

# Part F – The count

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# 1 Count preparations

**1.1** The general guidance provided in this part of the manual is intended to supplement the specific advice on electronic counting which will be provided by the electronic counting supplier.

**1.2** This manual does not consider in detail the actual processes to be followed in respect of the electronic counting of votes at the May 2007 Scottish elections, but instead, aims to cover the aspects of the count process beyond the electronic counting system and seeks to highlight additional issues around the count for consideration by Returning Officers.

## Planning

**1.3** The election count is potentially the most intensive and pressurised part of the election process. It is the focus of attention for candidates, agents, observers and the media following the close of the poll and so it is inevitable that count procedures will be subjected to close scrutiny. It is therefore imperative that planning and preparation are carried out well in advance, so that practical problems can be foreseen and overcome. A well-run count can be very exciting for all involved and reflect the capabilities of those involved in organising it.

**1.4** For Scottish Parliamentary and local government elections, as the date of the election is fixed, planning can start well in advance. The Returning Officer should make arrangements for the counting of the votes as soon as practicable after the close of poll.

**1.5** The authority and responsibility of individual Returning Officers to conduct the counting of votes and deliver results that carry the confidence of candidates and agents are in no way diminished by choosing to engage a contractor to provide electronic counting

services and equipment. Contractor's staff will assist the Returning Officer in the planning and operation of the count but the Returning Officer maintains clear legal responsibility for managing and delivering outcomes. A successful partnership between the Returning Officer and contractor will be based on close cooperation.

**1.6** Planning should start by establishing or confirming the count location. The introduction of electronic counting will require additional factors to be considered in the selection of a count venue than for an election to be counted manually, and will also require close liaison with the electronic counting supplier to ensure that any potential venue will be fit for purpose.

**1.7** Each Returning Officer is responsible for managing and organising the count in their area, including management of the electronic counting supplier. Returning Officers will need to take a decision as to how the counts for the Scottish Parliamentary and local government elections may be best organised in their area. In particular, Returning Officers will need to consider whether to conduct a combined Scottish Parliamentary and local government count, with all ballot papers being scanned at the same time, or whether to conduct a separate count for each of the Scottish Parliamentary and local government elections, with the ballot papers going through a manual rummage prior to separate scanning. The Returning Officer will also be required to consider the timing of the counts, particularly if the decision is made to conduct a combined count, where they will have to decide whether to hold a continuous overnight count of both elections or to take a break following the conclusion of the Scottish Parliamentary count

before returning to complete the local government process.

**1.8** Returning Officers with cross-boundary issues will need to liaise closely with their relevant counterparts to ensure that the counting processes can proceed with minimal confusion and without unnecessary complication.

**1.9** The Returning Officer should consider how information on the count process can be effectively provided to candidates and agents in order to assist their participation and build confidence in the process. Further consideration of this is given below.

**1.10** The Returning Officer should decide in advance a policy on alcohol and mobile phones in the count centre. It is advisable to ban alcohol at the count, at least until after the announcement of the results. Returning Officers will also want to consider whether or not to allow the use of mobile phones, laptops or other electronic communication equipment by other than the Returning Officer's staff in the immediate count area.

**1.11** It is essential that contingency planning arrangements are adopted as part of the election management process. Contingency arrangements ensure that if any part of the process fails, adequate back-up and support mechanisms can be put in place to maintain the proper arrangements for the conduct of the election and to enable all related procedures to be carried through efficiently and effectively. Contingency plans will need to be developed with the electronic counting supplier, who will be able to share their own risk assessments and experience of developing contingency plans for

electronically counted elections with each Returning Officer.

**1.12** The key risks associated with carrying through count arrangements should be subjected to a formal risk assessment exercise by each Returning Officer.



For further consideration of adopting a project management approach to the management of elections, of the identifying and managing of risks and of the general principals of working with contractors and suppliers, see Part B – Preparing for the Scottish Parliamentary and local government elections, Section 1, Planning and risk management, and Section 2, Managing contractors and suppliers.

## Information on the counting process

**1.13** The introduction of electronic counting will have an impact on the role of candidates and agents at the count and it is to be expected that they will be unfamiliar with the processes and workflow arrangements of the count. It is thus important that the Returning Officer gives consideration to providing information both in advance of the count and at the venue itself on the processes to be used.

