



Department of
Local Government, Sport
and Cultural Industries

A Guide for Scrutineers

For Voting in Person Elections

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1. Introduction

Welcome

The role of scrutineers in local government elections is an important one. Candidates have the right to appoint scrutineers to represent their interests in a specific way. This is to observe the conduct of the election at close hand to see that legal requirements are being met.

To do this effectively it is necessary for scrutineers to understand the election process and what the responsibilities and duties are of all the people involved.

Local government is an integral part of the government of the State. Matters to do with local government are controlled by legislation. Everyone involved in the election must comply with provisions of the *Local Government Act 1995* and the *Local Government (Elections) Regulations 1997*.

A scrutineer must act ethically and follow correct procedures. As an observer of the election process, scrutineers have a responsible role.

Using this guide

Each section of this guide covers a specific aspect of the role of a scrutineer and is broken down into easy-to-read subsections. Relevant forms and documents used during the election process are shown. Procedures are clearly described and a flowchart is sometimes provided to show the process step by step.

Who the users are expected to be

Users of this guide will be scrutineers that have been appointed by candidates for local government voting in person elections in Western Australia.

2. Background to the election

Local government elections

The State is divided into districts, each with their local government. Currently there are 137 local governments in Western Australia. There are approximately 1200 elected members, called councillors, with a mayor or president spread across these local governments. They act in a similar way to the board of directors of a company and by making decisions at council meetings, they control the affairs of the local government where they are a member.

Every two years approximately half of the councillors' terms of office expire. This results in elections being held to fill the vacant positions. Many of the existing councillors nominate again and some are re-elected but often new members are elected to serve the community's interests on council. The term of office of those elected varies due to local circumstances but most councillors are elected for four years.

If a councillor stands down mid-term or for some other reason a vacancy occurs, an extraordinary election is held to fill the vacant position. Although held as a special event, the legal processes for extraordinary elections are virtually the same as for ordinary elections. Scrutineers can be appointed at ordinary and extraordinary elections.

The Act and regulations

The Local Government Act 1995 (the Act) is legislation passed by State Parliament. It is divided into Parts, rather like the chapters of a book, that relate to how local government is administered in this State. Part 4 of the Act refers specifically to how elections are to be conducted. It is broken down into smaller sections that relate to specific issues. Each part of the Act can also have a set of regulations that relate to the particular topic covered in that part. The regulations made under Part 4 of the Act are called the *Local Government (Elections) Regulations 1997* (the regulations).

Some legal references to the Act and the regulations are quoted in this guide. For instance, the reference "s.4.71 and reg. 69" relates to section number 4.71 of the Act and to regulation 69 in the *Local Government (Elections) Regulations 1997*. As the name suggests, the regulations regulate the way the election is to be conducted and the procedures and processes set down in the regulations must be followed by everyone involved.

3. The people involved

Candidates

Candidates are people who have nominated to be elected either as mayor, president or councillor to the council of the local government. If elected they will represent the interests of electors, ratepayers and residents, provide leadership and guidance to the community, facilitate communication between the community and the council and participate in decision-making at council meetings. Because of their obvious close interest in the election result, candidates are kept at arm's length during voting. For example, the only time candidates can enter a polling place on election day is to cast their own vote. This is the reason they are permitted to appoint scrutineers to act on their behalf. Candidates themselves cannot act as scrutineers.

reg. 69

Scrutineers

A scrutineer is a person who observes the conduct of an election on behalf of a candidate. To do this they attend a polling place to observe the issuing of ballot papers and may attend the counting of votes.

reg. 71

The role of a scrutineer should not be confused with that of a campaign helper who does not enter polling places or the count area.

Returning Officer

The returning officer is responsible for management of the entire election process. They give statutory public notice at appropriate times; ensure that processes are carried out in a lawful, fair and impartial manner; receive nominations from candidates; appoint electoral staff and ensure they are trained in their duties; appoint the polling places and ensure security of electoral rolls, ballot papers and ballot boxes, and any computers used for electronic counting. They are in absolute control of the counting of the votes.

s. 4.23

The returning officer also has powers to direct the behaviour of candidates and scrutineers in relation to the election.

s. 4.72, reg. 72

Deputy Returning Officer

Each returning officer must appoint at least one deputy. If the returning officer is absent or cannot perform his or her functions a deputy returning officer is to perform the returning officer's functions. In addition to acting for the returning officer during absences, in many cases the returning officer will delegate to the deputy specific

powers and duties. Often the deputy returning officer attends to the many practical administrative tasks associated with the election.

s. 4.21 and s. 4.26

Presiding Officers and Electoral Officers

Presiding officers and electoral officers are appointed by the returning officer to receive votes at polling places. Presiding officers have the responsibility for the peaceful and orderly conduct of the election at their polling place. They must ensure that intending voters are able to exercise their voting rights without harassment or undue delay.

s. 4.70

The presiding officer is the senior electoral officer at the polling place and has the responsibility to ensure that all polling is carried out in accordance with the provisions of the Act and the *Local Government (Elections) Regulations 1997*. This includes ensuring that candidates, scrutineers and campaign helpers comply with the Act and regulations during polling.

