

Pre-election Period Guidance For PCC Elections May 2024



1. Background

The next PCC Elections are due to take place on 2nd May 2024. Set out below are some key principles which Police and Crime Commissioners, Police Fire and Crime Commissioners and Mayors with responsibility for policing oversight (termed PCCs from herein for brevity) and their Deputies should consider during the period prior to those elections¹.

APACE has also refreshed its more detailed guidance for OPCCs and Monitoring Officers in relation to the staff of Police and Crime Commissioners, which dovetails with this guidance, and has recently been circulated to Chief Executives.

The latest date that the pre-election period can start for the local elections is Tuesday 26 March 2024. For the Mayor of London and London Assembly elections the latest date that the pre-election period can start is Tuesday 19 March 2024. However the Returning Office in each region determines the pre-election date and there are variations nationally.

Please note: This is guidance only. It is for individual PCCs, in discussion with their Chief Executive, to decide on their local approach.

2. What is the pre-election period?

Whilst the pre-election period is not defined in an Act of Parliament, restrictions are placed on local authorities (applicable to other local bodies including PCCs and their Deputies too) by the [Code of Recommended Practice on Local Authority Publicity](#), which refers to periods of heightened sensitivity during elections. Much of this sensitivity is about exercising greater care to observe laws and rules which apply in any event, but recognising that public bodies/offices are likely to come under greater scrutiny at election times.

These conventions generally apply even where elections do not directly involve those bodies, but will be more rigorously applied in situations where they do – as will be the case for Police and Crime Commissioners in relation to the upcoming elections. This could have an impact in relation to on-going business for Police and Crime Commissioners. The convention suggests that **major and politically sensitive decisions** that affect the future should be deferred if at all possible until after the election period, and even where an individual Police and Crime Commissioner is not standing again, this will still apply. However, Police and Crime Commissioners are executive office holders and must be able to continue to deliver on some areas of business as usual and indeed make some decisions linked to their statutory functions, so they cannot ‘stand down’ during the pre-election period in the same way that councillors might. These points are discussed in more detail later in this document, as are some additional considerations for Deputy PCCs.

Whilst there is no specific legal remedy for breaching the rules around the pre-election period, as many of the pre-election period requirements are about exercising additional care in relation to **existing** rules, the remedies that apply are usually the same as those already in place. PCCs should

¹ This period is sometimes referred to as ‘purdah’, but we use the expression ‘pre-election period’ in this document.

be aware that there may be increased scrutiny from the public and media during the pre-election period and potential for increased reputational risk if complaints in relation to the pre-election period are made to police and crime panels or to bodies like the Committee on Standards in Public Life.

In the event that the PCC's behaviour falls outside the ethical framework then the PCC could be subject to public criticism and criticism from other bodies such as the Electoral Commission. It is possible that a complaint for a breach of the Code of Conduct could be made to the Police and Crime Panel. In very extreme cases PCCs could end up the subject of an investigation for Misconduct in Public Office.

3. Police and Crime Commissioners and Deputy PCCs

Whether or not a Police and Crime Commissioner is connected to a political party, it is recognised that this is a political role. During the pre-election period whether a PCC is seeking re-election themselves, or supporting other individuals seeking election, they should be aware that when doing this, they are acting in a personal capacity and should not use their **public office** to influence the outcome of the PCC Elections. Deputy Police and Crime Commissioners are in much the same position, since they are not in a politically restricted role, and they should follow the advice for Police and Crime Commissioners (except where there is some difference as set out below) rather than the advice relevant to the other staff of the OPCC.

There are some key points which Police and Crime Commissioners may wish to bear in mind during the pre-election period (although it is worth remembering that these apply to Police and Crime Commissioners at all times in any event, although they may wish to exercise particular care about these points in the pre-election period):

- ▶ The restrictions placed on Police and Crime Commissioners by virtue of the Code of Practice on Local Authority Publicity – (see [S6 Local Government Act 1986](#), as amended by Schedule 16, paragraph 173 of the Police Reform and Local Responsibility Act) (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf)
- ▶ The impact of the Seven Principles of Public Life (Nolan Principles), by which Police and Crime Commissioners are bound as holders of a public office.
- ▶ The impact of the PCCs Oath of Office (see - [the Police and Crime Commissioner Elections \(Declaration of Acceptance of Office\) Order 2012](#))
- ▶ Any supplementary code of ethics which the PCC may have signed up to.

These documents do enable PCCs to act in a political capacity – both in seeking re-election themselves, or in supporting political colleagues seeking election – and to campaign as a local politician who, as a matter of record, is the PCC.

Nothing in either the Oath of Office or within Nolan Principles prevents Police and Crime Commissioners from acting in a party political capacity as a private individual, but they should not use their public office as a Police and Crime Commissioner to support party political candidates, or seek to influence the outcome of the election in a party political way. For instance, the Nolan obligation to act with integrity and objectivity means that PCCs would want to avoid placing themselves in difficult positions that might lead to perceptions of conflict of interest or lack of impartiality in the performance of their official duties.

