Presiding Officers to record the number of postal vote envelopes handed in at the polling station and to include this on a suitable form that could be inserted and sealed in the packet when collected by the Returning Officer or delivered to them at the close of poll. As a further security measure, Presiding Officers could also be asked to keep a record of the number inserted in each packet returned to the Returning Officer for audit purposes, in order to confirm that the packet has not been tampered with and the number of postal ballots contained within it changed.

9.10 The receipt of all packets containing postal ballot papers should be recorded on their arrival at the venue where they are to be opened after the close of poll.

## Recording and evidencing actions



Recording the receipt and movement of postal ballots is crucial. It is advisable to have a schedule recording the totals of postal votes received at the Returning Officer's office and placed in a postal voters ballot box, and the subsequent movement of those boxes to opening and count venues. Returning Officers may wish to include in this record whether the covering envelopes were hand delivered by voters and to which location, or received from Royal Mail. Ensure that there is a clear audit trail.

9.11 Returning Officers may wish to provide Presiding Officers with a form on which to record the details of electors who attend at a polling station and are marked as being absent voters but who claim not to have applied for a postal or proxy vote. Recording the name, address and elector number of such electors should enable the Electoral Registration Officer to write to those people after the election and could also provide invaluable evidence in any police investigation. An example log is available to download from the Commission's website.



Where an elector or their proxy attends at the polling station and is marked as having been issued with a postal ballot paper on both the register of electors and the postal or proxy postal voters list but claims never to have applied to vote by post, they may be issued with a tendered ballot paper at the polling station.<sup>93</sup>

However, if they present at the polling station before 5pm, the elector could be directed to the Returning Officer's office to apply to the Returning Officer for a replacement postal ballot pack if they either did not receive one or did but have now lost it.

If the elector cannot or does not want to make arrangements for a replacement postal ballot pack to be issued, the Presiding Officer should ask the prescribed questions and, on these being answered satisfactorily, issue a tendered ballot paper.

If such an elector has received a postal ballot pack, they should be encouraged to return it in person to either the polling station or the Returning Officer's office.

## The opening process

9.12 Returning Officers will need to consider the frequency and timing of opening sessions of postal votes. In addition to determining what will be necessary in order to carry out the personal identifier verification efficiently and effectively, the requirement to be able to respond to electors requesting confirmation as to whether their postal voting statement has been marked as having been received back should also be considered.

### Persons present at opening

9.13 Candidates, election agents, agents appointed specifically for the purpose of observing the opening of postal votes, representatives of the Electoral Commission and any observers accredited by the Commission are entitled to attend opening sessions.<sup>94</sup> The postal voters ballot boxes must be opened in the presence of any of these persons in attendance at the opening session.<sup>95</sup> Returning Officers might consider inviting the police to attend where their attendance could be deemed to be of value.

### Notification of time of opening

9.14 The Returning Officer must give at least 48 hours' notice of each opening session to each candidate, which should specify the time and place of the opening and the number of agents a candidate may appoint to attend each opening.<sup>96</sup>

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<sup>93</sup> Rule 38(2), LEPAR 2006.

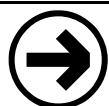
<sup>94</sup> Regulation 68, RPR 2001.

<sup>95</sup> Regulation 83(1), RPR 2001.

<sup>96</sup> Regulation 80, RPR 2001.

## Notification of secrecy requirements

9.15 The Returning Officer must ensure that every person attending at the opening of postal votes is given a copy of the secrecy requirements contained in Section 66(4) and (6) of the RPA 1983.<sup>97</sup>



A copy of the secrecy requirements is supplied in Section 11, 'Resources'.

## Postal ballot boxes

9.16 Two types of ballot box are required: the postal voters ballot box and the postal ballot box.

9.17 The postal voters ballot box is used to keep the covering envelopes returned by post or by hand. Any ballot papers and postal voting statements that are delivered separately should also be placed in the postal voters ballot box. The returned postal votes should be sorted by ward before being placed in the appropriate postal voters ballot box for that particular electoral area. It may be appropriate to record the total number of envelopes received on a daily basis: this could then be checked against at the opening when the number of envelopes will be counted officially, and could also assist in producing statistics of the rate of return of postal votes in order to help guide the arrangement of opening sessions.

9.18 Postal ballot boxes, each marked with the words 'postal ballot box' and the name of the electoral area, should be provided at each opening of the postal voters ballot box. The postal ballot boxes will be used to store the valid postal ballot papers from each opening of the postal voters ballot box and the subsequent opening of the returned covering envelopes. The postal ballot boxes should be sealed and stored securely until the count.

9.19 As the postal ballot boxes are the first boxes to be opened and verified at the count, it is particularly important that the number on the ballot paper account for these boxes is accurate, as a correctly verified set of postal ballot boxes will create confidence at the beginning of the count process.

## Opening the postal voters ballot box

9.20 When the postal voters ballot box is opened, the first step is for the Returning Officer's staff to count and record the number of covering envelopes.<sup>98</sup> The Returning Officer must then set aside a minimum of 20% of the envelopes in each postal voters ballot box for personal identifier verification.<sup>99</sup> The total numbers received and put forward for personal

<sup>97</sup> Regulation 70, RPR 2001.

<sup>98</sup> Regulation 84(1), RPR 2001.

<sup>99</sup> Regulation 84(1A), RPR 2001.

identifier verification will need to be recorded for the Form K – statement as to postal ballot papers – which is completed at the end of the election.



The Commission strongly believes that 100% personal identifier verification is preferred and would represent good practice, as it results in every postal ballot being treated equally, and results in one administrative process for all postal ballots rather than two separate processes being operated side by side.

If the Returning Officer decides to check less than 100% of postal voting statements at each opening session, it is important that those set aside for personal identifier verification are kept separate from those that are not going to be subject to the more detailed check. Statements that are going to be checked need to be independently accounted for and sealed in packets separate from those that do not have the personal identifier verification undertaken. However, the same basic opening process applies to all postal votes.

The Returning Officer may choose to check more than 20% but less than 100% of the postal voting statements at this stage. If a different sample is selected, it is suggested that the Returning Officer should explain to candidates and agents, as well as to any representatives of the Commission or accredited observers present, what the sample selected is and how that sample size was arrived at.