Electoral officers assist the presiding officer in handling voting processes. They record the fact that an elector has voted by crossing their name off the electoral roll to record the vote and authenticate and hand out ballot papers.

The presiding officer is in charge of the security of the ballot papers and the ballot box while they are in the polling place and being transported to the count area. They also have other specific powers and duties.

Presiding officers have power to remove a person who is disrupting or may disrupt the poll, is obstructing the approaches to a polling place, or fails to obey the lawful direction of the presiding officer. If a difficult situation occurs, the presiding officer can call on the returning officer, deputy returning officer or a member of the police for assistance.

s. 4.70

4. Appointment of scrutineer

Eligibility to act as a scrutineer

- A scrutineer must be 18 years of age or over to be appointed.
- A candidate cannot be a scrutineer.
- Before acting, each scrutineer must make a declaration on the prescribed Form 18 (found in the regulations) in front of a relevant witness and must have their appointment acknowledged by the returning officer or a presiding officer.

s. 4.71(1)(j) reg. 69(2)

Appointment of a scrutineer

reg. 69(1)

Form 18 Appointment of Scrutineer - duplicate copy
APPOINTMENT OF SCRUTINEER
Local Government (Elections) Regulations 1977, reg. 69

Candidate: Full name: _____
 Address: _____
 Candidate No.: School/Presiding Candidate

Scrutineer: Full name: _____
 Address: _____
 Phone number (H): _____ (M): _____
 Poll number: _____ Ward: _____

Witness: Local government officer
 Name: _____
 Position: _____
 Full name: _____

Signature of Candidate: _____ Date: _____

ACKNOWLEDGEMENT OF APPOINTMENT

Presiding Officer or
 Returning Officer: Full name: _____
 Signature: _____ Date: _____

DECLARATION BY SCRUTINEER

I declare that I am over 18 years of age and will comply with the provisions of the Local Government Act 1977 and the Local Government (Elections) Regulations 1977 which relate to scrutineers

Signature: _____ Date: _____

Witness: Full name: _____
 Office: _____
 Signature: _____ Date: _____

Candidates must give to the returning officer written notice of their appointment of any scrutineers using the form prescribed in the regulations – in this case Form 18. They must say what polling place each scrutineer will attend. A scrutineer can be appointed for one or more polling places and once the appointment formalities have been completed the scrutineer can move around on election day between the polling places they have been appointed to. A restriction to this is that only one scrutineer for the candidate can be in a polling place at any one time.

