

S O L G M

NZ SOCIETY OF LOCAL GOVERNMENT MANAGERS



CODE OF GOOD PRACTICE

For the Management of Local Authority
Elections and Polls

Part 14 Vote Processing and Counting

Produced by the
SOLGM Electoral Working Party

Contents

Introduction	3
Objective	3
Legislative requirements	4
Recommended practices	5

Introduction

- 14.1 One of the principles of the Act is “public confidence in, and public understanding of, local electoral processes through (among other things) procedures that produce certainty in electoral outcomes”. Critical to the achievement of this principle are the procedures used by the electoral officer once voting documents have been received from voters.
- 14.2 The procedures used by the electoral officer through this phase of an election relate to four groups of activities:
- scrutiny of the roll
 - processing of voting documents
 - vote counting
 - reporting of election results.
- 14.3 A number of tasks rely heavily on computer technology. As a result electronic information systems have a significant role to play in these electoral activities. The introduction of STV has increased this reliance and emphasises the importance of technological tools in conducting local elections and polls.
- 14.4 The SOLGM Electoral Working Party has developed recommended good practice relating to these electoral activities, including information technology factors, with a view to achieving ‘end-to-end’ assurance around the receipt, processing and counting of voting documents.
- 14.5 For the purpose of these guidelines, the Working Party has defined “end-to-end” as commencing with the receipt of returned voting documents from voters to the production of election results. The guidelines apply, with any necessary modifications, whether postal or booth voting is used, or whether first past the post (FPP) or single transferable voting (STV) is being used..
- 14.6 This Part of the Code addresses the receipt and processing of voting documents and the counting of votes/preferences. Part 15 addresses the reporting of election results.
- 14.7 This Part of the Code also identifies key factors that are critical to achieving a successful election and the need for a risk management strategy to mitigate risks of something going wrong in these areas.

Objective

To identify the key requirements relating to all stages in the handling of voting documents once received from voters, and to ensure they are understood by electoral officers along with the need for a risk management strategy in the event of something going wrong.

Legislative requirements

14.8 The key provisions relating to vote processing and counting are:

Local Electoral Act 2001

Section 5	Interpretation
Section 19AA	Duties of programmers
Section 19AB	Duties of certifiers
Section 65	Further notice of election or poll to electors
Section 73	Adjournment of election or poll
Section 74	Electoral officer to maintain security and secrecy at election or poll
Section 78	Voting
Section 79	Early processing of votes
Section 80	Processing before close of voting
Section 81	Scrutineers' presence at processing prohibited before close of voting
Section 82	Justices of the Peace to observe processing before close of voting
Section 83	Scrutiny of roll
Section 84	Counting of votes
Section 129	Infringement of secrecy
Section 130	Disclosing voting or state of election or poll

Local Electoral Regulations 2001

Postal voting and FPP (STV)

Regulation 54 (99)	Voting documents received after close of voting must be marked
Regulation 55 (100)	Dealing with returned envelopes
Regulation 56 (101)	Processing voting documents during voting period
Regulation 57 (102)	Processing voting documents after voting period
Regulation 58 (103)	Counting votes
Regulation 59 (104)	Checking systems
Regulation 60 (104A)	Performance standard for checking systems
Regulation 61 (105)	Other disallowed votes
Regulation 67 (112)	Security of voting documents
Regulation 68 (113)	Electoral officer may announce number of voting documents sent and returned

(NOTE: Similar regulations also apply for booth voting using FPP and STV and must be followed if this voting method is adopted.)

Regulation 90B	Multiple elections with common candidates
Regulation 138	Eligibility of Justices to observe processing of voting documents
Schedule 1A	New Zealand method of counting single transferable votes

Recommended practices

Roll scrutiny

- 14.9 The purpose of the roll scrutiny is to validate the votes cast in any election or poll. Section 83(1) of the Act requires the electoral officer to record the name of all electors who appear to have voted and to be satisfied that each elector has voted only once. Where more than one vote is recorded against an elector then all votes cast in that elector's name must be disallowed.
- 14.10 An added responsibility for the electoral officer is that notwithstanding section 83(1), if the electoral officer is satisfied that the elector cast only one vote and was not involved in the other votes cast in the elector's name then the vote cast by the elector must be allowed and the other vote(s) disallowed.
- 14.11 For postal voting the scrutiny may begin at any time before the close of voting. However, electoral officers must decide dates and times that the scrutiny will be undertaken and notify candidates and their nominated scrutineers. If early processing has been adopted then the scrutiny must be carried out before the votes are opened and processed.
- 14.12 The roll or rolls used for the scrutiny must be kept until the next general election of members and during that period must be available for public inspection, without fee, during the hours the offices of the local authority are open to the public (Regulations 69 and 86).

