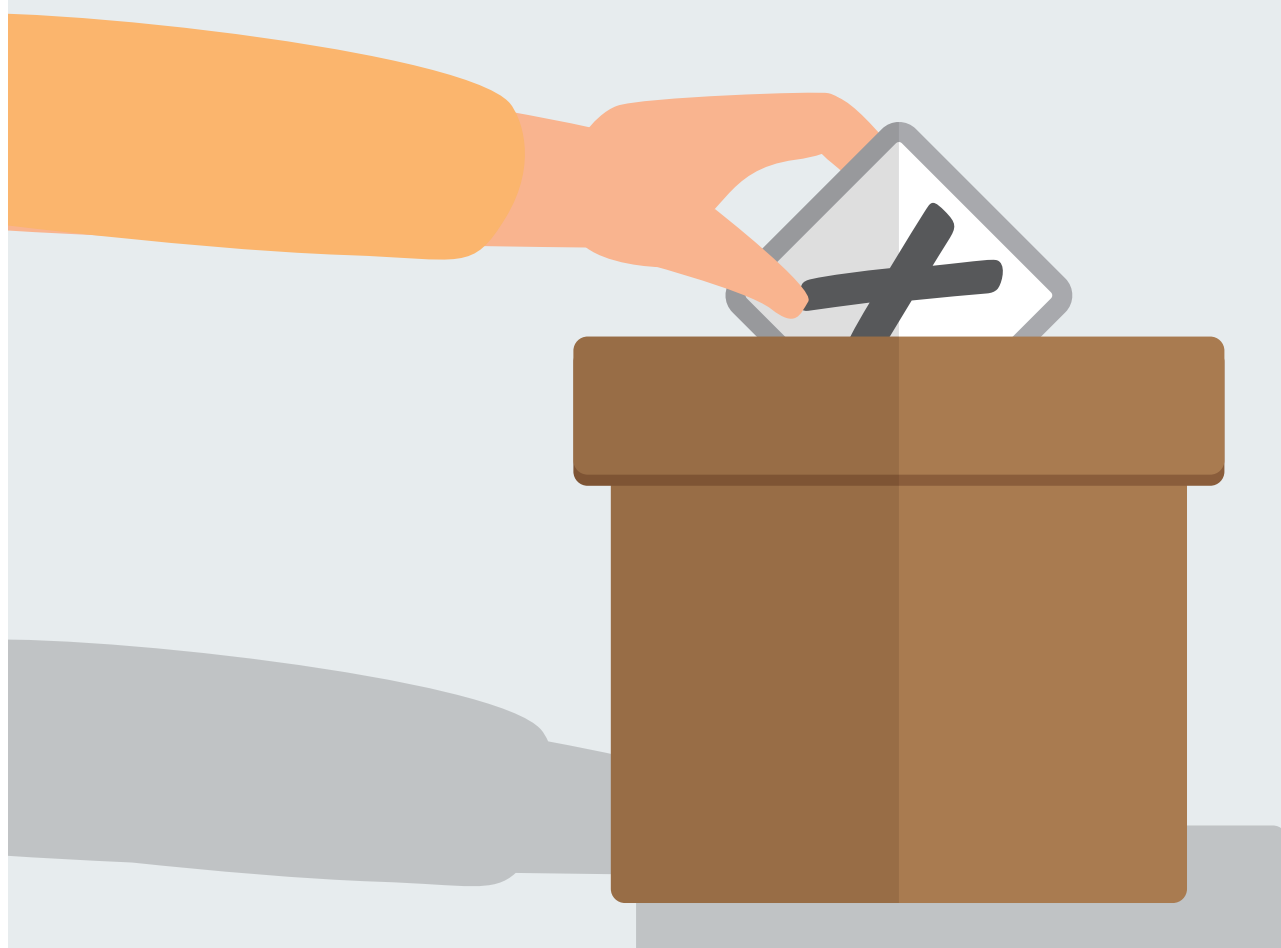


Code of Practice for Election Observers



Isle of Man
Government

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House of Keys General Election 2021

Code of Practice for Election Observers

1. Purpose of this document

- 1.1 Independent observation is an important part of the electoral process. It helps to ensure that elections are carried out in a way which is transparent, accessible, impartial and secure.
- 1.2 Section 90 of the Elections (Keys and Local Authorities) Act 2020 allows for elections to the House of Keys to be observed by accredited observers from named bodies that have a genuine interest in the outcome of the election.
- 1.3 The Returning Officer is responsible for accrediting election observers and this document outlines the process for accreditation, as well as the rights and obligations of observers at Isle of Man elections.
- 1.4 This document forms the Code of Practice for Election Observers the Returning Officer must prepare under section 92 of the Elections (Keys and Local Authorities) Act 2020.
- 1.5 The Code explains how to become an observer and what is expected; and also provides guidance for electoral officials in respect of working with observers.