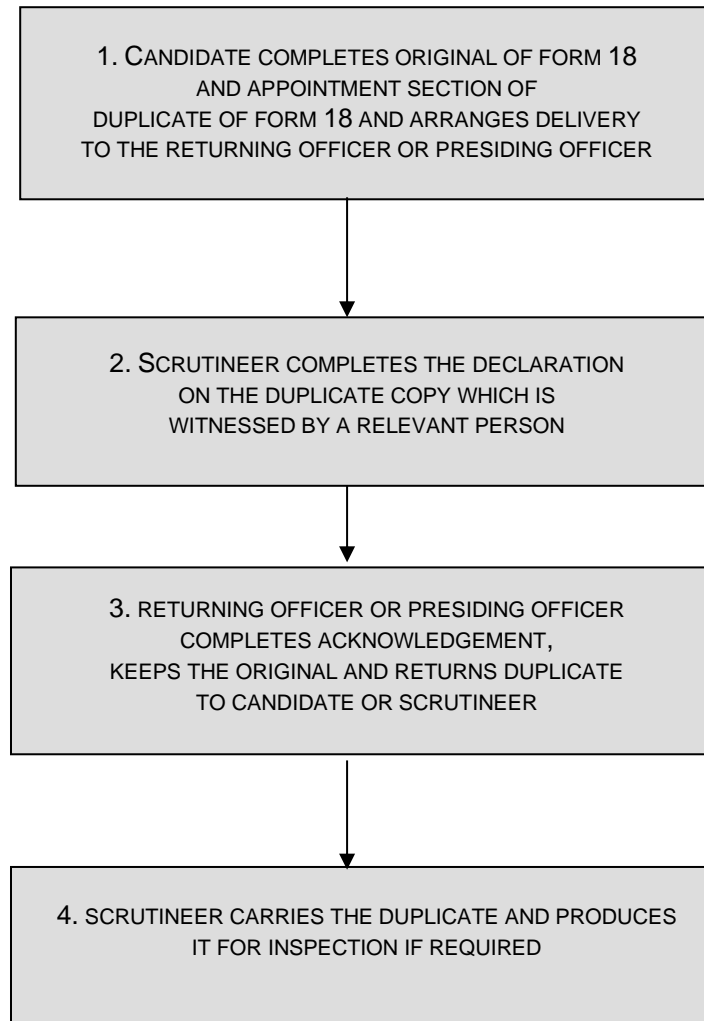
Declaration by scrutineer

The duplicate copy of the notice of appointment includes space for a declaration to be made by the scrutineer and an acknowledgement of the appointment to be made by the returning officer or a presiding officer. The declaration that the scrutineer is required to make is that the person is over the age of 18 years of age and will comply with the Act and regulations. The declaration must be witnessed by:

- a) a person who is able to take statutory declarations under the *Oaths, Affidavits and Statutory Declarations Act 2005* such as a Justice of the Peace; or
- b) a returning officer, a deputy returning officer or a presiding officer.

reg. 69(4) and (5)

Flowchart of sequence of steps in the appointment of scrutineers



How appointments are made

There is no time limit imposed on candidates to have scrutineer appointments processed. It is helpful if this is done before election day. When this happens the returning officer produces a list of all the appointments and issues a copy to the presiding officers. If the person's name is not on the list and he or she cannot show the completed duplicate copy of appointment to the presiding officer, the prospective scrutineer should be given a Form 18 in duplicate and asked to have this completed by the candidate. He or she must then find the candidate and go through all the steps of appointment.

reg. 70 (1) and reg. 69

Rights and duties of scrutineers

Scrutineers may:

- attend at a polling place mentioned in their notice of appointment to observe the conduct of the election and to make sure that the requirements of the Act and regulations are being met
- while in the polling place, observe the conduct of the election
- leave the polling place at any time
- if appointed by the candidate, observe the checking of absent and postal voting papers to a stage that they are accepted for participation in the counting process
- be present at the preparation of postal voting papers but only at a sufficient distance so that the scrutineer cannot ascertain the markings on the ballot papers
- be present at the close of poll when ballot boxes are opened and votes are being counted and to observe all proceedings at the count.

reg. 71

Identification

Scrutineers must wear identification at all times when acting as a scrutineer. A label inserted into a clear plastic badge is ideal.

reg. 70



5. Restrictions on scrutineers

What the regulations say

Scrutineers must not take any part in the conduct of the election. They must not ask electoral officers to repeat the names of electors or to tell them who has voted. This is not permitted and is an offence.

Scrutineers must not approach any elector, nor speak to them in the polling place or within 6 metres of a polling place – this includes people they may know.

Scrutineers must not hover in doorways or obstruct access to the polling place. They must not canvass for votes in the polling place itself nor in the 6 metre exclusion zone.

Regulations state that a scrutineer:

- is not to be in any polling place specified in his or her notice of appointment if another scrutineer appointed by the same candidate is also there except where one of them is there solely to cast or deliver his or her vote
- is not to take part in the conduct of the election
- is to comply with the restrictions imposed as to conduct in or near polling places
- is to comply with reasonable requests made by an electoral officer
- is to comply with directions given by the returning officer
- is not to record the names of a person who attends a polling place to vote or record any information given by a person to an electoral officer in order to receive a ballot paper.

s. 4.89 and reg. 72

6. Method of voting

Voting in person election

In a voting in person election the principal method of casting votes is by an elector physically casting their vote at a polling place on election day. However, votes can also be cast before election day in some circumstances that are explained below.

Early vote

An early vote can be cast as soon as the election notice for the relevant local government is published Statewide. The election notice can be published any time between nomination day (44 days before the election) and 26 days before election day. The notice lists the places and times that an elector can cast an early vote. The latest an early vote can be cast is 4.00pm on the day before election day.

Absent votes

An absent vote can be cast as soon as the election notice is published by going to any local government office other than the office of the local government in the area for which the elector wishes to vote. Absent voting closes at 4.00pm on the 4th day before election day to give the electoral officers time to post the absent vote to the relevant local government.

Postal votes

Electors can make an application for a postal vote at any time. For the election in question, applications must be in before 4.00pm on the 4th day before election day. If an application for a particular election is received after the 4th day before election day it is rejected. Election packages are sent to all electors who have applied for a postal vote after the election notice is published. Completed papers can be returned up to 6.00pm on election day.