Where a Returning Officer has made the decision to check the minimum 20% or a sample of between 20% and 100% of postal voting statements at each opening, the regulations provide a power to go back and verify the identifiers on any or all of the postal voting statements from previous opening sessions that were not originally subject to the verification check of identifiers.<sup>100</sup> This power should be exercised at the Returning Officer's discretion, and reasonably and consistently. This could be complicated from an administrative perspective, as Returning Officers will need to retrieve any ballot papers now deemed invalid as a result of the additional verification. Again, the Returning Officer should explain to candidates and agents, as well as to any representatives of the Commission or accredited observers present, why the sample size has been increased.

9.21 Each covering envelope should be opened. On occasions, not all parts of the postal ballot pack will have been returned or placed in the correct envelope:

- If the covering envelope contains a postal voting statement and either a ballot paper envelope or a ballot paper without the envelope, the postal voting statement should be handled as in 'Checking the postal voting statement and verification of personal identifiers', below, in order to check whether it is valid. The receipt of the postal voting statement should be marked on the postal voters list (or proxy postal voters list as the case may be).

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<sup>100</sup> Regulation 85B, RPR 2001.

- If no postal voting statement is visible but there is a ballot paper envelope, the envelope should be opened to see whether or not the postal voting statement is inside. If it is, it can again be handled as in 'Checking the postal voting statement and verification of personal identifiers', below.
- If the covering envelope contains a postal voting statement but no ballot paper envelope or ballot paper, the receipt of the postal voting statement should still be marked on the postal voters list (or proxy postal voters list as the case may be). The contents should then be returned to the envelope, which should be marked 'provisionally rejected' and placed in the receptacle for rejected votes (please note that there is no receptacle for provisionally rejected votes).
- If the covering envelope contains a ballot paper but no postal voting statement, the contents should be returned to the envelope, which should be marked 'provisionally rejected' and placed in the receptacle for rejected votes.

### Marking the postal voters list and the proxy postal voters list<sup>101</sup>

9.22 Where a postal voting statement is returned, regardless of whether or not it is accompanied by a ballot paper, the Returning Officer is required to place a mark in the postal voters list or, as appropriate, in the proxy postal voters list to confirm that it has been received back.

### Checking the postal voting statement and verification of personal identifiers<sup>102</sup>

 Candidates, agents, representatives of the Electoral Commission and accredited observers are permitted to oversee all aspects of the opening process, including the checking of the postal voting statements for validity and the verification of personal identifiers. These attendees are also able to see the personal identifiers record which is being used for comparison with the identifiers given on the postal voting statement.<sup>103</sup> Where electronic systems are being used, it should be noted that those attending, including observers, do not have the right to 'try' any scanners or software being used.

9.23 The postal voting statement must be checked for validity. It should have:

- a signature in the space provided for the voter to sign, and
- the voter's date of birth

9.24 It should be noted that in the case of electors for whom a waiver has been granted, the postal voting statement will not contain the section asking for a signature and the signature box. Postal vote opening staff should be given clear instructions on the process to follow when they find such a

<sup>101</sup> Regulation 84(7), RPR 2001.

<sup>102</sup> Regulations 84, 85 and 85A, RPR 2001.


<sup>103</sup> Regulation 61B(3), RPR 2001.

statement, and told that in such an instance they should be looking for a date of birth only.

9.25 Additionally, in the case of postal voting statements that have been set aside for personal identifier verification, the signature and date of birth must be compared against those held on the personal identifiers record. The Returning Officer must, as part of their requirement to check that the postal voting statement is duly completed:

- correlate the ballot paper number shown on the postal voting statement with the ballot paper number on the corresponding number list, so as to determine to whom the postal ballot paper was addressed
- compare the signature on the postal voting statement with that on the personal identifiers record relating to the person to whom the postal ballot paper was addressed
- compare the date of birth on the postal voting statement with that on the personal identifiers record relating to the person to whom the postal ballot paper was addressed

9.26 It should be noted that this level of checking means that each elector needs to complete their own statement: there is no provision permitting the matching of a completed statement with identifiers provided by others in the same household.

 It is essential that Returning Officers include the elector's name on the postal voting statement as prescribed, in order to minimise the potential for family members to sign one another's postal voting statements in error.

9.27 Where the Returning Officer determines that a postal voting statement is invalid:

- either because a signature or date of birth is missing
- or, in the case of those set aside for personal identifier verification, because the signature or date of birth supplied on the postal voting statement does not match that on the personal identifiers record,

the postal voting statement should be attached to the relevant ballot paper or ballot paper envelope, endorsed 'rejected', shown to any agents present and then placed in the receptacle for rejected votes. The agents present are also permitted to view the entries in the personal identifiers record. If any agent objects to the decision to reject, the words 'rejection objected to' should be added.

9.28 If the postal voting statement is valid and is accompanied by a ballot paper envelope, the number on the statement should be compared with the number on the ballot paper envelope. If they match, each should be placed in the appropriate receptacle (that is, those for postal voting statements and for ballot paper envelopes). If they do not match, the ballot paper envelope

should be opened and any ballot paper dealt with in accordance with the following:

- If the postal voting statement is valid and is accompanied by a ballot paper (either because the voter sent no envelope or because the envelope has been opened), the number on the statement should be compared with the number on the ballot paper:
  - If they match, they should be placed, respectively, in the receptacle for postal voting statements and the postal ballot box.
  - If they do not match, the ballot paper with its postal voting statement attached should be marked 'provisionally rejected' and placed in the receptacle for rejected votes.

9.29 If a covering envelope contains a postal voting statement but no related ballot paper or ballot paper envelope, the postal voting statement must be marked 'provisionally rejected' and placed in the receptacle for rejected votes.

9.30 The secrecy of the ballot should be considered throughout this process and staff should be directed to ensure as far as possible that the elector's vote cannot be matched to their details.



Where a postal ballot is rejected because the personal identifiers on the postal voting statement do not match those held in the personal identifiers record, the Returning Officer should consider referring the matter to the police.

It may be helpful to discuss the process to be followed with the police in advance. This can help to identify what, if anything, Electoral Registration Officers should do before referring the matter to the police.

## Verification of personal identifiers

9.31 In determining the validity of postal voting statements, the Returning Officer 'must satisfy himself that the postal voting statement is duly completed and as part of that process must compare the date of birth and the signature on the postal voting statement against the date of birth and the signature contained in the personal identifier record'.<sup>104</sup>

9.32 Neither the signature or the date of birth are more important than each other in deciding if a postal voting statement has been duly completed – both **must** be provided and both **must** match.<sup>105</sup> Neither identifier takes precedence over the other.