**1.14** It is recommended that Returning Officers consider holding an event in advance of the count itself to give candidates and agents the opportunity to see the electronic counting equipment. Not only will this demonstrate the system that will be in place at the count and what they can expect to see on the night, but it can also help to build confidence in the system to be used. By providing this sort of briefing in

advance of the count, the number of queries raised by candidates and agents at the count itself may be reduced, thus reducing the pressure on those working at the count.

**1.15** At the very least, to assist in providing those attending the count with maximum information about count facilities and procedures, it is considered to be good practice to provide information booklets in advance of the count, giving details of what to expect at the count and setting out the processes to be followed.

**1.16** The following are some suggested examples of good practice to be considered when planning for the provision of information at the count itself:

- locating information posters and boards showing the key members of staff and explaining an overview of the count procedure throughout the count venue
- providing a layout plan of the venue, indicating the key areas of interest for candidates and agents
- providing pictures of the Returning Officer and key staff to help candidates and agents identify them at the count
- appointing and identifying Information Officers to respond to queries and to act as liaison points between candidates, agents, observers and key staff

**1.17** This information should be supplemented by regular announcements made using a public address system during the course of the count.

**1.18** As part of the Returning Officer's responsibilities for ensuring that the count arrangements are conducted efficiently and effectively, candidates, agents and observers

should be afforded maximum access to the count proceedings and have an unrestricted view of the various processes. While computer display screens will enable candidates and agents to engage in certain parts of the count, it remains important that the physical handling and movement of ballot papers around the count venue is conducted openly and transparently.

**1.19** Clear signage and announcements should be used so that candidates and agents can be aware of where each batch of ballot papers is in the process. Circulation areas and the amount of space available in the vicinity of the count tables should be maximised within the constraints of the count venue while at all times safeguarding the computer network required for the operation of the count and upholding the integrity of the process. Obstructions such as surplus chairs or other stored furniture should be removed.

**1.20** While candidates, agents, representatives of the Electoral Commission and observers must be afforded maximum access to count proceedings, they must not, however, be able to interfere with the work of the count staff. The layout of the count venue is crucial in this matter. During the course of the entire count, it is inevitable that counting agents and candidates will want to observe the proceedings at close quarters and to some count staff this can appear to be distracting and even intimidating. It may, therefore, be appropriate to use stands and ropes to keep candidates and agents at a reasonable distance from the counting area but still sufficiently close to allow the whole process to be observed throughout. No part of the count process should take place out of the sight of candidates, agents and observers.

**1.21** If any candidates or agents are dissatisfied in any way with the manner in which the proceedings are being carried out, the opportunity should always be afforded to make direct representations to the Returning Officer at the earliest time so that any concerns may be considered, explanations and reassurances given and corrective action taken if required.

## The media

**1.22** In addition to making practical arrangements for their attendance at the count, any early contact with the media should also include an explanation of the counting processes to be followed and expected declaration times. It is good practice to provide media representatives with a briefing pack in advance of the count.



For further guidance on dealing with the media and planning for their attendance at the count, see Part B – Preparing for the Scottish Parliamentary and local government elections, Section 8, Publicity and the media.

## Count venues

**1.23** In addition to the criteria any count venue will need to meet in order to be capable of holding an electronic count, there are a number of additional factors that should always be considered in the selection of a venue to hold election counts. These include:

- convenience for candidates, agents and count staff (including proximity to public transport)
- access arrangements for vehicles and sufficient parking

- separate entrances for candidates, agents, guests and count staff, and for the delivery of ballot boxes
- disabled access both to and within the count centre
- sufficient storage space for parcels, ballot boxes and other equipment, in addition to the space required to conduct the count processes, including the opening of postal ballot papers, and for the count staff and such other persons entitled to attend the count
- platform or stage for announcing results
- acoustics within the count venue
- internal and external IT and communication systems (in addition to and separate from the electronic counting system)
- toilet facilities
- availability of separate accommodation for the Returning Officer's use, and office support functions, including PCs, fax, photocopying and telecommunications
- media requirements
- facilities for candidates, agents, counting agents, representatives of the Electoral Commission and observers; it can be helpful to have a separate room equipped with a television set to keep people occupied during a long count
- catering/hospitality facilities

**1.24** At an early stage, layout plans should be drawn up to suit the available accommodation and procedures to be followed. Such plans should be developed in close cooperation with the electronic counting supplier, and should be linked closely to the workflow to be followed at the count.

