I am an accredited election observer and have been researching the use of information systems in election management in Scotland.

I read with interest the submissions to the committee published on your website. The submissions to the committee from the Electoral Commission, Electoral Management Board and the Association of Electoral Administrators place great weight on the independence of returning officers from political interference. It is argued that this separation of roles between the returning officer and council chief executive justifies the payment of additional fees to the returning officer.

My research has found that with the increasing use of information technology in the management of elections, this separation in governance is becoming increasingly illusory.

Councils are increasingly contracting out electoral management services, most notably the receipt of postal votes. In some councils the hardware and software are owned by the contractor and most staff are employed by the contractor, with council election unit staff overseeing the process. The contract to provide the service is between the council and the contractor and not between the returning officer and the contractor. The council selected the contractor, not the returning officer. If there is any problem with the contractor's service, and the nominal returning officer or a member of her staff approach them to sort out the problem in line with the contract, she cannot be acting as the returning officer because the returning officer has no contractual relationship with the contractor.

This is not an abstruse academic argument. Earlier this year the Electoral Management Board wrote to all returning officers in Scotland reminding them of the correct procedure for postal vote openings because it had been noticed that in several councils the process delivered by one contractor was not compliant with the Representation of the People Regulations (Scotland) 2001. Correctly the EMB's focus was on correcting the problem, but the question of who was at fault cuts to the heart of the issue about whether returning officers are really independent. If the Electoral Commission/EMB/AEA position is correct, the returning officers are responsible, even though they did not specify the contract terms, choose the supplier or have a contract with the supplier. If returning officers are genuinely independent of the council they could decide to switch service suppliers leaving the council to sort out the existing service contracts; legally they could do this, but practically they can't.
For these reasons the vaunted independence of Scotland's returning officers is illusory.

Dr Ian Graham
University of Edinburgh Business School