9.33 If the current date is given on the statement, it is clear that it is not the elector's date of birth and should not be deemed as duly completed because there is no match. Similarly, if it appears that the incorrect date of birth was entered on the record from the application phase, for example the date of

<sup>104</sup> Regulation 85A(2), RPR 2001.

<sup>105</sup> Regulation 85A(2), RPR 2001.

signing the application has been entered instead of the date of birth, this will not match the actual date of birth given on the postal voting statement and must be rejected.

9.34 Forensic experts from the Forensic Science Service along with the Commission's own staff have developed some guidance with regard to manual checking of signatures and that provides some background to the way electors may write signatures on postal voting statements. This guidance was initially provided in Circular EC21(2007) and has been replicated in Section 11, 'Resources'.

9.35 The Commission's view is that if the Returning Officer is satisfied that a statement was duly completed then it can be accepted. It is clear that signatures do not have to be identical but need only 'satisfy' the Returning Officer. The Returning Officer is not necessarily confined to making the determination on the two signatures and two dates of birth. The legislation allows the judging of the signature and date of birth as 'part' of the determination, but the use of the word 'part' means that other sources can also be used. It would be acceptable to include any additional information a Returning Officer has in making their decision, although complete absence of a signature (where the elector has not been previously granted a waiver) or a date of birth in all cases must lead to an unsatisfactory statement and rejection.

9.36 Any judgment to reject a postal voting statement should be made on its merits and on an individual case basis.

### Actions to be taken once the decision to reject is made

9.37 Where the decision has been taken to reject, the postal voting statement should be:

- marked 'rejected'
- entered on the list of rejected postal ballot papers
- attached to the ballot paper envelope (or ballot paper if there is no envelope)
- placed in the receptacle for rejected votes

9.38 Candidates and agents have the right to view rejected postal voting statements but, as with all electoral processes, they should not handle documents. If they object to a rejection, the postal voting statement should be marked 'rejection objected to' before being attached to the ballot paper envelope and placed in the receptacle for rejected votes. Unlike candidates and agents, observers have no right to object to the rejection of a postal voting statement.

## Opening the postal ballot paper envelopes<sup>106</sup>

9.39 The Returning Officer must open separately, with the postal voting statements having been sealed away, the remaining ballot paper envelopes that have been placed in the receptacle for ballot paper envelopes and deal with their contents:

- A ballot paper whose number matches that on the envelope goes in the appropriate postal ballot box.
- A ballot paper whose number does not agree with that on the envelope should be attached to its envelope, marked 'provisionally rejected' and put in the receptacle for rejected votes.
- Any ballot paper envelope that does not contain a ballot paper or does not contain the ballot paper corresponding to the number on the envelope should be marked 'provisionally rejected' and put in the receptacle for rejected ballot paper envelopes.



Ballot papers must be kept **face down** throughout the opening process.<sup>107</sup>

9.40 Even though the Returning Officer is required to keep the ballot papers face down, there may be occasions when candidates and agents see the front of a ballot paper. However, anyone attending the opening of postal votes, which includes staff working at the opening session, is not permitted to reveal any information regarding the votes cast on any particular ballot paper and must maintain the secrecy of voting.<sup>108</sup>

9.41 Anyone attending a postal vote opening session must be provided with a copy of the relevant secrecy requirements. They should be reminded of these requirements and of the penalty, on summary conviction, of either a fine of £5,000 or six months' imprisonment.<sup>109</sup>

## Matching up separated documents

9.42 Two separate lists of rejected postal ballot papers must be kept:<sup>110</sup>

- a list of ballot paper numbers for ballot papers received without valid postal voting statements
- a list of ballot paper numbers for valid postal voting statements received without ballot papers

9.43 At any time before the close of poll, the Returning Officer may check these two lists and, if the missing postal voting statement or ballot paper is

<sup>106</sup> Regulation 86, RPR 2001.

<sup>107</sup> Regulation 84(6), RPR 2001.

<sup>108</sup> Section 66(4), RPA 1983.

<sup>109</sup> Section 66(6), RPA 1983.

<sup>110</sup> Regulation 87, RPR 2001.

delivered to the Returning Officer, the list must be amended accordingly. Any document previously marked 'provisionally rejected' should be treated as though it had never been so marked and should be amended accordingly. The ballot paper can then be included in the count and should be placed in the correct postal ballot box, and the postal voting statement should be placed in the appropriate envelope. After the final opening session held before the close of poll, the two lists must be taken to the count centre or other venue where the opening of postal votes handed in at polling stations is to be carried out in order to match any ballot papers/postal voting statements that have been returned in this way.

9.44 Once the final opening has finished, the Returning Officer must make a final check of the two lists and match up any postal voting statements and ballot papers that are valid but unmatched.<sup>111</sup>

## Postal voting statements and the matching process

9.45 Returning Officers should ensure that all stages of the receipt and opening of postal ballots are recorded. In particular, they must maintain the two lists of rejected postal ballot papers for each ward as described above. Listing of a postal voting statement or ballot paper should take place during the opening as soon as they are identified and marked as being 'provisionally rejected' for want of the accompanying documentation. This can be an onerous process if levels of postal voting are high and so appropriately skilled or trained staff should be used. Returning Officers may find the Excel spreadsheet system used by one local authority a useful method, and an example of this is available to download from the Commission's website.

9.46 At the end of each opening, the lists should be kept securely until the next opening or the count, as appropriate. It might also be prudent to print off a copy of the record as it exists at the end of each opening session. Once documents are matched, this should be recorded on the lists to provide a record of actions taken, rather than striking through the relevant numbers or removing them from the list.



The introduction of the personal identifier verification requirement has led to the development of a number of electronic scanning and checking systems. Returning Officers are reminded that the regulations are clear about the opening process and that the use of technology does not mean that the processes outlined above can be dispensed with in any way.

## Retrieval of cancelled postal votes<sup>112</sup>

9.47 Postal ballot papers that have been cancelled must be retrieved from the postal ballot box and the accompanying postal voting statement removed from the relevant packet. There may be instances where the Returning Officer

<sup>111</sup> Regulation 88, RPR 2001.