It is therefore important that Police and Crime Commissioners should distinguish between their public office as Police and Crime Commissioner (which is 'political' but attracts certain restrictions or expectations) and their personal role as a local party politician.

In principle, PCCs should not use the resources of their **public office** (see 'Use of Public Resources' below for more detail on this) for political purposes. In the context of a PCC election, this means, amongst other things, that Police and Crime Commissioners must be careful how they use information that has come to them in their official role during their time in office. In particular, they should not use information in support of their campaign which is not publicly available to other candidates.

PCCs remain able to participate in elections in support of their party and candidates, even where they are not standing themselves, but should pay particular attention to two overarching principles (noting, as mentioned above, that they apply at all times and not just in pre-election periods):

- A The Code of Practice on Local Authority Resources prevents the use of public resources for political purposes, which includes both the staff of the PCC and force, and the facilities and equipment of the OPCC/force ([Cabinet Office Guidance](#) also contains some helpful pointers to what might be considered inappropriate use of public resources);
- B They should not give the impression that the local police force supports a particular party or individual, or use information about the police force in seeking re-election or supporting other PCC candidates which is not publicly available.

4. Use of Public Resources

General points about the use of public resources include:

- i. Even where staff are not politically restricted (this will include the DPCC) the Police and Crime Commissioner cannot use their services for political purposes **while they are in the office or use office equipment for campaign purposes;**
- ii. Facilities which cannot be used for political purposes include the use of rooms, buildings, IT equipment, telephones, website, etc, which belong to the PCC's office or police force;
- iii. Police and Crime Commissioners should be careful in their use of social media, such as Facebook and Twitter accounts **which are held in the name of the OPCC or police force**, to avoid inappropriate use, such as tweeting, retweeting or 'liking/favouriting' political material. Police and Crime Commissioners should avoid posting to channels managed by OPCC staff during the pre-election period, but instead will have their own personal social media channels which are clearly distinct;
- iv. The Police and Crime Commissioner should not use events or other forums which he or she has organised in their official capacity, for PCC election campaigning or, where the PCC is not standing again, invite other PCC candidates to do so. It is acknowledged that, if a local politician decides to attend an official PCC event and act in a political way, this may be beyond the control of the Police and Crime Commissioner, but where this is the case, the PCC should try to mitigate the issue to prevent the use of public resources for political gain;
- v. Police and Crime Commissioners cannot claim travel or other expenses for political business;

- vi. All public information about policing should be available equally to all candidates. It will be primarily the duty of the OPCC staff to make this available, but the Police and Crime Commissioner should not hinder staff in discharging this duty. If the Police and Crime Commissioner wishes to provide advice to candidates they personally support, they may only use their staff for factual checking of material (not production, reproduction or distribution), provided the information is already in the public domain.

5. Police Information and Force Neutrality

In relation to general points about use of policing and crime information and avoiding an impression that the force supports a particular party or candidate:

- i. Police and Crime Commissioners can communicate on a political basis with local politicians in a personal capacity, but should not use information which is restricted, privileged or has come to them only by virtue of their office and is not publicly available, in seeking re-election or supporting other candidates.
- ii. Police and Crime Commissioners should ensure that the views expressed in seeking re-election or supporting other PCC candidates are clearly expressed as their own, and not presented as the view of either their public office or their force.
- iii. Police and Crime Commissioners will wish to be particularly careful around publicity photos which might risk involving the force in campaign and political material, whether seeking re-election themselves or supporting other PCC candidates. This will assist in avoiding any impression that the PCC is using public resources (such as OPCC or force insignia or branding) to support their re-election, or that the force supports their re-election. It is acknowledged that this may be difficult, as serving PCCs cannot pretend they do not have a relationship with their own office or with the force – but they should consider with care the messages a photo might give in their own campaign material. It is further acknowledged that Police and Crime Commissioners will not always know in advance who is going to be present at events they are attending, or if the media is going to be present/taking photographs, but they should consider with care the messages a photo might give in a particular context.

6. Business as Usual

Police and Crime Commissioners are executive office holders and as a result will need to continue with some business-as-usual activity that delivers on their statutory functions and helps keep the public safe. However, PCCs will want to keep executive activity to only that which is necessary and proportionate to ensure their public office continues to function effectively. They should exercise care in how they act during the pre-election period, to ensure that official business is not used to influence the outcome of the PCC elections, or give the impression that the force or OPCC support a particular candidate. Generally, Police and Crime Commissioners will want to avoid making any new or significant decisions in this period, particularly those which might have a visible public impact, or which involve announcements of new policies or directions, unless these are essential and unavoidable during the period. Police and Crime Commissioners may like to consider carefully, over their remaining months of office, how they can time any decisions or announcements they know they are due to make, so that this is done before the pre-election period starts.