A scrutineer cannot become involved with any elector who is casting a postal vote. The regulations state that it is unlawful for a candidate or a person expressly authorised to act on behalf of a candidate in connection with the election, to communicate with, assist or interfere with an elector while the elector is marking a postal ballot paper.

reg. 49

7. Who can vote

Electors

An elector will be one of three groups of people who are eligible for enrolment:

- Residents* who are on the Legislative Assembly roll for a property within the district or ward of that district.
- Non-resident owners or occupiers**, including nominees of corporate bodies, of rateable property within the district or ward who are on the State or Commonwealth roll for a residence outside the district.
- Owners or occupiers*** of rateable property within the district or ward who are not on a State or Commonwealth roll (not Australian Citizens) but who were enrolled on the last completed owners and occupiers roll under the previous Local Government Act; and have owned or occupied rateable property within the district continuously since that roll was prepared.

* Residents are automatically enrolled.

** Owners and occupiers of rateable property must apply for enrolment. Certain qualifications must be met to be accepted as an elector and to maintain enrolment.

*** Where rateable property is owned or occupied by two persons, both of them are eligible to be enrolled. If property is owned or occupied by more than two owners or occupiers or the owner or occupier is a company, only two people can be nominated for enrolment on a district or a particular ward roll. The same two people must be nominated for all the properties within the district that are owned or occupied by the company or people concerned.

8. Operation of polling place

Hours of polling

Polling is from 8.00am to 6.00pm on election day.

Witnessing the sealing of the ballot box

Electoral officers will arrive at about 7.30am on election day to set up the polling place and put out signs before electors arrive at 8.00am. When entering the polling place, make yourself known to the presiding officer and wear the scrutineer's identification. If the scrutineer arrives before the ballot box is sealed, he or she may be asked to witness the sealing of the box and to complete a witness statement to say that the ballot box was empty when sealed.

WITNESS TO LOCKING AND SEALING BALLOT BOX		
I	(full name)	(Address)
At	(insert time)	(insert date)
declare that I witnessed the locking and sealing of the outer lid of the Ballot Box		
at the		Polling Place.

The 6 metre exclusion zone

It is an offence (penalty \$2,000) for people to canvass for votes, (ie attempt to persuade a person to vote for a candidate) or pass out 'how to vote cards', or interfere with an elector's right to make a free choice in a polling place or within 6 metres of the entrance to a polling place. The *Act* states that no-one in a polling place or within 6 metres from the entrance to a polling place can:

- canvass for votes;
- solicit the vote of an elector;
- induce an elector not to vote for a particular candidate; or
- induce an elector not to vote at the election.

s. 4.89(1)

The presiding officer may give approval for campaign helpers to be within 6 metres of the entrance to the polling place if physical problems such as roadways make it impossible to otherwise comply. It is within the presiding officer's absolute discretion to reduce the exclusion zone.

s. 4.89(2)

Where scrutineers are located

Electoral officers will organise the polling place. They will set out voting screens to ensure that each elector's right to secrecy is protected and they will ensure that the ballot box is in their view from the electoral officers' table(s).

On arrival arrange with the presiding officer where to stand or sit. A scrutineer will not be able to be positioned anywhere that obstructs the view the electoral officers have of the entire polling place or that gives the scrutineer a view of how an elector is voting or that obstructs electors in any way.

Scrutineers may be located away from the electoral officers' table(s) but in a position that allows them to observe the conduct of the election. Each polling place may be set up differently.

Candidate profiles

Candidate profiles are displayed at the polling place in the sequence of names on the ballot paper. This can be left to right or top to bottom. The returning officer will have given instructions to the presiding officer on how to display the profiles.

Effective from the 2023 election, candidates now also have the option of submitting an additional profile consisting of 2,000 characters (including spaces) to the returning officer. This may be displayed alongside the official candidate profiles as space permits.

9. How votes are processed

Electoral rolls

Before any ballot papers are issued electoral officers may mark the electoral roll that is going to be used in the polling place to show which electors have already cast an early or absent vote and those that have received postal voting papers.

To do this they will use a list provided by the returning officer and put a mark in the margin of the electoral roll next to the relevant elector's name. This information is used when the electoral officer is required to be satisfied about the eligibility of a person to claim a vote. In addition the electoral officer may ask an elector if they have already voted in the election.

Once voting begins, the electoral officers will cross off the name in the roll of people who present themselves to vote and who are issued with a ballot paper.

Name not on the roll

Occasionally a person's name is not on the roll. The electoral officers have a number of set procedures to follow in these circumstances. Sometimes, after following these procedures the electoral officer may decide that an elector is entitled to provisional voting papers. This requires the elector to make an application for a provisional vote. If the electoral officer is satisfied the application is true, he or she will issue a ballot paper. When completed, the ballot paper is placed in a ballot paper envelope which is then given to the electoral officers to place in another envelope for later checking by the returning officer before the vote is entered into the count.

reg. 62

Issuing ballot papers

A person wishing to vote in person at an election, on the day of an election, is to attend a polling place and present themselves to an electoral officer to obtain a ballot paper.