- 1 Recommended good practice is that electoral officers:**
- (i) plan in advance to ensure that the roll scrutiny is commenced as early as possible to avoid any delay in declaring the preliminary result of the election or poll;**
 - (ii) ensure that all candidates and scrutineers are advised, in advance, of the roll scrutiny arrangements;**
 - (iii) ensure that the roll scrutiny is included in security arrangements relating to the election or poll.**

Early processing of votes

- 14.13 Section 79 of the Act authorises local authorities to determine, by resolution, to process voting documents during the voting period in respect of an election or poll. This decision must be made before the public notice is given under section 65 of the Act, to enable the notice to include a statement of whether a resolution relating to early processing has been made.
- 14.14 Section 79(4) defines "local authority" in a particular way for the purpose of this section. It is defined as a "territorial authority" and as "a local authority that undertakes the processing of votes for the election to which a resolution ... relates". Some uncertainty remains over the ramifications of this 2004 amendment, given it is the electoral officer not the local authority that undertakes early processing. In order to ensure that early processing of votes is undertaken legally in all areas, particularly where the processing task has been delegated by an electoral officer, it is strongly recommended that all local authorities (i.e. including district health boards, regional councils and licensing trusts) pass the requisite resolution to authorise early processing.

- 2 Recommended good practice** is that electoral officers:
- (i) familiarise themselves with and take full advantage of the early processing requirements of the Act;
 - (ii) consult with and consider the views of other local authorities before any early processing resolution is considered by the territorial authority;
 - (iii) ensure that the resolution is made and the appropriate statement included in the public notice required under section 65 of the Act.

Security of premises

14.15 Potentially, there may be public concern about the secrecy and security of voting documents being processed before the close of voting. Section 74 and Regulations 67 and 112 charge the electoral officer with responsibility for the security of the voting documents at all times and their secrecy. Therefore, in terms of premises and electronic vote processing systems, there are several practices/procedures which should be implemented to alleviate secrecy and security concerns surrounding voting documents. Good practice recommendations relating to electronic vote processing systems are included in Appendix B.

- 3 Recommended good practice** is that electoral officers:
- (i) use premises that are
 - lockable and secure (if necessary, change the locks for the polling period),
 - private (processing cannot be viewed through windows, open doors, etc)'
 - contain a fireproof and lockable room to store all ballot boxes and voting documents;
 - (ii) use separate rooms for the scrutiny of the roll and any early processing of voting documents if the same premises are used for these functions. If the same room is to be used, it is important to ensure that the scrutiny procedures are fully completed, envelopes locked away and scrutineers have left the premises before processing commences;
 - (iii) ensure only the electoral officers and staff that have signed a declaration under section 14(2), have access to any room(s) where processing is to occur and appropriate signage is provided outside the room prohibiting entry.

Justices of the Peace (JPs)

14.16 Section 82 requires the electoral officer to appoint at least one JP to be present and observe all steps in the processing of voting documents under section 80. Regulation 138 sets eligibility criteria for JPs. All JPs are required to provide the electoral officer with a certificate stating whether or not the JP is satisfied, that section 80 and the regulations governing early processing of voting documents, were complied with. If not satisfied,

the JP must attach a report to the certificate setting out any way in which the section or regulations were not complied with.