See below for Cabinet office guidance to ministers on this:

‘National announcements by the UK Government may also have a particular impact on local areas with elections, for example, the publication of policy statements which have a specific local dimension. Ministers will wish to be aware of the potential sensitivities in this regard and might decide, on advice, to postpone making certain announcements until after the elections. Obviously, this needs to be balanced carefully against any implication that deferral itself could influence the political outcome. Each case should be considered on its merits. Again, in cases of doubt, further advice should be sought.’

The pre-election period does not mean that Police and Crime Commissioners cannot pursue existing policies and plans, including engagement events to take these forward, or publicising services and plans provided this is unlikely to affect the outcome of the election and that the Police and Crime Commissioner is not using these for partisan purposes.

Deputy PCCs:

Until 2017 Deputy Police and Crime Commissioners, were required to stand down before they lodged their nominations as a candidate, if they were standing for elections as a PCC (see [S65 \(1\)\(e\)\(i\) of the Police Reform and Social Responsibility Act 2011](#)).

However, the Policing and Crime Act 2017 changed this requirement, as S122 of that Act makes it clear that S65 (1)(e)(i) of the PRSRA does not prevent a Deputy Police and Crime Commissioner from being elected as a PCC at an ordinary election of Police and Crime Commissioners.

Therefore, the requirement for a Deputy Police and Crime Commissioner to stand down from that role if they are seeking election as the PCC no longer applies and they can continue to serve as the Deputy throughout the PCC pre-election period.

7. Offices of Police and Crime Commissioners

APACE has prepared guidance for OPCC Monitoring Officers and staff. Although OPCC and equivalent staff are not generally subject to the Civil Service Code (with some exceptions), the key principles for handling the pre-election period will be much the same as those set out in Cabinet Office guidance for civil servants.

The Cabinet Office regularly produces guidance for civil servants ahead of national elections and referenda, which can help provide general guidance for the staff of Police and Crime Commissioners where there is no specific local guidance about pre-election periods. This guidance can be found on this link: [May2023 Local Elections guidance conduct civil servants.pdf](#) (publishing.service.gov.uk)

The majority of OPCC staff are now politically restricted. The exceptions to this are the Deputy PCC and those staff that transferred from the police authority in 2012, if their role was not politically restricted at the time of transfer and their role/terms and conditions of employment have not been subsequently changed (see [S20\(2\), Schedule 15, Police Reform and Social Responsibility Act 2011](#)).

For the avoidance of doubt, holders of politically restricted posts are prevented from:

- Standing as a member of—
 - (a) the House of Commons; or
 - (b) a local authority².

² Local Authority (defined in s 21 of the Local Government & Housing Act 1989) does not include a Parish Council

- Acting as an election agent or sub-agent for a candidate for Parliament or a local authority.
- Being an officer of a political party or of any branch of such a party or a member of any committee or sub-committee of such a party or branch if his duties as such an officer or member would be likely to require him—
 - (a) to participate in the general management of the party or the branch; or
 - (b) to act on behalf of the party or branch in dealings with persons other than members of the party or members of another political party associated with the party.
- Canvassing on behalf of a political party or on behalf of a person who is, or proposes to be, a candidate for election to Parliament or a local authority (the definition of which includes the office of PCC). (see the [Local Government Officers \(Political Restrictions\) Regulations 1990 \(SI 1990 No 851\)](#))

Members of the OPCC who are not politically restricted, can undertake the above activities in a **personal capacity** – but would be unable to use public resources (including the resources of the OPCC/force), or use their status as an employee of the PCC to seek to influence the outcome of an election.

8. Timing

The date on which the pre-election period begins will differ from area to area, because it is dependent on the date on which Local Police Area Returning Officers (PARO) open the formal nomination process. We understand that in some areas it will be as early as 19 March. We note that central government will begin the pre-election period on 25 March. Given that local elections will also take place on the same day in some areas, this might also impact what the Electoral Commission and election officials decide locally. Police and Crime Commissioners and their offices will observe pre-election restrictions from the date relevant to their local area, while the APCC will follow the dates that central government has set.

The pre-election period will only end when a the newly elected PCC takes office – and the existing law on PCC elections (see [PRSRA S50\(7\)](#)) states that the term of office starts on the seventh day after the election. The serving PCC's term of office does not finish until the end of the sixth day after the election, to enable a short transition period to take place, and enable the incoming PCC to complete a number of things they must do before they can take up their office – including making a declaration of acceptance of office.

9. Further Guidance

The Chief Executive of the OPCC should be able to provide further detailed guidance in their capacity as Monitoring Officer, and if in doubt, it is suggested that Police and Crime Commissioners may wish to consult them. As noted earlier, APACE have produced detailed guidance for Monitoring Officers and OPCC staff.

Although OPCC staff are not civil servants, the following Cabinet Office Guidance is a useful guide: https://assets.publishing.service.gov.uk/media/6405dab9e90e0740d987d92a/May2023_Local_Elections_guidance_conduct_civil_servants.pdf

NB: The Home Office has advised that, while the 2023 Cabinet Office Guidance has yet to be updated for 2024 elections, they don't expect it to be significantly different.

**APCC Secretariat
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