2. Who can become an observer?

- 2.1 Before granting an application, the Returning Officer must be satisfied that:
 - The applicant for accredited observer status is not under the age of 16 years; and
 - The body to which the representative belongs has a genuine interest in the outcome of the election.
- 2.2 Accredited electoral observers are entitled to observe specified electoral proceedings. There is no requirement to notify electoral officials of your intention to observe these proceedings.
- 2.3 However, providing advance notification to electoral officials in the area you intend to observe will mean they can provide you with relevant local information, such as the list of polling stations in the area, which will help to maximise the value of your observation. This does not prevent you from making unannounced visits or changing your plans should you wish to do so.
- 2.4 If you do wish to provide advance notification of where you intend to observe, addresses and telephone numbers of the constituency Returning Officers can be found online at www.gov.im/elections or by contacting the Crown & Elections team in the Cabinet Office on 685754 or email: elections@gov.im

3. What do observers do?

- 3.1 Observers accredited by the Returning Officer are entitled to observe:
- Proceedings at the election; or
 - Proceedings at the counting of votes
- 3.2 You are encouraged to provide feedback, both to the Cabinet Office and to the election staff where you observe. If you provide feedback to the Cabinet Office, any observations may be shared with the people responsible for running the poll in the area you observed. The provision of feedback is entirely voluntary.

4. How to become an observer

- 4.1 Before applying, applicants must read this Code of Practice and be prepared to adhere to it.
- 4.2 You can apply to become an observer at any time. Potential observers are recommended not to wait until an election is imminent or under way before applying.
- 4.3 Applications must be received at least two weeks before the date of the election at which the application to observe is in respect of.

5. What is the process for applying?

- 5.1 Application forms are available from the Isle of Man Government website at www.gov.im/elections or from the Cabinet Office, Third Floor, Government Office, Bucks Road, Douglas, Isle of Man, IM1 3PN.
- 5.2 Applicants are required to:
- Complete the form 'Application for Accreditation as an Election Observer', including full contact details and an explanation as to why your organisation has an interest in the outcome of the election
 - Make a declaration to state that you have read the Code of Practice for Electoral Observers and agree to abide by the guidance contained in it
 - Declare that you understand the legislative provisions on secrecy of the ballot and that you will maintain the secrecy of the ballot
 - Declare that you will maintain strict political impartiality at all times during the period of your accreditation
 - Sign a declaration of secrecy¹

¹ Schedule 1 to the Elections (Keys) Regulations 2021

6. How should applications be submitted?

- 6.1 You can download an application form from our website and send it by email to: elections@gov.im
- 6.2 Applications can also be submitted by post to Crown & Elections, Cabinet Office, Third Floor, Government Office, Bucks Road, Douglas, IM1 3PN. If you submit an application by post, please use the words 'Electoral observation application' prior to the office address.
- 6.3 If you need help with your application, please contact us on 685754 or email: elections@gov.im
- 6.4 Please note that while there is no requirement to submit a photograph or to provide proof of identity at the time of application. Should your application be approved photographic identification must be produced to:
 - the Presiding Officer at the polling station at which you intend to observe on polling day
 - The Returning Officer for the constituency at proceedings at the counting of votes which you intend to observe on polling day.

7. What happens after an application is submitted?

- 7.1 On receipt of your application the Crown & Elections team, on behalf of the Returning Officer, may carry out checks in relation to political activity, including on social media and may contact you for further information.
- 7.2 The Crown & Elections team, on behalf of the Returning Officer, will aim to process all applications within 10 working days of receipt of a completed application.