<sup>112</sup> Regulation 86A, RPR 2001.

determines that a postal ballot paper is no longer valid (e.g. because an elector claims never to have received their postal ballot paper, but the paper issued to them has been returned as completed) and needs to remove that postal ballot paper before the count commences.

9.48 Where a postal vote has not yet been opened, the Returning Officer is permitted to remove the unopened 'A' envelope containing the postal voting statement and the ballot paper when the appropriate postal voters ballot box is opened. The unopened 'A' envelope and the postal voting statement should then be cancelled and sealed in the packet for spoilt postal ballot papers.

9.49 Where a postal vote has been opened and the ballot paper placed in the appropriate postal ballot box, the Returning Officer shall retrieve the postal voting statement from the appropriate packet and open the postal ballot box to retrieve the relevant ballot paper. The postal ballot box should then be immediately re-sealed. The ballot paper and the postal voting statement should then be cancelled and sealed in the packet for spoilt postal ballot papers.

9.50 In all cases, the retrieval of postal votes and their accompanying postal voting statements should be done in full view of any candidates, agents, representatives of the Commission or accredited observers present at the opening session, and the agents should be shown the ballot paper numbers of any cancelled papers. However, the ballot papers must be kept **face down** throughout the retrieval process in order to prevent any persons present from seeing how such votes had been cast.

9.51 To aid the retrieval of ballot papers from the large numbers of returned ballot papers, it may be appropriate to organise a system of batching ballot papers.

## 10 Postal votes to be included in the count

### Receipt of postal ballot papers delivered to the polling station

10.1 Postal ballot papers and/or postal voting statements that have been delivered to polling stations can be delivered to the Returning Officer at the close of poll in the envelopes allocated for the purpose at the same time as delivery of the ballot box and other packets.



Returning Officers are also permitted to collect any postal ballot papers or postal voting statements that have been delivered to a polling station throughout polling day. In this case, the Presiding Officer should seal the postal ballots into a packet and attending polling agents may also add their own seal.

### Opening and verification of postal ballot papers that have been delivered to polling stations

10.2 Those postal ballot papers that have been delivered to polling stations must be opened and their postal voting statements checked before they can go forward to the count.


10.3 If postal votes are delivered to the Returning Officer during polling day or postal votes handed in at polling stations are collected by the Returning Officer during polling day, they can be opened at a separate opening session before the count, not forgetting that a minimum of 20% of each postal voters ballot box must be set aside for personal identifier verification at each opening.

10.4 However, it is likely that there will still be some postal votes handed in at polling stations that will be delivered directly to the count by Presiding Officers. Provisions can be put in place to speed up the receipt and opening of postal votes at the count, so that if a large number of postal votes are handed in at polling stations the opening and verification process of these postal votes does not slow down the whole count.

10.5 Good practice points for managing this process are as follows:

- The packet/envelope containing postal votes from polling stations should be handed in separately from other packets at the ballot box reception area of the count venue. This will enable the postal votes to be sent immediately for opening and will obviate the need to search for them.
- Have a dedicated team comprising an experienced supervisor and staff to open postal votes at the count. These staff should be trained in the opening process.
- Have a reserve of staff available to move on to opening postal votes if the number coming in to the count from polling stations is greater than expected.


- Complete the matching process. All provisionally rejected ballot papers and postal voting statements from earlier opening sessions must be taken to the count.

 The Returning Officer must set aside a minimum of 20% of the envelopes received at the close of poll from the polling stations for personal identifier verification, and undertake the signature and date of birth check against the personal identifiers record. Consideration will need to be given as to how these checks will be undertaken following the close of poll, particularly if the counting of votes is to commence immediately after 10pm.

10.6 If the Returning Officer is undertaking the verification by hand, sufficient trained staff will need to be available, as will the full copy of the personal identifiers record. If the verification is to be automated, it is essential that the process is checked well in advance of polling day in order to ensure that the automated system will work when required, and that contingency plans are robust enough to cope should the system fail for any reason.

10.7 Once the postal ballot papers have been verified at stage one of the count, they must be mixed with ballot papers from a polling station ballot box before the votes given on these ballot papers can be counted.<sup>113</sup>

## Form K – statement as to postal ballot papers

 The Returning Officer must complete Form K – statement as to postal ballot papers – for each ward and send a copy to the Electoral Commission and the Secretary of State between 10 and 15 days after polling day.

Details for the return of Form K to the Commission will be provided by circular in advance of the election.

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<sup>113</sup> Rule 45(2), LEPAR 2006.

# 11 Resources

## Notification of secrecy requirements

### **Section 66, Representation of the People Act 1983**

[ ... ]

(4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not –

(a) except for some purposes authorised by law, communicate, before the poll is closed, to any person any information obtained at these proceedings as to the official mark; or

(b) except for some purpose authorised by law, communicate to any person at any time any information obtained at these proceedings as to the number or other unique identifying mark on the back of the ballot paper sent to any person; or

(c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper; or

(d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtain at these proceedings.

[ ... ]

(6) If a person acts in contravention of this section he shall be liable on summary conviction [to a fine not exceeding level 5 on the standard scale or] to imprisonment for a term not exceeding 6 months.

## Instructions to temporary staff involved in the receipt and checking of absent vote application forms

- 1** In order to meet the statutory deadlines and ensure that all postal ballot papers are sent to the correct address, it is vital that all application forms are checked in detail and any questions are referred to your supervisor. Please do not assume anything.
- 2** On receipt, all application forms should be date stamped and have the time of receipt added if this is critical. The deadlines for receipt are 5pm, 11 working days before the date of the poll for postal vote applications and 5pm, six working days before the poll for new applications to vote by proxy.
- 3** Check that the elector is included in the register at the address shown on the form or that they have applied to register to vote at that address and the application has not been suspended or rejected. If shown, the electoral letters and numbers can be written on the form straight away. If not shown on the register, it is possible that the 'ballot paper address' shown in a different part of the form is actually the elector's qualifying address. Check, and if this is the case, accept the form. It is good practice to do so, as to reject it simply because the address is in the wrong place on the form would be an unnecessarily rigid application of the legislation.
- 4** If the elector's surname differs from that shown in the register, but the forenames are the same, it is most likely that the surname has changed since the register was revised (for example, by marriage or deed poll). It is good practice to make a telephone call to the applicant to verify the change of name and to note the result of the call on the application form. If you are unable to contact the elector by phone, make contact by letter. An application to register under their new name should also be sent so that the register can be altered.
- 5** If the elector's forenames are shown only by initials and not in full, this should be checked with the elector by telephone. Again, the result of the call should be noted on the application form, and if you are unable to contact the elector by phone, make contact by letter.
- 6** If the application is for a proxy vote, check for the reason and attestation if required. If it is either not attested or not properly attested, it must be rejected. Inform the elector by letter and also by phone if possible in order to arrange for a new application to be sent.
- 7** Check the 'ballot paper address'. A reason should be supplied if an elector wants their ballot paper sent to a different address to their registered address. If no reason is supplied, then the application must be rejected. Inform the elector by letter. If you are not sure whether the reason is valid, ask your supervisor.
- 8** Although ballot papers can be sent abroad, the elector often has little or no understanding of the timescales around the printing and issue of postal votes. Good practice would suggest a telephone call to confirm their