- 14.17 It is important to note that while a JP must be present during early processing of votes, the presence of scrutineers during early processing of votes before the close of voting is prohibited.
- 14.18 When considering the introduction of early processing, the Internal Affairs and Local Government Select Committee recommended, in the report on its “Inquiry into the Early Processing of Voting Papers at Local Authority Elections”, that SOLGM and the Royal Federation of New Zealand Justices Association develop training for JPs.
- 14.19 The SOLGM Electoral Working Party agrees that training for JPs, involved in the processing of voting documents before close of voting, would be beneficial. However, there will be differences between local authorities in how they conduct early processing of voting documents (period of time, computer systems, etc). Therefore it is considered that electoral officers should develop and tailor their own briefing/training sessions for JPs involved in observing the processing of voting documents before the close of voting.

4 Recommended good practice relating to Justices of the Peace (JPs) is that electoral officers:

- (i) provide a brief on what the role and requirements of JPs are in relation to early processing of voting documents to the local branch of the Royal Federation of New Zealand Justices Associations and obtain a list of recommended JPs;
- (ii) develop and hold training sessions for JPs covering the processing systems and security issues etc relating to the processing of voting documents before the close of voting;
- (iii) ensure that at least one appointed JP is present when any early processing of voting documents is undertaken;
- (iv) ensure that if a JP is allocated with a password to the electoral software, that he/she is able to be present on polling day after the close of polling to unlock the security system on the electoral software;
- (v) ensure that JPs are not involved in other work or duties associated with the election or poll outside their role in relation to the processing of voting documents before close of voting.

Vote counting

- 14.20 How the votes are counted will depend upon the electoral system and voting method used in each area. In addition, manual or electronic counting systems may be used.
- 14.21 Section 5 defines electoral system as either the prescribed system commonly known as first past the post (FPP) as described in section 5A, or the prescribed system commonly known as single transferable voting using the New Zealand method of counting single transferable votes (STV) as described in section 5B and Schedule 1A of the Regulations. Part 11 of the Code sets out the options relating to voting methods.
- 14.22 For postal voting, where early processing has been adopted, the electoral officer may process but not count voting documents during the voting period. Counting, whether

early processing has been adopted or not, may only take place after the close of voting. It must commence as soon as practicable after the close of voting and after processing has been completed.

- 14.23 The electoral officer must apply a checking system to the processing and counting of votes. The requirements relating to checking systems are set out in regulations 59 and 104. Regulations 60 and 104A set out the performance standards for checking systems. The performance standards state that:
- (1) The checking system must ensure that the results of the counting are as least as accurate as those that would be produced by:
 - (a) carrying out the following operations manually;
 - (i) rejecting blank voting documents and informal voting documents,
 - (ii) counting votes from valid voting documents; and
 - (b) repeating the operations in paragraph (a); and
 - (c) resolving any discrepancies.
 - (2) In determining whether or not the performance standard in subclause (1) is met, it is sufficient to make reasonable inferences about the errors that are likely to be generated by the operations specified in subclause (1)(a).
- 14.24 Regulation 90B provides that in the case of multiple elections with common candidates (e.g. common candidates for mayor and councillor or for councillor and community board member), the electoral officer must count the votes for these elections in this order: first the mayor, then council, then community board.

- 5 Recommended good practice is that electoral officers:**
- (i) **develop and test before the election, a process for counting votes that suits the electoral system and voting method to be used;**
 - (ii) **adopt a checking system that ensures that the performance standards required under regulation are achieved.**

Counting of STV votes

- 14.25 The New Zealand method of counting single transferable votes, given its nature, requires the use of computers. This applies in the case of all DHB elections, for which STV is mandatory, and those local authorities that have resolved to use STV or are required to use STV as the result of a local poll.
- 14.26 Section 19AA requires every person responsible for the design of a counting program intended to implement the New Zealand method of counting single transferable votes to take all reasonable steps to ensure that the program produces outcomes consistent with the process specified in Schedule 1A of the Regulations.
- 14.27 Section 19AB states that a counting program may not be used at an election or poll under this Act for the purpose of implementing the New Zealand method of counting single transferable votes unless it has been certified for the purpose by the Secretary for Local Government.
- 14.28 The Department of Internal Affairs was responsible for the development of a counting program designed to implement the New Zealand method of counting single transferable

votes. This program (the STV calculator) has been certified as required by section 19AB. The Department provides the STV calculator (and a backup calculator) free of charge on a licence basis to local authority electoral officers undertaking the counting of STV votes using the New Zealand method of counting single transferable votes. It is not mandatory to use the STV calculator however it is recommended.