8. Making decisions on applications

- 8.1 An applicant must:
 - Meet the requirements of the application process set out above
 - Not have been found or reported guilty – under the Elections (Keys and Local Authorities) Act 2020 or any other electoral legislation in the Isle of Man or United Kingdom – of a corrupt or illegal electoral practice
 - Not have had their accreditation revoked by the UK Electoral Commission within the last five years
- 8.2 Applicants will be notified in writing of the decision to accept or reject their application.

- 8.3 Accreditation will last for the period of the relevant election and will conclude the day after polling.

9. What happens if my application is rejected?

- 9.1 An application for accreditation will be rejected if the requirements of the application process set out in this Code are not met, or if the Returning Officer is not satisfied that an applicant is politically impartial.
- 9.2 An application will also be rejected if the applicant is a person whose status in the United Kingdom as an accredited observer has been revoked by the Electoral Commission in the five years previous to the date of application.
- 9.3 If an application is rejected the reasons for that decision will be provided in writing. The individual may submit a further application provided it complies with the requirements set out in this Code.
- 9.4 If applicants wish to appeal against the rejection of their application, they should do so in writing to the Cabinet Office. Appeals can also be sent by post to Crown & Elections, Cabinet Office, Third Floor, Government Office, Bucks Road, Douglas, IM1 3PN.
- 9.5 For your appeal to be considered, it must be received within 28 days of the date of the notification of your application having been rejected.

10. The standards expected of observers

- 10.1 These standards of behaviour are expected of all accredited observers.
- 10.2 All applicants must read this guidance before completing an application. When completing an application form applicants will be asked to sign a declaration stating that they agree to abide by this guidance for the period of their accreditation.
- 10.3 Observers who fail to abide by the standards of behaviour set out in this section may have their accreditation revoked.

11. Your conduct as electoral observers

- 11.1 All observers must respect the laws of the Isle of Man, as well as the authority of Returning Officers, Presiding Officers, Counting Officers and the Cabinet Office, and follow any lawful instruction.
- 11.2 Observers must also maintain a respectful attitude toward electoral officials.

12. Maintain strict political impartiality

- 12.1 Observers must maintain strict political impartiality at all times during the period of their accreditation, including during their leisure time and when using social media. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates or referendum issues.
- 12.2 Observers must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the Isle of Man, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.
- 12.3 Political party affiliation, or being affiliated with a non-party campaign group, does not automatically disqualify a person from becoming accredited as an observer. However, members, officers or employees of an Isle of Man or UK registered political party who would be or are likely to be politically active during their accreditation period must not apply for accreditation.
- 12.4 In all circumstances, applicants must be satisfied that they will be able to meet the requirement for political impartiality set out above for the duration of their accreditation.

13. Abide by the requirements of secrecy

- 13.1 Observers must maintain and aid in maintaining the secrecy of the ballot.
- 13.2 Observers must comply with all directions on the use of portable electronic equipment, such as mobile phones, tablets, laptops, electronic recording equipment, cameras, etc.

14. Do not obstruct electoral processes

- 14.1 Observers must not obstruct any element of electoral processes, including pre-election processes, the issue and opening of postal ballots, voting, counting and calculation of results and processes transpiring after polling day.
- 14.2 Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this would contravene the secrecy requirements, and must do so in a non-obstructive manner.
- 14.3 Observers may ask questions of election officials, political party representatives and other observers and may answer questions about their own activities, as long as observers do not obstruct any electoral process. When asking or answering questions, observers must not seek to direct any electoral process.

- 14.4 Observers may ask and answer questions of voters, but may not ask them to tell for whom they voted.

15. Provide appropriate identification

- 15.1 All observers must display the identification badge provided by the Cabinet Office, and must present it to electoral officials when requested.
- 15.2 Observers must ensure that their observer badge is visible at all times while observing.
- 15.3 Observers must not give the impression that they are employed by, are a representative of, or are observing on behalf of the Isle of Man Government. If asked, observers must state that they are an electoral observer and independent of the Isle of Man Government.

16. Maintain accuracy of observations and professionalism in drawing conclusions

- 16.1 Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of electoral processes. Observers' judgements must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence.
- 16.2 Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely.
- 16.3 Accredited observers are encouraged to provide feedback on their observations, both to the Cabinet Office and to the election staff where you observe. If you provide feedback to the Cabinet Office, it may be shared with the people responsible for running the poll in the area you observed. The provision of feedback is entirely voluntary.