The person is to give their name to the electoral officer and if requested by the electoral officer, they must provide any other information that will enable the electoral officer to be satisfied that the name given is the person's name and that it appears on the electoral roll; that they have not already voted or applied to vote by completing a declaration.

Once satisfied that the person is entitled to vote, the electoral officer will take a ballot paper and write their initials on the back or ensure that it has authentication that has been approved by the returning officer. This could be a water mark. They then give the ballot paper to the elector with voting instructions and indicate where the voting screen is located.

Electoral officers will explain that the elector is required to vote by marking the ballot paper with their preference placing a '1' in the square opposite the candidate of their first choice.

Electors may indicate further preferences for **some** or **all** of the remaining candidates by placing '2' in the square opposite the name of their second-choice candidate and so on using consecutive numbers in the order of their preference until the elector has finished allocating their preferences. The elector is not required to number all of the squares for their vote to count as long as there is only one number '1' indicated on the ballot paper, this will be considered a formal ballot paper.

Other than providing their full name and whether they have voted or have applied to vote in this election, there are no other specific questions that the electoral officer is required to ask the elector and scrutineers are not able to ask any questions of the elector or direct the electoral officer to ask them.

10. Checking absent and postal voting papers

Timing

For convenience returning officers may check but not count absent votes and postal voting papers before the close of poll. Candidates must be advised. Often this is in the afternoon on election day and Scrutineers can attend. Any absent votes or postal voting papers not checked before the close of the poll, are checked at the count and if accepted are entered into the count for the relevant election.

Checking procedure

It would be usual for the envelopes containing absent votes and postal votes to be kept in a ballot box. The seal to the ballot box will be broken open and a person present may be asked to witness this and sign a witness form.

The envelopes will be sorted into wards, if wards are used and the declaration on the outer envelope will be checked. The returning officer is required to satisfy himself or herself that the application has been completed correctly or in a manner that they believe is substantially correct.

The electoral roll for early, absent and postal votes will be checked to ensure that the name has been ruled through.

The returning officer will record either acceptance or rejection of the vote on the declaration that is printed on the outer envelope. If the vote is to be accepted, the returning officer will open the outer envelope and take out the ballot paper envelope. This is placed in a ballot box to wait for the close of the poll when it is entered into the count. If the application is rejected the outer envelope is not opened. All the envelopes, whether the vote is accepted or rejected, are kept as part of the record of the election.

11. At the count

Voting system

Votes are counted using the optional preferential voting system. Preferential voting is the same method used in state and federal elections. With optional preferential voting electors are not required to provide all preferences when casting a vote.

Optional preferential voting (OPV) means that to be elected, candidates need to either achieve a majority of votes in the count for a single vacancy or a quota of votes where there is more than one vacancy to be filled. As a result, the candidates elected are more representative of the majority of voters.

For a single vacancy, the OPV system requires a candidate to receive more than 50 per cent of the non-informal, non-exhausted ballot papers (50% +1). This is called the absolute majority of votes.

If a candidate is not elected after the count of first preferences, the candidate with the lowest number of votes is excluded - each ballot paper is distributed to the candidates remaining in the count according to the voter's next highest preference. If there are no other preferences indicated or there is a break in the sequence of numbers (duplication of the same number or an omission of a number within the sequence), then the ballot paper is set aside as exhausted at that point.

After the distribution of ballot papers, if a candidate has reached an absolute majority, that candidate is declared elected. If there is still no candidate with an absolute majority, the next continuing candidate with the lowest number of ballot papers has their unexhausted ballot papers distributed as before. This process repeats until a candidate is elected with an absolute majority.

The process of filling multiple vacancies, rather than needing to obtain a majority, a candidate needs to obtain a 'quota' of votes. To determine the quota - the number of votes are divided by the number of vacancies plus one, disregarding any remainder and then plus one as shown by the following formula:

$$\text{Round down } \left(\frac{\text{Number of votes}}{\text{Number of Vacancies}+1} \right) + 1$$

As an example, if there are 2 positions to fill and 900 votes are cast, the quota for the election would be 301 votes, as shown below:

$$\left(\frac{900}{(2+1)=3} \right) = 300 + 1 = 301$$

Candidates achieving quota are elected, for those receiving over the quota these surplus votes are distributed in accordance with preferences and candidates with the least number of votes excluded until all of the remaining positions are elected.

Counting methods

The returning officer decides how the votes are to be counted. Where the returning officer uses electronic assistance to carry out the actual count, it is likely that the steps described below for sorting and preparing the ballot papers for data entry will be similar to those used for a manual count.

Where a district is divided into wards, the votes are counted for the particular number of vacancies in each individual ward, as each ward is a separate election.