6 Recommended good practice is that electoral officers responsible for counting STV votes use the STV calculator supplied by the Department of Internal Affairs for this purpose.

Information technology factors

14.29 Because of the influence of information technology on the election process, separate handbooks have been prepared entitled *Managing the Electronic Information* and *The STV Calculators – Tips and Tricks*. These are included as appendices to this Part of the Code.

14.30 The handbook *Managing the Electronic Information* covers a wide range of IT issues including:

- physical security
- network security
- data security
- staff organisation
- communications security
- data interchange
- computer operating systems
- system performance factors
- application software
- results reporting
- STV calculators
- scanners
- electronic rolls
- voting document processing procedures
- audit trails.

14.31 The handbook *The STV Calculators – Tips and Tricks* has sections relating to:

- preparing the main calculator
- the graphical user interface
- resolving problems
- the “backup” calculator.

7 Recommended good practice is that electoral officers are familiar with the contents of the two handbooks *Managing the Electronic Information* and *The STV Calculators – Tips and Tricks* and use the handbooks, as appropriate, when conducting elections and polls.

Risk management

- 14.32 Electoral officers can expect close scrutiny from the media, politicians and their local community in the running of local elections and the timely announcement of results. Good planning and management are essential to meet these expectations and planning should include risk management. While this applies for all election tasks, a particular focus should be on activities and issues relating to processing voting documents to allow the timely release of accurate election results.
- 14.33 Electoral officers are encouraged to assess what could go wrong and to plan for contingencies. The local environment and the community in which each election is run will vary considerably and so there can be no master contingency plan that suits all. The way in which the election is being run i.e. by a service provider, in-house or a combination of service provider/in-house, will also present areas of risk.
- 14.34 As a starting point the following is a list of matters that electoral officers should consider as part of a risk management strategy:
- software failure – use independently assured ‘fit for purpose’ software accompanied by adequate documentation, carry out plenty of testing and training, make arrangements for software support
 - under resourced – have arrangements that you can quickly put in place if you are overwhelmed with greater returns of voting documents than predicted
 - equipment failure – identify where you could immediately obtain replacement equipment and get support to set up the new equipment
 - power failure – have contingencies for an uninterruptible power supply at least for your server and backup generator
 - loss of premises – identify alternative premises and have a business continuity plan
 - breach of security – identify steps to address breaches of physical and data/ network security
 - destruction/loss of voting documents – ensure secure storage to mitigate this risk
 - loss of voting documents in transit (e.g. when transferred for processing) – ensure reliable and safe transport arrangements to mitigate this risk
 - lack of management controls – identify contingencies to address risks such as inadequate software version control
 - postal delivery problems – consider what action you would need to take if parts of a community do not receive voting documents
 - subcontractor failing to deliver – ensure due diligence and contingency operations
 - natural disasters, major industrial disputes etc – identify possible steps if these are localised events.
- 14.35 It is noted that section 73 provides for the electoral officer, in the event of a natural disaster, adverse weather conditions, breakdown of communication or energy services, riot or disorder, or any other event, to adjourn the close of voting for a period of 14 days. This adjournment of the close of voting may continue, if necessary, until the election or poll can be held. This provision relates to situations or events that would, in the view of the electoral officer, deny electors a reasonable opportunity to cast a valid vote i.e. it applies up to the close of voting.
- 14.36 Section 73 does not cover situations or events that occur after the close of voting. This highlights the importance of an effective risk management strategy for this period in relation to local events. It is expected that with the occurrence of a significant national or sub-national event, the Government would consider taking necessary action.

- 8** **Recommended good practice** is that electoral officers assess what could go wrong in their particular local election operation and consider how they would deal with the resultant emergency.

Offences

14.37 There are offence provisions relating to the infringement of secrecy of voting (section 129) and disclosing voting (section 130) and electoral officers should be familiar with these.

- 9** **Recommended good practice** is that electoral officers ensure that all election officials are aware of actions or inactions when handling voting documents that constitute an offence and the associated penalties.