understanding that there cannot be a guarantee that their ballot papers would reach a foreign destination in time to be completed and returned by polling day, and to inform the elector of the alternative process of voting by proxy.

**9** If no 'ballot paper address' is shown, it is reasonable to assume that the elector wishes the ballot paper to be sent to the qualifying address, and to allow the application on that basis.

**10** Check that the details of the proxy (if applicable) are properly and clearly completed, and that the proxy has indicated assent to being appointed as proxy by signing and dating the appropriate boxes, or that the elector has stated that the proxy is willing and able to vote on their behalf.

**11** Occasionally, application forms are received showing both a ballot paper address and the name and address of a proxy, including the proxy's assent. This usually results from the elector failing to understand the difference between a postal and a proxy vote, and simply filling in all the boxes. Very occasionally, this 'double entry' can be the elector's way of telling the Electoral Registration Officer that the proxy wishes to vote by post. Forms completed in this way must always be referred to your supervisor, who will make contact with the elector by telephone or letter and take the appropriate action, depending upon the information received.

**12** Forms that are not signed, do not provide the elector's date of birth and/or have not been dated must be returned to the elector. Inform the elector by letter. However, any application that is unsigned but is accompanied by a statement giving reasons as to why the elector could not sign it and also providing the name and address of the person who assisted the elector in completing the application should be passed to your supervisor.

**13** Check that the elector has indicated how long they wish their absent vote to last and the type of elections they wish their absent vote to be for; if not, this should be checked with the elector by telephone. Again, the result of the call should be noted on the application form. If you are unable to contact the elector by phone, contact them by letter.

**14** Once all the processing of application forms has been completed, divide the forms into four piles:

- (a) those forms that have queries not capable of resolution by telephone;
- (b) those forms that are applications for a postal vote for an indefinite/definite period;
- (c) those forms that are applications for a proxy vote for an indefinite/definite period;
- (d) those forms that are either postal or proxy vote applications for a particular election.

**15** Taking each pile in turn, enter the details into the computer system and generate the appropriate letter as necessary.

- 16** The letters relating to applications in category (a) above must be processed first, and the letters posted by first class post that day.
- 17** Where a proxy vote application has been allowed, you must inform the elector by letter and send a separate notice to the proxy. Where a postal vote application has been allowed or rejected, you must inform the elector by letter.
- 18** File the forms in category (a) on the queries file in polling district/alphabetical surname order.
- 19** File the forms in category (b) and (c) in the appropriate polling district folder in order of elector number.
- 20** File the forms in category (d) in the temporary file in polling district/alphabetical surname order.
- 21** Forms for a particular election received after the closing date/time must be refused. Inform the elector by letter.
- 22** Forms for an indefinite/definite period received after the deadline for a particular election can be accepted for future elections. Inform the elector by letter.
- 23** The aim is to complete processing of all forms within the working day on which they are received, and your supervisor will give instructions for the allocation of work among staff in order to achieve this.

# Checking signatures at postal vote openings

## Introduction

This guidance aims to provide practical advice on postal vote opening procedures, with special regard to carrying out manual checking of signatures and dates of birth. It has been developed by forensic experts from the Forensic Science Service along with the Commission's own staff and provides some background to the way electors may write signatures on postal voting statements. We provide three guiding questions that are of use when deciding whether to accept or reject a signature. It also provides a step-by-step decision-making tree to enable people with little knowledge of signature comparison to apply rules consistently.

The Forensic Science Service is a Government Company wholly owned by the Home Office and has over 60 years experience in forensic science. This guidance is however issued by the Commission and responsibility for its contents rests with the Commission.

This guidance was originally provided with Circular EC21(2007): *Checking signatures and dates of birth on postal voting statements*.

## Aim

This section aims to set out a method for deciding whether to accept a signature on the postal voting statement after comparison with the signature of that elector previously supplied to the Electoral Registration Officer. The guidance will not teach the person looking at the signatures ('the examiner') to be an expert, but should help them to make a decision to accept or reject a vote for valid and documentable reasons.

In determining the validity of postal voting statements, the Returning Officer 'must satisfy himself that the postal voting statement is duly completed and as part of that process must compare the date of birth and the signature on the postal voting statement against the date of birth and the signature contained in the personal identifier record'.<sup>114</sup>

## Control signatures

Most Returning Officers will check the signature on the postal voting statement against one previously provided signature ('the control signature') collected since 31 January 2007. Returning Officers should be aware that even in very short timeframes a person's signature varies naturally and that the natural range of variation of a person's signature cannot be fully determined through such small samples. Therefore our advice is that the examiner should err on the side of inclusion and only reject postal voting statements when they are fully satisfied that the signature provided on the statement is not that provided at application. Our approach in this guidance is that a Returning Officer should be confident that a signature shows major and

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<sup>114</sup> Regulation 85A(2), RPR 2001.

significant differences to the control signature before deciding that they are not so satisfied. In summary, unless the Returning Officer can be certain that the signature is unsatisfactory the signature should be accepted.

## Electronic signature verification

Many authorities are using an electronic checking system to compare the signatures and this should reduce the number of signatures that need to be checked visually. There are a variety of systems in the marketplace and each one will handle the signatures slightly differently. Some of these systems will display the 'control' signature and the signature on the postal voting statement side by side on a computer screen. The consequence of this is that the signatures to be examined will be electronic images, not the ink signatures themselves. Providing the scanning has been done correctly and the images are scanned at an appropriate quality this should in most cases be acceptable. However, it should be understood that information present on the original document is not always apparent on the electronic copies so some of the features described in the guidance may be more difficult to determine in scanned signatures.