17. Maintain proper personal behaviour

- 17.1 Observers must maintain proper personal behaviour and respect others, including exhibiting sensitivity for Isle of Man cultures and customs, exercise sound judgement in personal interactions and observe the highest level of professional conduct at all times, including in their leisure time.

Failure to meet these standards

- 17.2 Observers who exhibit disruptive behaviour can be removed from electoral proceedings and/or have their accreditation revoked. Accreditation may be revoked if an observer:
- fails to abide by these standards of behaviour
 - is found or reported guilty – under the Elections (Keys and Local Authorities) Act 2020 or any other electoral legislation in the Isle of Man or United Kingdom – of a corrupt or illegal electoral practice
- 17.3 If, as a result of misconduct, a Presiding Officer or relevant Returning Officer for the constituency has had an observer removed from a particular electoral proceeding, his or her accreditation will be revoked if the Returning Officer considers that the individual was not abiding by this Code and the guidance contained in it.

Misconduct includes:

- Breaching or attempting to breach the secrecy of the ballot
 - Knowingly obstructing electoral proceedings
 - Asking electors about their voting preference while observing at polling stations
- 17.4 The power of Presiding Officers and the relevant Returning Officer for the constituency to remove observers for misconduct is in addition to their general power to keep order at the relevant electoral proceedings. Observers are subject to the lawful directions of such officers and any other officer authorised for the purpose by a Presiding Officer or Returning Officer.
- 17.5 On receipt of a report from a relevant officer which details any misconduct, the Returning Officer will contact the observer concerned and give them an opportunity to submit, in writing, their version of events. The Returning Officer will consider all submissions received and any other information available before making in making a decision whether to revoke that observer's accreditation. Any decision will be provided in writing to the observer.
- 17.6 Observers who want to appeal against revocation should do so in writing to the Cabinet Office at elections@gov.im. Appeals can also be sent by post to Crown & Elections, Cabinet Office, Third Floor, Government Office, Bucks Road, Douglas, IM1 3PN.
- 17.7 For your appeal to be considered, it must be received within 28 days of the date of the notification of your accreditation being revoked.

18. Facilitating electoral observation

- 18.1 This part covers:

- Guidance to constituency Returning Officers, Counting Officers and Presiding Officers
 - How they should manage access to and conduct at electoral proceedings
 - How they should deal with disruptive behaviour and/or misconduct
- 18.2 Accredited observers should also read this section of the Code of Practice to ensure they understand it and are familiar with it.
- 18.3 Electoral observation is a legitimate and valuable part of the electoral process, and care should be taken not to hinder or obstruct any observers.
- 18.4 Observers accredited by the Returning Officer are entitled to observe:
- Proceedings at the election; or
 - Proceedings at the counting of votes
- 18.5 While it is not a requirement for observers to provide advance notification of where they intend to observe, by doing so it will help relevant officers provide them with key information, such as the list of polling stations in the local area, and will aid the security of electoral proceedings.
- 18.6 Relevant officers are not required to proactively notify observers of the time and place of electoral proceedings, or of the processes to be followed, but it is good practice to do so. Providing information to observers will enable them to properly observe proceedings and will help build confidence in the administration of the poll.
- 18.7 Accredited observers must follow all lawful directions from relevant officers and the police.

19. How can relevant officers manage access?

- 19.1 The law allows a relevant officer to limit the number of accredited observers who may be present at any one time during the conduct of the poll and the count.
- 19.2 Numbers can only be limited where an observer or a number of observers are hindering the conduct of proceedings or are jeopardising the secrecy of the ballot.
- 19.3 A direction to limit the number of observers should only be given:
- For a specified time, such as for 30 or 60 minutes.
 - When circumstances exist, for example: - at the polling station there are 'x' number of electors waiting to vote or 'y' number of agents being present which

mean that they would hinder the conduct of the proceedings - or at the verification and count, 'x number of agents being present' which mean that they would hinder the conduct of those proceedings.