**1.25** Candidates, election agents, counting agents, Electoral Commission representatives and observers should be given maximum access to the count proceedings and have an unrestricted view of the various processes. However, they should not be able to interfere with the work of the count staff.

## Designated areas

**1.26** Areas need to be designated and appropriately furnished and equipped for the different count functions. It is suggested that Returning Officers consider designating the following areas.

### Outside the count venue

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#### Car parking

**1.27** It is advisable to designate different parking areas for candidates, agents and observers and count staff. It can be helpful to have a designated entrance and exit to the car park. This can help to avoid congestion when the ballot boxes are arriving from the polling stations. It may also be useful to have staff supervising the car park at this time.

#### Entrance

**1.28** Staff should be positioned at the entrance to the count venue to check on the identity of people wishing to enter the count. They should be provided with lists of those permitted to attend and information about the possible attendance of observers and representatives of the Electoral Commission, and should check all tickets and entrance passes. It is important for health and safety and security reasons to record who does actually attend the count. Anyone not on the list or not in possession of an observer's badge should not be allowed in without the consent of the Returning Officer.

### Inside the count venue

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#### Receiving area

**1.29** This is where ballot boxes, ballot paper accounts, postal ballot papers handed in at the polling station, and other polling station stationery and equipment, including the marked registers, arrive for checking-in and sorting. Ideally, this area should have an entrance separate from that used by other staff, candidates, agents and observers, direct from the car park or loading area. There should be sufficient space for storage.

#### Ballot box reception

**1.30** This is where the ballot boxes will be taken for opening. It is important that sufficient space and resources are supplied in order that ballot boxes can be dealt with efficiently and ballot papers fed through to the next stage of the process, and that the entire process can be observed by candidates, agents and observers.

#### Area set aside for rummage of ballot papers

**1.31** If the Returning Officer decides to hold separate Scottish Parliamentary and local government counts, it will be necessary to conduct a manual rummage. The area set aside for rummaging ballot papers must be of a sufficient size to accommodate all candidates and agents who wish to observe the process.

#### Secure storage area for local government ballot papers

**1.32** If the Returning Officer decides to hold separate Scottish Parliamentary and local government counts, an area of the count centre will need to be designated for the secure storage of the local government ballot papers until the conclusion of the Scottish Parliamentary count.

### **Postal voting**

**1.33** A separate area should be allocated for processing unopened postal votes received from polling stations. Candidates, agents and observers should be afforded access to this area, although clearly must not interfere in the proceedings.

### **Returning Officer's table**

**1.34** This is where election law textbooks, procedure notes, spare instructions, staff lists, stationery and other guidance materials should be available for quick reference.

### **Scanners and PC workstations**

**1.35** These should be laid out in such a way as to provide proper separation of count staff from candidates, agents and observers while also enabling candidates, agents and observers to engage with proceedings and to retain a good overview of workflow. Clear signage should be provided to identify the types of activity on-going in any part of the venue and clear announcements should be made to inform candidates, agents and observers of the particular ballot papers and contests under consideration at any particular time at any workstation. Individual workstations may be used for different purposes during the count, and signage will need to be capable of being adapted to indicate the tasks being conducted at any given time.

### **Batch sorting area**

**1.36** Returning Officers should designate part of the count centre for sorting and holding batches of ballot papers. Within this area of the count, sections should be clearly designated for each of the stages of the count so that the progress of individual batches of ballot papers through the count can be clearly followed by

staff as well as by candidates, agents and observers.

### **Area for candidates, agents, candidates' partners and guests and observers**

**1.37** It may be beneficial to have a separate area set aside for such people. If space permits, a television set could be provided in an adjacent room to allow candidates and agents to watch count progress elsewhere.

### **Storage area for empty ballot boxes and materials for transfer to the Sheriff Clerk/Proper Officer of the Council**

**1.38** An area should be set aside for storage of empty ballot boxes.

**1.39** If space permits, a separate secure area should be identified and used for separating the contents of the parcels into the elements to be forwarded to the Sheriff Clerk or to the Proper Officer of the Council as appropriate. This area should be such that the materials can be stored securely until they are transported to a secure venue pending transfer to the Sheriff Clerk or to the Proper Officer of the Council for storage as appropriate.