## A suggested process

The suggested process for comparing signatures asks the examiner to answer three questions, which are:

- Are the signatures a similar shape?
- Are the pen paths of the signatures similar?
- Are the signatures similar in fluency?

The flow diagram supplied with this guidance aims to help guide the examiner through the process to ask these questions in the correct order, and to help justify any decision made. The underlying principles to be applied are to look for major differences in shape, pen path and fluency in that order. If the flow diagram is used, the examiner will end up at a square or circle with a letter in it. By recording the letter they will be able to say why they have accepted or rejected a particular signature if challenged. The Commission consider that it is reasonable to make a record of this letter 'code'. This can be achieved by adding the letter code either to the postal vote statement next to the word 'rejected'; by adding a column on the list of rejected votes and adding it to the relevant row or by adding the letter to any packaging that the rejected statement and ballot paper is to be stored within the receptacle. While not expressly required or authorised in the legislation, it is not expressly prohibited to make such a record and therefore we consider such a record to be within the spirit of the legislation.

The guidance is based on eight proven principles for forensic examination, which are summarised in 'Principles of examination', below.

## Making a decision

The decision-making process requires judgement and a measure of discretion and set out in this guidance is a framework and methodology developed in partnership with the Forensic Science Service. The process you use, whether electronic, visual or a mixture of both, should be designed to reduce the risk of accepting illegitimate signatures as genuine.

Once they have gained sufficient practice in looking at signatures, it is expected that most examiners will be able to make decisions on signatures quickly and with confidence. The visual check provides the examiner with three criteria on which to base their decisions, and these are derived from the nature of the writing. It is expected that most of the signatures examined will be shape variants of the genuine signature with the same pen-path and fluency of the original signature and therefore the decision to accept should be a straightforward one.

It should be emphasised that the examiner is looking for large differences in shape, pen-path or fluency. All signatures show differences to each other, and a common pitfall is that, when no large difference is discovered, smaller differences are given too much significance. If there are no large differences in shape, pen-path and fluency, then the signature is probably genuine and the Returning Officer should in our mind be comfortable to judge themselves satisfied.

## Actions to be taken once the decision to reject is made

Having asked the three questions, the examiner will discover some signatures that they wish to reject. The postal voting statement document should be:

- marked 'rejected'
- entered on the list of rejected postal ballot papers. You may also find it helpful to record the reason for rejection, for example, by noting the letter from the flow chart
- attached to the ballot paper envelope (or ballot paper if there is no envelope)
- placed in the receptacle for rejected votes

Candidates and agents have the right to view rejected postal voting statements but as with all electoral processes they should not handle documents.

If they object to a rejection then the postal voting statement should be marked 'rejection objected to' before being attached to the ballot paper envelope and placed in the receptacle for rejected votes.

## Using the flow chart

The flow chart is designed to give the examiner guidance on looking for significant differences in shape, pen-path and fluency. While for the most part

the decisions are straightforward, the following notes about each acceptance or rejection point are supplied to help reach a decision using the chart. Decisions on signatures are rarely clear-cut, more often coming down to a balance of probabilities. This is backed by the wording of the legislation, which requires a Returning Officer to be satisfied. We believe this allows for the Returning Officer to accept unless certain that a signature is illegitimate.

**Rejection at point A:** There are major differences in the shape of the signature which are unlikely to be explained by natural variation.

**Rejection at point B:** The signature is in a different name and there is no part of it which can be compared.

**Acceptance at point X:** The signature on the postal voting statement and the application are the same general shape and the name is the same. The signatures also have the same pen-path and are similar in fluency.

**Acceptance at point Y:** The signature on the postal voting statement and the application are the same general shape and the name is the same. The signatures also have the same pen-path but the signature on the application form is of lower fluency than the postal voting statement signature. There are genuine reasons why an application signature may be of a lower fluency - poor pen function, uneven writing surface etc.

**Acceptance at point Z:** The signature on the postal voting statement and the application to vote are the same general shape and the name is the same. The signatures also have the same pen-path. However, the signature on the postal voting statement is of significantly lower fluency than the one on the application form, but this lack of fluency is just in one part of the signature. The rest of the signature is of similar fluency to the application signature, and these parts of the signature match in shape.

**Rejection at point C:** The signature on the postal voting statement and the application are the same general shape and the name is the same. The signatures also have the same pen-path. However, the signature on the postal voting statement is of significantly lower fluency than the one on the application form and this lack of fluency is not just in one part of the signature but is throughout the signature. (As a guide, expect to find three independent features demonstrating low fluency). There are possibly parts of the signature that do appear fluent, but these don't match the shape of the corresponding parts in the application signature.

**Acceptance at point W:** The signature on the postal voting statement and the application are the same general shape and the name is the same. While there is a significant difference in the pen-path used to construct the signatures, both the signatures are of low fluency or a significant proportion of the signatures match in shape, pen-path and fluency.

Difference in pen-path is often because the signature is written by someone unfamiliar with the 'signature template' used by the owner of the signature. However, in some instances, particularly in an elderly person with poor writing

skill, the writer can become confused and use a different pen-path. Hence, accept signatures with a seemingly mismatched pen-path when both signatures are low in fluency or where significant fluent parts of the signature match.

**Rejection at point D:** The signature on the postal voting statement and the application are the same general shape and the name is the same. However, there is a significant difference in the pen-path used to construct the signatures in that the pen is moving in a different direction at a specific point in one signature when compared with the other. In addition, one of the signatures is significantly more fluent than the other or they are both of reasonable (not low) fluency, and there are no parts of the signature which match well in shape.

#### **Additional actions where malpractice is suspected**

The Commission has already recommended that Returning Officers who reject postal voting statements after comparison with the supplied identifiers should always consider referring them to the police, particularly if a pattern is evident. If this is contemplated, there are a number of actions that would assist the police.

It would assist any forensic investigation if latex/plastic gloves are worn when handling suspicious rejected postal voting documents.

When handling the documents, only touch them on the edges. Only handle the documents to package them. Do not undo staples, flatten, or in any other way alter the document. Avoid handling the documents as much as possible.

Locate and isolate the original postal voting statement and all its associated documents from other voting papers.