Ballot boxes unsealed

When the ballot boxes arrive from the polling places and once the counting staff are ready, the returning officer will authorise the count to start.

Empty ballot box & unfold to flatten the papers. Set aside any envelopes containing provisional and/or early/absent votes.



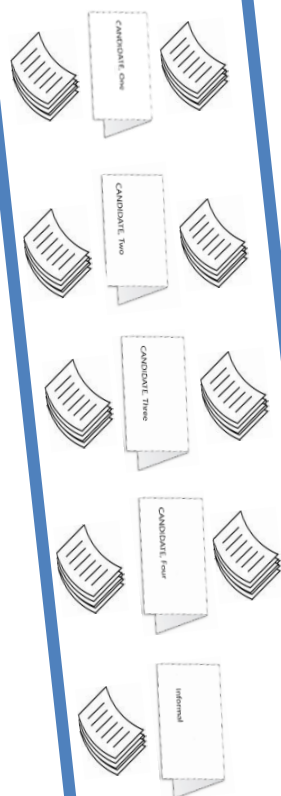
Team members then each take a bundle of papers to sort to the first preference candidate on each ballot paper – with the number '1'.

Identify any 'informal' and place in the 'informal' pile for the returning officer to review.

This will take place as soon after the close of the poll as possible. The returning officer does not have to wait for scrutineers or candidates to arrive at the count area.

Ballot boxes will be placed on the counting table(s) progressively and the table manager will unseal the ballot box. This will be done in the presence of any scrutineers present who may be asked to witness this and sign a witness form.

The ballot papers will be emptied out onto the count table(s) and sorted in accordance with the voter's first preference.



Where a district is divided into wards, the votes are counted for the particular number of vacancies in each individual ward because each ward is a separate election. Ballot papers relating to minor wards should be sorted and counted before those relating to elections in other wards. It should be noted here that *Local Government (Elections) Regulations 1997 s.75C* allows for the electronic transmission of ballot papers to an identified electronic counting place.

Counting the votes

If wards are used, the counting staff will sort the ballot papers with the intention to count minor wards first. If and when this is done, they will proceed to count the bulk of the ballot papers in the ballot box.

As ballot papers are sorted, the counting staff check whether they appear to be valid. Any potentially invalid ballot papers are placed into the 'Informal' pile and the table manager will take charge of them until it is possible for the returning officer to attend the table to rule on their validity and either admit or reject.

A ballot paper can be admitted to the count if, in the returning officer's opinion, it clearly indicates the elector's wishes even if it is not marked precisely according to regulations.

Unless a Court of Disputed Returns rules otherwise, the returning officer's decision about the acceptance or rejection of a ballot paper is final. However, the returning officer may review his or her decision relating to a ballot paper in the course of a recount.

S. 4.75 and s. 4.76

Single vacancy

Where there is one position vacant, as each valid ballot paper will only have one first preference vote indicated against the candidate of choice, counting staff will sort the ballot papers into piles of valid ballot papers that relate to each candidate. These are then counted into bundles of first preferences for each candidate, using elastic bands around each bundle of 50 papers, recording the total number of first preference votes on the sort card for each candidate. Once all the bundled ballot papers from the box are tallied against the relevant candidates, the next box is counted and so on. When the totals from each box are known, the total of first preference votes cast for each candidate from all of the boxes is tallied and the result obtained.

For a single vacancy, the optional preferential voting (OPV) system requires a candidate to receive more than 50 per cent of the non-informal, non-exhausted ballot papers (50%+1). This is called the absolute majority of votes.

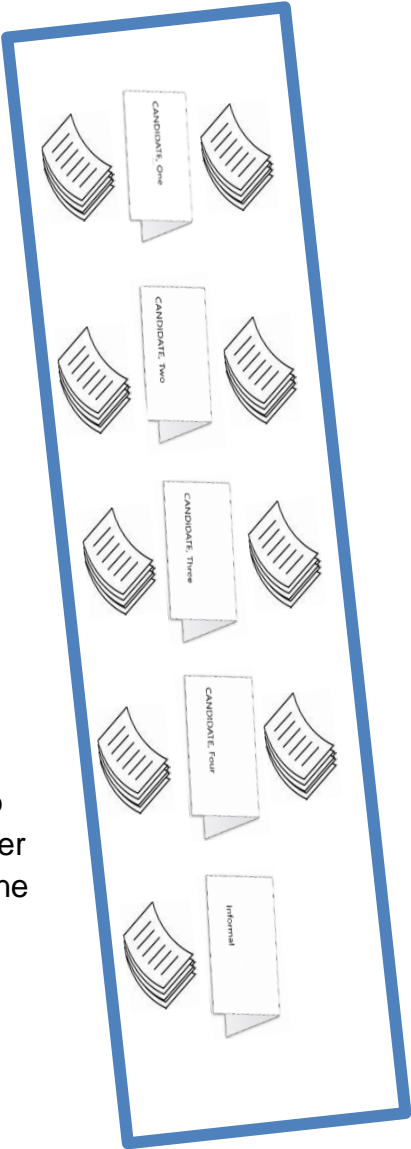
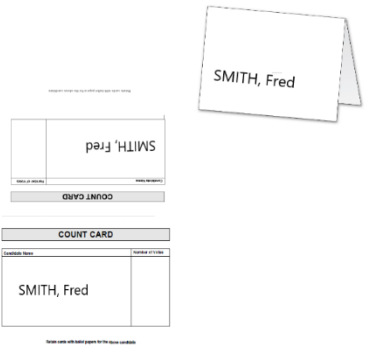
If a candidate is not elected after the count of first preferences, the candidate with the lowest number of votes is excluded - each ballot paper is distributed to the candidates remaining in the count according to the next highest preference. If there are no other preferences displayed, the ballot paper is set aside as exhausted.