### **Media area**

**1.40** The requirements for the media area will depend upon the needs and types of media represented. Ensure that media representatives do not interfere with or compromise the secrecy of the process. In addition, it is important that there are no trailing cables for other count attendees to trip over, and that any equipment installed is safely positioned.



For further guidance on dealing with the media and planning for their attendance at the count, see Part B – Preparing for the Scottish Parliamentary and local government elections, Section 8, Publicity and the media.

### Refreshments

**1.41** Consider providing an area where count staff can get drinks and snacks. It is not advisable to let count staff drink while working at the count, in order to avoid the possibility of any spillages.

**1.42** It is for the Returning Officer to decide whether to provide refreshments to candidates, agents and other attendees.

### Equipment

**1.43** Beyond the equipment and stationery specific to the electronic count, the Returning Officer should have the following available at the count:

- signing-in sheets for count staff
- list of all count staff
- copies of instructions for all count staff
- sample passes
- copies of the relevant pieces of legislation
- electoral law reference books and other guidance materials
- lists of previous results
- implements to open ballot boxes and postal ballot papers
- clear sacks
- security tags
- pens and pencils

- notepaper
- calculators
- materials required for use in the event of equality of votes (e.g. an unused pack of cards, slips of paper, etc.)

### Health and safety

**1.44** The Returning Officer is ultimately responsible for the health and safety of all persons who are present during the course of the count proceedings. The risk assessment process, referred to in Part B – Preparing for the Scottish Parliamentary and local government elections, Section 1, Planning and risk management, will serve to identify any hazards or vulnerable areas within the count centre prior to the day of the election and so appropriate remedial action should already have been taken.

**1.45** Election staff should give priority consideration to health and safety issues during the preparatory work involved in setting up the count centre in order to minimise the possibility of risk to those attending the count proceedings.

**1.46** Special consideration should be given to polished floor surfaces. Trailing leads or cables should be avoided, both from a health and safety perspective and to protect the integrity of the computer network used for the count. Access arrangements to any raised area, such as a stage to be used for the declaration of results, must also be considered, particularly with regard to older people or disabled people.

**1.47** Instructions should be given to count supervisory staff on the manual handling of ballot boxes, parcels and large batches of ballot papers. Measures should also be taken to ensure that any sharp edges on racking or

table surfaces are appropriately covered or marked. Staff engaged in ballot box opening should be instructed in the safe usage of any implements used to cut open the security seals.

**1.48** It is also advisable to have first aid personnel available throughout the course of the count proceedings.

**1.49** In order to stress the importance of health and safety considerations and to draw attention to, for example, fire evacuation routes and the prohibition of smoking, it is good practice to prepare and distribute an explanatory count layout leaflet to all attending the proceedings, which could be incorporated into any count information booklet provided in advance of the count. By providing such information, the possibility of risk or injury to those attending will be restricted to an absolute minimum. This leaflet could also serve to highlight other count-related arrangements such as car parking, refreshment areas (if provided), toilet accommodation, reception services and security arrangements.

## Security

**1.50** It is advisable to contact the local police force at an early stage to inform them of the count venue and plans for the count. It may be helpful to meet with the police on site at the count venue in advance of the election, where they may be able to give further advice on security. The police may wish to undertake security checks at the count venue, and may also attend the count.

**1.51** At all counts, staff should be alert and report any suspicious packages or activity to the Returning Officer. Contingency plans should be in place in case of any security alerts such as bomb threats or other emergency situations

such as evacuation of the venue in the event of a fire alarm.

**1.52** Security of the count venue will need to be arranged for the whole period that it is required for the purposes of the election. This will include any time prior to polling day that the venue is required for setting up the electronic counting system through to the count itself, including any break in the proceedings, until all election-related materials and equipment have been removed from the venue after the declaration of results.

**1.53** Once the initial security planning procedures have been agreed, the following arrangements can be put into place:

- Security and admission passes should be prepared and issued to everyone attending the count procedures. This pass should also incorporate the requirements of secrecy.
- Lists should be compiled of all those who have been provided with a pass in advance of the count.
- Security staff should be appointed to control admission to the count and check the admission passes against the master list. The names of all attendees should be logged, both to assist in the event of an emergency evacuation and to provide to the police in the event of a civil disturbance.