Take a loose fitting plastic bag or a brown envelope and record the ballot paper number on the outside together with any other relevant information such as the name of the individual whose vote it is and the ward in which they voted. It would also help if the date, time, where the questioned papers were found, who has packaged them and anyone else who has handled them were also recorded.

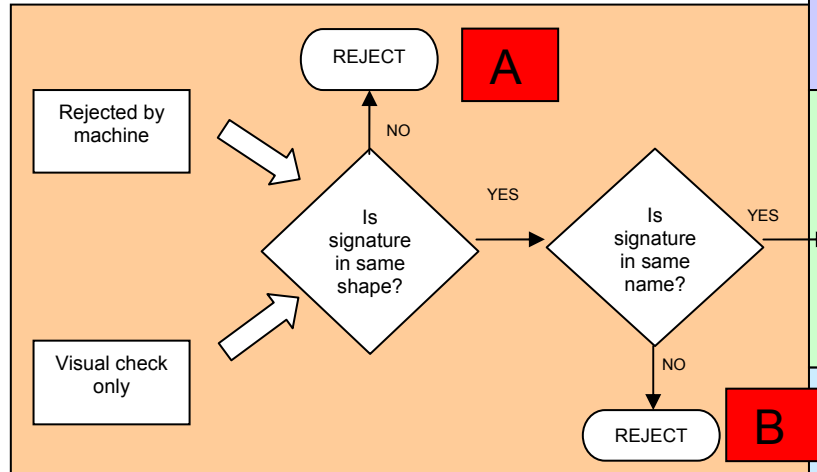
Place thin pieces of card either side of the questioned papers (to prevent them becoming marked), place them into the pre-labelled loose fitting plastic bag or brown envelope and seal the packaging with adhesive tape.

Maintain a list of all the documentation and keep it safe.

It is the Commission's view that the additional protection of the contents of the receptacle of rejected votes as mentioned in the previous paragraphs are reasonable to maintain the safe custody of the receptacle and therefore the contents within it.

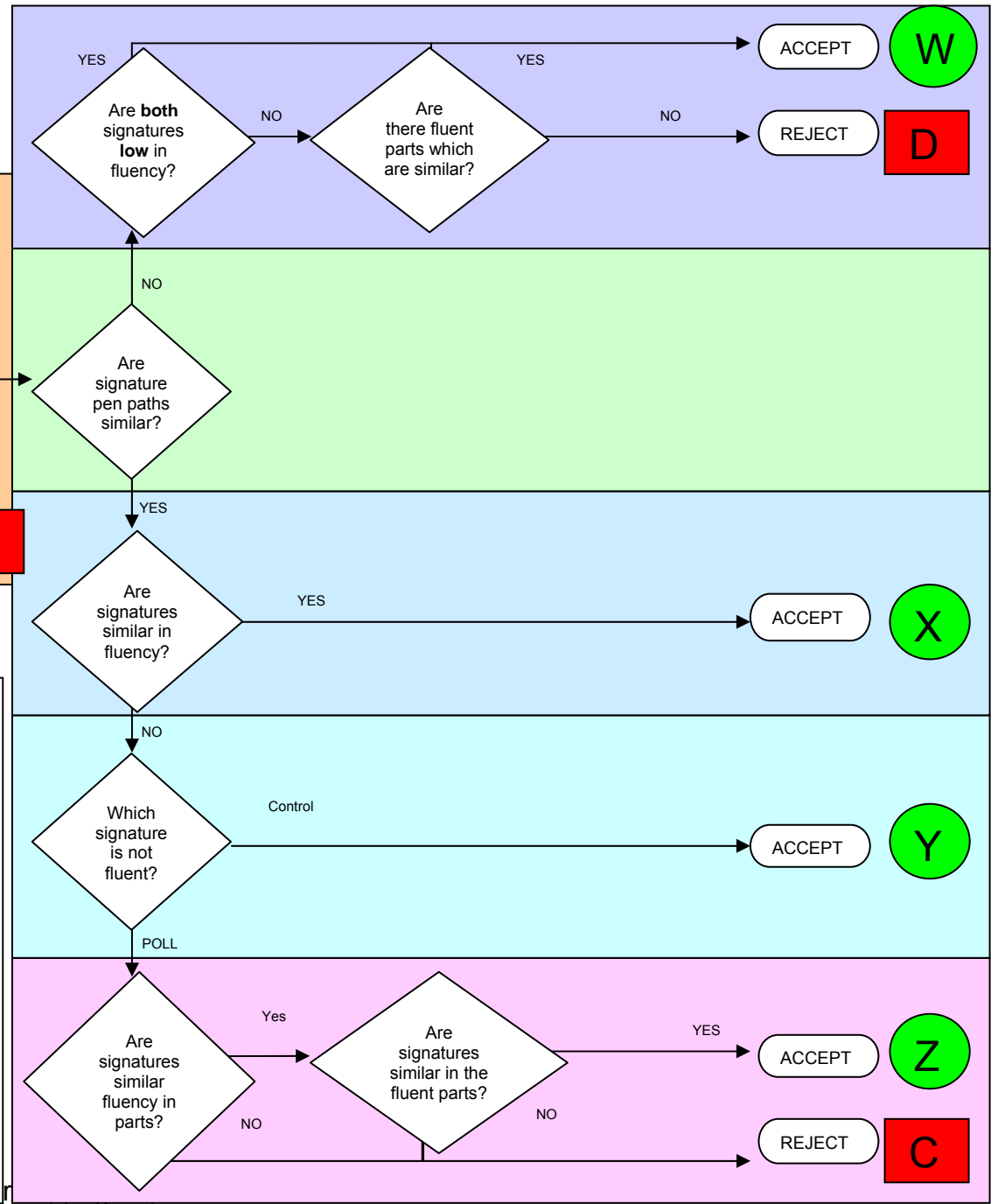
The signatures used for the control signatures, i.e. the signatures on the applications to vote by post will also be important in any forensic process but are unlikely to require examination for fingerprints, DNA or other evidence types. Provided that they are kept safe and can be recovered later it is probably best to wait for instructions from the police to decide how these should be packaged and submitted.

