

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 17 Polls

Produced by the
SOLGM Electoral Working Party

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Introduction

17.1 Poll is defined in the Act as meaning:

“the submission to the vote of electors for decision of a proposal or the provision of opinion on a proposal or other matter, other than an election, that is required to be submitted under this Act or any other Act to which this Act, or any of its predecessors, is applied or has been made to apply”.

17.2 In this Part of the Code the focus is on key requirements relating to polls including:

- how they arise;
- conduct of a poll;
- the effect of a poll.

Objective

To bring together the key legislative requirements and recommended practices relating to polls.

Legislative requirements

17.3 The key legislative provisions relating to polls are:

Local Electoral Act 2001

Section 7	Application
Section 9	Holding of referendum
Section 15	General duties of electoral officer
Section 16	Conduct of elections and polls for territorial authorities and community boards
Section 17	Conduct of elections and polls for local authorities that are not territorial authorities
Section 18	Conduct of election or poll in conjunction with other election or poll
Section 19	Conduct of separate election or poll
Section 20	Right to vote in election or poll
Section 35	Electoral systems for polls
Section 36	Voting method for elections and polls
Section 37	Consultation
Section 38	Compilation of electoral roll
Section 52	Notice of election or poll
Section 54	Additional material to be included in notice in respect of poll
Section 65	Further notice to electors of election or poll
Section 67	Scrutineers at poll
Section 73	Adjournment of election or poll
Section 74	Electoral officer to maintain secrecy at election or poll
Section 76	What voting documents for polls must contain

Section 77	Approval of voting documents for use at elections and polls
Section 93	Petition for inquiry
Section 147	Cost of elections and polls

Local Electoral Regulations 2001

Regulation 30	Further notice to electors of election or poll
Regulation 46	Neutral information on polls
Regulation 48	Interpretation

Recommended practices

Application of the Local Electoral Act

- 17.4 The Act has wide application to the conduct of polls undertaken by local authorities. Other Acts containing poll provisions can require that they be held under the Local Electoral Act and a local authority that decides to hold a referendum on any matter relating to services, policy or any proposal can instruct its electoral officer to conduct it under the Act. A referendum is a poll for the purposes of the Act.
- 17.5 Electoral officers are responsible for conducting all polls undertaken under the Act within their local authorities' areas for their territorial authorities and their community boards as well as other local authorities e.g. DHBs, regional councils, licensing trusts.

How polls arise

- 17.6 A poll can arise either as a requirement of law or by decision of a local authority. The statutory requirement to hold a poll may come from within the Local Electoral Act itself or from some other Act. The statutory requirement is usually in the form of a right for a specified number of electors within a fixed time to register a demand for a poll on some issue of public interest. In the Local Electoral Act, for example, 5% of electors can demand a poll on Maori wards or constituencies.
- 17.7 Under section 9 of the Act a local authority may hold a poll on:
- (a) any matter relating to
 - (i) services provided or to be provided by the local authority,
 - (ii) any policy or intended policy of the local authority;
 - (b) any proposal relating to
 - (i) the current or future activities or objectives of the local authority,
 - (ii) the current or future well-being of its local government area.
- 17.8 A poll may involve all of the electors of a local authority area or particular parts of the district depending upon the issue concerned.
- 17.9 A poll can be held separately (like a by-election), or it can be held in conjunction with the triennial local authority election.
- 17.10 There may be considerable cost savings for the local authority if a poll is held at the

same time as the triennial elections, however consideration will need to be made for any impact on the size of the outgoing envelope. The requirement to include additional neutral information about the poll may result in the envelope exceeding New Zealand Post's 6mm thickness threshold.

Conduct of polls

17.11 The legal requirements for conducting polls are very much the same as for an election and these are covered in other Parts of this Code, specifically Parts 3, 6, 10, 12, 13, 14, 15 & 17.

17.12 Polls must be conducted using an electoral system adopted by resolution of the local authority either for the purpose of the particular poll or for 2 or more polls conducted at the same time. In the absence of a resolution the FPP electoral system must be used.

17.13 Every (residential or ratepayer) elector is entitled to vote in a poll if their name appears on the electoral roll in force for the poll. A person is also entitled to vote in a poll if that person has:

- (a) qualified as an elector before the close of voting;
- (b) applied to enrol as an elector not later than the day before the close of voting, but whose
 - (i) name does not appear on the electoral roll, or
 - (ii) voting entitlements are incorrectly recorded on the roll.