After the distribution of ballot papers, if a candidate has an absolute majority, that candidate is declared elected. If there is still no candidate with an absolute majority, the next continuing candidate with the lowest number of ballot papers has their unexhausted ballot papers distributed as before. This process repeats until a candidate is elected with an absolute majority.

Two or more multiple vacancies

Using count sort cards for each candidate, with each candidate’s name printed on the front and back, these cards are set up on the count tables making it easier for counting staff to walk along both sides of the table and allocate the ballot papers to each pile according to the voter’s first preference.

The piles of votes are then counted into bundles for each candidate, using elastic bands around each same candidate bundle of 50 papers. The tally of first preference votes are recorded by the table manager who records the votes on a box tally sheet that is delivered to the returning officer.



The process of filling multiple vacancies, rather than needing to obtain a majority, a candidate needs to obtain a ‘quota’ of votes. To determine the quota - the number of votes are divided by the number of vacancies plus one, disregarding any remainder and then plus one as shown by the following formula:

$$\text{Round down } \left(\frac{\text{Number of votes}}{(\text{Number of Vacancies} + 1)} \right) + 1$$

As an example, if there are 2 positions to fill and 900 votes are cast, the quota for the election would be 301 votes, as shown below:

$$\left(\frac{900}{(2+1)=3} \right) = 300 + 1 = 301$$

When the first preference votes have been counted – have any candidate/s achieved quota?

If **YES** – then the candidate(s) who have reached quota are elected.

If a candidate has more than the required quota, it means they have a surplus and that surplus must be transferred to the remaining candidates. A **transfer value** is determined so that each ballot paper transferred is worth a percentage of that surplus.

If **NO** – then proceed with distributing preferences of the candidates with the least number of votes, excluding until all of the remaining positions are elected to reach a result.

If two or more candidates have the same number of first preference votes, then the returning officer must draw lots in accordance with regulations to determine the order in which the positions are elected.

Where the Western Australian Electoral Commission's vote counting software is being used, the CountWA software will process all of the above steps electronically.

Validity of ballot papers

In an election for one position on council, the elector is required to mark the ballot paper to indicate the candidate named on the ballot paper that the elector wishes to be elected.

If two or more positions are to be filled, the elector votes by marking the ballot paper to indicate each candidate whom the elector wishes to be elected but is not to mark votes for more than the number of positions to be filled. The returning officer will accept an otherwise valid ballot paper where less than the possible numbers - are used.

The regulations state that the elector is to use a number '1' for their first preference in the square alongside the candidate of their choice and may indicate further preferences by using '2' and consecutive numbers -to indicate their choice of the remaining candidate(s).

Some variations are acceptable provided the returning officer believes that the ballot paper 'clearly' indicates the elector's wishes.

s. 4.69 and reg. 34 and reg. 35

Counting staff will check for validity whilst sorting

If the count is being conducted manually, as ballot papers are sorted the counting staff will check whether they appear to be valid. Any potentially invalid ballot papers are placed into the 'Informal' pile for the table manager who takes charge of them until it is possible for the returning officer to attend the table to rule on their validity.

A ballot paper can be admitted to the count if, in the returning officer's opinion, it clearly indicates the elector's wishes even if it is not marked precisely according to regulations.

Where the count is being conducted electronically, ballot papers are not checked for validity prior to data entry. The vote counting software is designed not to process invalid ballot papers. The software highlights any invalid ballot papers in a batch report, which is then checked by the Returning Officer. The Returning Officer will then advise

the data entry staff which of the highlighted ballot papers may be re-entered onto the system as valid. Scrutineers will be able to view this process.