# Flowchart



**PRINCIPLE 1**  
 The writing and signature of an individual cannot necessarily be connected.  
**PRINCIPLE 2**  
 The signature of one individual has a natural variation.  
**PRINCIPLE 3**  
 The signature of one individual has a range of variation that cannot be determined from one control signature  
**PRINCIPLE 4**  
 Co-incidental matches are uncommon  
**PRINCIPLE 5**  
 Signatures must be pictorially similar to be accepted  
**PRINCIPLE 6**  
 A successful forger has to reproduce the shape and the fluency of a signature.  
**PRINCIPLE 7**  
 Genuine Signatures usually have the same pen path  
**PRINCIPLE 8**  
 Genuine Signatures are usually similar in fluency

**SHAPE\*PEN PATH\*FLUENCY**



## Principles of examination

### **PRINCIPLE 1: The writing and signature of an individual cannot necessarily be connected; compare like with like**

The writing style and signature of an individual cannot necessarily be connected, so someone writing their signature in ordinary writing on the application form and as a signature on the voting statement may have their signature rejected.

Some people use their full signature on some documents and an abbreviated form on another; notwithstanding this, there should still be parts of the signature that can be compared and the absence of a part of the signature (e.g. John Smith on one and J Smith on the other) should not be taken as a difference in style. However, if the name is spelt wrongly (e.g. Smith instead of Smythe) then this should be rejected at rejection point B as people are usually consistent about how they spell their own name.

Occasionally people will have changed their name between signing the application and signing the postal voting statement, for instance when they get married; it is their responsibility to inform the ERO when this occurs and to supply a new signature. There may still be parts of the signature that can be compared (e.g. the first name, if used) but signatures in different names with no points of comparison should be rejected.

### **PRINCIPLE 2: The signature of one individual has a natural variation**

A signature can be regarded as a learnt habit and therefore one individual's signature conforms to a specific template that has been developed over a period of time. It is therefore automatic for that individual (i.e. they do not have to remember the template each time they wish to write their signature), but people are not machines and therefore do not reproduce the template in exactly the same shape every time. The software comparing signatures will have been set up to reject signatures because that appear 'too perfect' for these reasons.

Signatures of one individual can vary from minute to minute and day to day, depending on the conditions under which they are signing. They are affected by cold, writing position, the pen used, the surface they are writing on, health and so on, but will fall within a range of variation which is a characteristic of that individual.

### **PRINCIPLE 3: The signature of one individual has a range of variation that cannot be determined from one control signature**

The signature of one individual can have a small range of variation or a large range of variation. While some generalisations can be made, it is safer to assume that the range of variation for one individual cannot be determined from one control signature. You will always be able to find differences in shape between two signatures, but the difference may not be significant. Therefore the examiner should allow for a large range of variation and must only reject the postal voting statement signature if it shows a large difference to the application signature.

**PRINCIPLE 4: Co-incidental matches are uncommon**

To guess what a person's signature looks like from their name alone is very difficult, and becomes more and more difficult as the signature becomes more complex. Co-incidental matches are only likely to occur when the writing style used is simple, but even then it would be uncommon. If the forger is guessing at the signature it is very unlikely to be the same shape or follow the same pen-path.

**PRINCIPLE 5: Signatures must be similar in shape to be accepted**

If people want to use their signature to identify themselves, they must produce signatures that look similar. Anything that is wildly different should therefore be rejected (rejection point A). Here the examiner is looking for very different shapes, not minor differences caused by natural variation, and should only reject when the signature is effectively a different shape.

Sometimes the person signs the wrong form or signs in a different name (e.g. someone signing in a married name on one occasion and maiden name on another). Where there are parts of the signature that can be compared (for instance, if they use the same surname but a different first name) then the parts which can be compared should be compared while the difference should be discounted (as one cannot compare parts of the signature which are absent). If there is nothing that can be compared, then the signature should be rejected (rejection point B).

**PRINCIPLE 6: A successful forger has to reproduce the shape and the fluency of a signature**

If the person attempting to steal a vote has available an example of a genuine signature of the person whose vote it is they may try to simulate the signature. (Note that we use the term simulate, not copy, to distinguish this deliberate attempt to reproduce the signature from the simple act of photocopying the signature). There are several ways of simulating a signature. Most people will use a freehand simulation by placing the signature in front of them and trying to reproduce the pen path and shape. Others may try to trace the signature or reproduce it from memory.

When signatures are fairly simple in design it is possible to produce a fair copy and these may well be accepted by the examiner. The process will not differentiate a good simulation from a genuine signature. As the signature becomes more and more complex simulation becomes more difficult. Most forgers do not practice very much and will get the shape, the pen path or the fluency wrong. It is usually possible to get either the shape or the fluency correct, but it is very difficult to get both the shape and the fluency correct in all but the simplest of signatures.

**PRINCIPLE 7: Genuine signatures usually have the same pen path**

The pen-path is the way the pen moves across the paper. It is a learnt habit for many writers and therefore they will follow the same pen path automatically, irrespective of other conditions that may be affecting their writing (such as cold, writing position etc.). It forms the basic template of the signature and is therefore a good indicator of whether the signature is

genuine. A complex, fluent signature with the same pen path is almost certainly by the same author.

The examiner is encouraged to imagine how the pen is moving in making a signature. This includes the movements the pen is making off the paper to get from the finish of one letter to the start of the next. A significant difference is where the pen is moving up instead of down at a particular point in the signature, or clockwise instead of anti-clockwise, left to right instead of right to left, etc. In some signatures the appearance may be significantly altered because the pen has left the paper in one signature, but not in the other so that the joining stroke is evident. This is not considered to be a significant difference in pen-path.

**PRINCIPLE 8: Genuine signatures are usually similar in fluency**

Fluency is a reflection of the writing skill of an individual. People generally write with similar fluency all the time. There are exceptions, for instance when medications or injuries are influencing the writing, but these are uncommon.

Skilled writers can usually write fast and therefore are able to write with high fluency, signs of which include:

- smooth curves
- variation in pen pressure
- tapered ends to letters
- joining of three or more letters together
- pen in contact with the paper for long sections of the signature
- flourishes, lead-in strokes, exit strokes

At the other extreme there are some people, particularly the elderly or infirm, who do not have good writing skills and therefore exhibit signs of low fluency, which are:

- jerky curves
- even pen pressure throughout
- blunt ends to letters
- separate letters
- pen lifts, hesitations, blobs
- simple design

Many simulations are written with low fluency, but it should be noted that low fluency is not necessarily a sign of simulation. It is important that the examiner looks for major differences in the fluency, as this can be an indication of different writers producing the signatures, and not simply for low fluency.