- 19.4 While relevant officers are permitted to limit the number of observers who may be present at any one time during electoral proceedings, caution should be exercised in doing so.
- 19.5 Relevant officers are not entitled to bar all observers from electoral proceedings, only to limit the number of observers present at any one time, and this discretion must be exercised reasonably.
- 19.6 Should access be suspended, relevant officers should ensure they maintain a clear audit trail to support their decision.
- 19.7 The provisions allowing for attendance of observers do not detract from the duty and responsibility of relevant officers to comply with the relevant election rules concerning the attendance of people at electoral proceedings. These include, for example, controls on admission to polling stations, the duty to keep public order at a polling station and the duty to promote the secrecy of the ballot at any electoral proceedings.
- 19.8 Accordingly, relevant officers should ensure that polling stations are suitably arranged to provide for efficient and secret polling in the presence of polling agents and observers.

20. Guidance on dealing with disruptive behaviour or misconduct

- 20.1 The law allows relevant officers to remove an accredited observer due to disruptive behaviour or misconduct. The power for relevant officers to remove observers for misconduct is in addition to their general power to keep order at electoral proceedings.
- 20.2 *Misconduct includes:*
 - Breaching or attempting to breach the secrecy of the ballot.
 - Knowingly obstructing electoral proceedings.
 - Asking electors about their voting preference while observing at polling stations.

21. How can relevant officers manage disruptive behaviour or misconduct?

- 21.1 While relevant officers are permitted to remove observers for misconduct, caution should be exercised in doing so.

- 21.2 Should a relevant officer exercise their power to remove an accredited observer from electoral proceedings due to misconduct, they should ensure they maintain a clear audit trail to support their decision.
- 21.3 A direction by a relevant officer to remove an observer from electoral proceedings for disruptive behaviour or misconduct can be given at any time.
- 21.4 Any observer removed for misconduct is not entitled to re-enter those proceedings for the remainder of them.
- 21.5 The power of relevant officers to remove observers for misconduct is in addition to their general power to keep order at the relevant electoral proceeding. Observers are subject to the lawful directions of relevant officers and the Police in terms of public order.
- 21.6 The relevant officer should notify observers why they are being removed and maintain a record of the removal and the reasons for the removal.
- 21.7 Relevant officers must notify Crown & Elections team in the Cabinet Office if an observer is removed from any electoral proceeding due to disruptive behaviour or misconduct.

Appendix 1

Elections (Keys and Local Authorities) Act 2020

Section 107 Requirement of secrecy

- (1) This section applies equally to national elections and local elections.
- (2) Every person to whom this subsection applies must maintain and aid in maintaining the secrecy of voting and must not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to —
 - (a) the name of any eligible elector or proxy for an eligible elector who has or has not applied for a ballot paper or voted at a polling station;
 - (b) the number on the register of electors of any eligible elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
 - (c) the official mark.
- (3) Subsection (2) applies to —
 - (a) a deputy returning officer;
 - (b) a teller;
 - (c) a presiding officer or clerk attending at a polling station; and
 - (d) every candidate or agent so attending.
- (4) A person attending at the counting of votes must maintain and aid in maintaining the secrecy of the voting and must not —
 - (a) ascertain at the counting of the votes the number on the back of any ballot paper; or
 - (b) communicate any information obtained at the counting of the votes as to the candidates for whom any vote is given in any particular ballot paper.
- (5) A person must not —
 - (a) interfere with a voter when recording his or her vote;
 - (b) otherwise obtain, or attempt to obtain, in a polling station information as to the candidate for whom a voter in that station is about to vote, or has voted;
 - (c) communicate at any time to any person any information obtained in any polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station; or
 - (d) directly or indirectly induce a voter to display his or her ballot paper after he or she has marked it so as to make known to any person the name of the candidate for whom he or she has or has not voted.
- (6) If any person acts in contravention of this section, he or she commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale, or to custody for a term not exceeding six months, or to both.

(7) In this section, a “teller” is a volunteer who, during an election, attends a polling station on behalf of a candidate to record the elector number of eligible electors who voted.

(8) If convinced of the necessity of doing so in the interest of ensuring a free and fair election, the presiding officer at a polling station may lawfully evict any of the following persons for failure to abide by any provision of a code of conduct prepared and issued in accordance with section 63(3)(c) —

(a) a teller;

(b) a volunteer; or

(c) a person casually in attendance at the polling station.

(9) A teller who refuses or otherwise fails to depart from the polling station after having been lawfully evicted by the presiding officer in accordance with subsection (8) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale, or to custody for a term not exceeding 6 months, or to both.



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