17.14 A generic timetable for a poll follows as table 12.

TABLE 12: GENERIC TIMETABLE FOR A POLL			
Item No.	Activity	Due date	Ref.
1	Local authority decision to hold a poll.	Any time	
2	Local authority notifies/directs electoral officer.	Immediately after local authority decision.	s7, s9 LEA
3	Declaration by electoral officer & deputy.	Immediately, if no current declaration.	s14 LEA
4	Compile preliminary roll.	Prior to roll being open for inspection.	S38(2) LEA
5	Public notice of poll. Roll open for inspection.	Not less than 28 days before roll closes.	s42, s52 LEA
6	Optional early processing resolution.	Before further public notice under section 65 LEA.	s79 LEA
7	Appointment of JP.	Before roll scrutiny commences.	s82 LEA
8	Roll closes.	Close of business 50 th day before polling day.	s50 LEA r21 LER
9	Further public notice.	As soon as practicable after roll closes.	s65 LEA

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Item No.	Activity	Due Date	Ref.
10	Electoral officer certifies electoral roll/ comes into force.	Certify before the 25 th day before polling day/ in force on 25 th day before polling day.	s51 LEA r22, r23 LER
11	Delivery of voting documents.	Between the 23 rd day and the 17 th day before polling day.	r51, r96 LER
12	Progressive roll scrutiny. Special voting period. Early processing.	Up to close of poll.	s83 LEA r35 LER
13	Appointment of scrutineers.	Not less than 24 hours before the close of voting.	s68 LEA
14	Polling day.	Not less than 78 days after the public notice of poll under section 52 LEA.	S52 LEA, r21 LER
15	Counting of votes/ preliminary results.	As soon as practicable after the close of voting.	s84, s85 LEA
16	Declaration of result/ Public notice.	As soon as practicable after completion of the roll scrutiny and validation of special votes.	s86 LEA

17.15 There are differences between the conduct of elections and polls which should be noted by electoral officers. These include:

- (a) the public notice under section 52 of the Act, which must also state
 - (i) the proposal or subject matter of the poll,
 - (ii) in the case of a binding poll, the consequences of each possible result of the poll, and
 - (iii) in the case of a non-binding poll, the intentions of the local authority in respect of each possible result of the poll;
- (b) the voting documents, which must also contain
 - (i) a full statement of the proposal of the poll,
 - (ii) whether the poll is a binding poll or a non-binding poll, and
 - (iii) an illustration of how and where the voter indicates his or her choice or preference;
- (c) the discretion of the electoral officer to include neutral information on the matter or matters that are the subject of the poll with the voting documents;
- (d) the appointment of scrutineers, which for a poll requires notice in writing by any 10 or more electors, either in favour of, or opposed to the proposal. In such cases the electors may appoint 1 or more scrutineers who may be present for the scrutiny of the roll and for other processing of votes occurring after the close of the poll.

The effect of a poll

17.16 The basis on which polls are conducted under the Act includes requirements designed to ensure that information provided to electors clearly states the effect of selecting each of the options offered in the poll. In the absence of a requirement in the Local Electoral Act or some other Act giving rise to a poll, local authorities must decide whether a poll is to be binding or non-binding and this must be stated in the voting documents. The public notice under section 52 of the Act must also state the consequences of each option in a binding poll and the local authorities intentions for each option in a non-binding poll. It is therefore important for electoral officers when notified of a decision or requirement for a local authority to conduct a poll to also be advised:

- (a) the subject matter of the poll;
- (b) the statutory reference under which the poll has arisen (if any);
- (c) whether the poll is binding or non-binding;
- (d) the consequences or intentions in respect of each option in the poll.

1 Recommended good practice is for electoral officers to be familiar with the poll provisions of the Local Electoral Act and Regulations and in particular to:

- (i) understand how polls arise;
- (ii) understand how conducting a poll differs from conducting an election;
- (iii) ensure that the local authority resolves whether the poll is binding or not, and the consequences or intentions in respect of each option in the poll;
- (iv) be aware that multiple polls can be held at the same time;
- (v) ensure that all of the information requirements from the local authority promoting the poll are obtained in advance;
- (vi) maintain liaison with the promoting local authority throughout the poll process.