## Staffing

**1.54** An electronic count will see two categories of staff working together to deliver the result: staff employed by the electronic counting supplier, and staff sourced directly by the Returning Officer. Recruitment of Returning Officer's staff should begin in sufficient time to allow staff to be appropriately trained and

become familiar with their roles and tasks at the electronic count.

**1.55** Most Returning Officers will have an existing database of staff used at previous elections. Staff can often be recruited from among council employees. It is important to ensure that all staff selected have the necessary skills to complete the tasks that will be required of them, bearing in mind that the skill sets required of staff at an electronic count will often be different from those necessary at a manual count.

**1.56** Election staff should communicate directly with the individuals selected for employment at the count to ascertain their availability. Once responses have been received formal appointments should be issued with details of the reporting time on the evening and an outline of the procedures to be followed. This appointment could also incorporate the requirements as to secrecy.<sup>1</sup> It is good practice to request that count staff confirm acceptance of the appointment. This can be done by asking them to complete and return a small, suitably worded form.

**1.57** All count personnel should be advised that if they have been employed by or on behalf of a candidate or a party at that election, they are not permitted to work at the count.

**1.58** Basic training of staff to be employed at the count will be carried out by the electronic counting supplier. Consideration should also be given to what training will be needed for staff not identified as directly involved in electronic counting (e.g. those involved in the receipt of ballot boxes, any manual rummage, handling postal votes, etc.). Guidance should be given to all count staff on customer care issues and appropriate interaction with candidates, agents and all others entitled to attend the count process.

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<sup>1</sup> Articles 32(2) and (6) and 40(1), Scottish Parliament Order; Rule 26(1), Local Government Rules; Section 66(2) and (6), RPA 1983.

## 2 Attendance at the count

**2.1** Where the votes for the Scottish Parliamentary and local government elections are to be counted separately, the entitlement to attend the counts is as follows.

**2.2** Only the following people are entitled to attend the Scottish Parliamentary election count:<sup>2</sup>

- Constituency Returning Officer and their staff
- candidates and one guest each
- election agents
- counting agents
- Regional Returning Officer
- representatives of the Electoral Commission<sup>3</sup>
- observers accredited by the Electoral Commission<sup>4</sup>

**2.3** Only the following people are entitled to attend a local government election count:<sup>5</sup>

- Local Government Returning Officer and their staff
- candidates and one guest each
- election agents
- counting agents
- individuals or nominated members of organisations granted permission to observe by the Local Government Returning Officer<sup>6</sup>
- persons performing duties under a contract for services entered into in connection with the conduct or administration of the election

**2.4** Where separate counts are to be conducted and a rummage of the local government ballot boxes prior to the counting of the Scottish Parliamentary ballot papers needs to be undertaken, local government candidates and agents should be permitted to be present for this.

**2.5** Where the votes for both the Scottish Parliamentary and local government elections are to be counted together, all of the above-mentioned persons are entitled to attend the proceedings.

**2.6** In addition to those listed above, the Returning Officer, at their discretion, may also permit other people to attend the count proceedings, provided that they can be satisfied that such attendance will not impede the efficient counting of the votes, and the Returning Officer has consulted the election agents or thought it impracticable to do so.<sup>7</sup>

**2.7** It is considered to be good practice to provide all those present at the count, including staff, with badges allowing easy identification of those in attendance.

### Counting agents



For information on the appointment of counting agents, see Part C – Action before the poll, Section 5, Appointment of election agents.

**2.8** The Returning Officer must give the counting agents who have been appointed notice in writing of the time and place at which the count will begin.<sup>8</sup>

<sup>2</sup> Rule 54(2), Scottish Parliament Order.

<sup>3</sup> Sections 6A and 6B, PPERA.

<sup>4</sup> Sections 6C and 6D, PPERA.

<sup>5</sup> Rule 40(2), Local Government Rules.

<sup>6</sup> Sections 8 and 9, LEARS Act.

<sup>7</sup> Rule 54(3), Scottish Parliament Order; Rule 40(3), Local Government Rules.

<sup>8</sup> Rule 54(1), Scottish Parliament Order; Rule 40(1), Local Government Rules.