Unless a Court of Disputed Returns rules otherwise, the Returning Officer's decision about the acceptance or rejection of a ballot paper is final. However, the Returning Officer may review his or her decision relating to a ballot paper in the course of a recount.

Election of the mayor or president by the electorate

In a manual count, if the mayor (or president) is being elected by the electorate and any of the candidates standing for election to both the mayoral and a councillor position, the ballot papers relating to the election of the mayor should be counted first.

If a candidate who has stood for both mayoral and councillor election is elected to the mayoral position, that person will be excluded from the count for election to the councillor position.

The ballot papers of unsuccessful mayoral candidates who have also stood for election as councillors will be included in the count for the relevant councillor position/s.

Where vote counting software is being used, the CountWA software will process all of the above steps electronically.

12. Additional information

Enquiries before election day

The returning officer or deputy returning officer are available to answer any enquiries from scrutineers before election day. Contact the local government office during office hours. The council public notice board is also a source of much information about the election.

Queries about polling place procedures

If there are any queries relating to procedures used in the polling place wait until the electoral officers have finished dealing with any electors who may be present. It is imperative that scrutineers do not interrupt an electoral officer whilst they are processing a vote or assisting an elector because they need to concentrate wholly on what they are doing. A scrutineer's role is to observe and if the electoral officers are interrupted whilst they are dealing with an elector, the presiding officer will ask the scrutineer to desist.

Queries can be directed to the returning officer and deputy returning officer on election day. Scrutineers should leave the polling place when making any telephone calls.

Queries at the count

Do not interrupt the counting of votes or speak to counting staff. If a scrutineer has any queries at the count, they must be directed to the returning officer.

Electronic counting

A scrutineer at a computer assisted count may observe the sorting into batches and the data entry of the ballot papers. However, computer operators will not slow down their pace of entry to allow a scrutineer to check the data entered.

A scrutineer may also observe the process where the Returning Officer makes decisions on the validity or otherwise of ballot papers that have been highlighted in electronic invalidity reports.

Request for a Re-count

The returning officer may arrange for some or all of the votes to be re-counted if, and to the extent that, the returning officer considers appropriate.

A returning officer can decide to re-count some or all the votes on their own initiative.

A candidate or a scrutineer on behalf of a candidate may, ask the returning officer to re-count the ballot papers.

This request must be in writing and must —

- (i) be made before the returning officer declares the result of the election under section 4.77; and
- (ii) include the candidate's or scrutineer's reasons for the request.

Returning officers should carefully consider the reasons and make a decision as to whether to re-count the ballot papers. If a returning officer believes a re-count is not necessary, then advise all candidates and scrutineers who are present of the decision. The returning officer's decision is final and can only be overturned by the Court of Disputed Returns. Returning officers will keep candidates and scrutineers informed of the re-count.

Regulations may prescribe circumstances in which the returning officer must arrange for some or all of the votes to be re-counted to the extent prescribed.

Declaration of the result

As soon as practicable after the result of the election is known, the returning officer will publicly declare the result. However this announcement will only be made when the returning officer is satisfied that the count has been conducted in a proper manner and the distribution of all preferences and any recounts have been dealt with.

There is a need to manage expectations with regard to timing of the declaration, in the event that this may need to be delayed until the day after the election (or even the next business day) to allow for confirming all preference votes.

Court of Disputed Returns

Any person can make a complaint to a Court of Disputed Returns within 28 days after notice is given of the election result. The 28 days is calculated from the publication date of the notice in a local newspaper. The court has the power to declare that the election is invalid, a candidate should be declared elected in place of another candidate, the term of office of a candidate should be longer or shorter than the term determined by the returning officer, the result is tied and lots need to be drawn to determine the result or the invalidity complaint is rejected.

Extraordinary elections - backfilling vacancies

The office of a member of council as an elected mayor or president, or as a councillor, becomes vacant in certain circumstances as listed in the Act.

Following the 2023 election where optional preferential voting (OPV) is used, backfilling options will now apply to those candidates elected under the new Schedule 4.1 or Schedule 4.1A. Therefore a future vacancy may be filled by the 1st and 2nd unelected candidates under Schedule 4.1A for the next 12-month period in lieu of holding an extraordinary election.

The 1st and 2nd unelected candidates are the unsuccessful candidates who would have been next placed in the order of votes received. In the event that a position becomes available within 12 months of the current election, the 1st unelected candidate in the election for that position will be asked to complete the term of office. If they decline, the 2nd unelected candidate will be asked to complete the term of office. If both candidates decline, an extraordinary election will be required to be held at a later date.

Actions are directly related to the time a resignation has been received, as there are options to either backfill (as mentioned above); apply to leave the vacancy unfilled in certain circumstances or to hold an extraordinary election in order to fill the vacancy.