## Observers



For further consideration of observers, see Part B – Preparing for the Scottish Parliamentary and local government elections, Section 7, Electoral integrity, and Part C – Action before the poll, Section 3, Candidates, agents and observers.

**2.9** Returning Officers may limit the number of observers who may be present at any one time during the count.<sup>9</sup> Returning Officers should, however, use caution in exercising this power. Electoral observation is a legitimate and valuable part of the electoral process and care should be taken not to hinder or obstruct the conduct of observations. It is important to note that no Returning Officer is entitled to bar all observers from a count, only to limit the number of observers present at any one time.

### Admission to the count

**2.10** Tickets or entrance passes should be given to everyone entitled to attend the count, including media representatives. It can be useful to have different coloured tickets or passes to identify different categories of people attending the count, e.g. media, candidates and agents, observers and count staff. Lists of those persons entitled to attend should be provided to staff at the entrance of the count venue for checking purposes. Tickets for political parties could be handed to election agents for delivery to their counting agents, due to the short timescales.

**2.11** Electoral Commission representatives and accredited observers must show their accreditation to gain access, but where Returning Officers are aware of the likely attendance of such observers, they might also find it helpful to issue them with tickets in order to avoid confusion at the count entrance. In respect of observers at local government elections, Returning Officers might want to consider issuing a ticket to the count at the same time as granting permission to attend at local government election processes.

**2.12** All persons attending the count must be supplied with the relevant parts of the legislation relating to secrecy. This could be incorporated on the reverse of the entrance pass/ticket required for admission to the count.<sup>10</sup>

<sup>9</sup> Section 6E(1), PPERA; Section 10(1), LEARS Act.

<sup>10</sup> Article 32(2) and (6) and 40(1), Scottish Parliament Order; Rule 26(1), Local Government Rules; Section 66(2) and (6), RPA 1983.

## 3 The count process

**3.1** This section aims to give general guidance on key issues to be considered around the count process, and is intended to supplement specific advice on electronic counting provided by the electronic counting supplier. The actual processes to be followed in respect of the electronic counting of votes at the May 2007 Scottish elections are not considered in any detail in this guidance.

### Overview

**3.2** The count process to be followed will vary depending on whether the Returning Officer decides to conduct a combined Scottish Parliamentary and local government count, with all ballot papers being scanned together, or to conduct a separate count for each of the Scottish Parliamentary and local government elections, with the ballot papers going through a manual rummage prior to separate scanning.

**3.3** If the counts for the Scottish Parliamentary and local government elections are combined, those stages of the count that relate to the Scottish Parliamentary elections will then need to be prioritised over the local government elections in order that the Scottish Parliamentary results can be delivered as quickly as possible. The Returning Officer can then begin adjudication of local government ballot papers at a suitable point in proceedings, which may be on the morning of the day after polling day.

**3.4** If the Returning Officer decides to conduct a separate count for each election, a manual rummage will take place followed by the counting of the Scottish Parliamentary ballot papers and the declaration of the results, with the local government ballot papers stored securely until the local government count

commences at a time to be decided by the Returning Officer.

**3.5** Regardless of whether the Returning Officer decides to conduct a combined count or two separate counts, the stages to be used in each count will be the same, and once the count is under way many of these stages will be conducted in parallel. Ballot papers must complete each stage of the count before moving on to the next, although ballot papers from different polling stations will all pass through the count at different speeds and at different times.

**3.6** Before the first ballot boxes arrive, the following procedures are recommended:

- Brief count staff, explaining clearly what they have to do and emphasise any previously circulated written instructions.
- Deploy staff in accordance with the count plan.
- The Returning Officer should address the candidates, agents and all others present to explain what will be happening at the count and remind them of any policy regarding alcohol and mobile phones and provide them with any other relevant information, including a health and safety briefing.

### Receipt of ballot boxes

**3.7** An area of the count venue will have been designated for receiving ballot boxes and other election materials from each polling station. Staff should be positioned here to receive the materials, with a checklist to mark off the ballot boxes as they arrive. Staff receiving ballot boxes should be briefed to ensure that they are handed the ballot paper account and the envelope containing the postal vote envelopes

delivered to the polling station, along with the ballot boxes and sacks of materials, including those containing the marked registers.

**3.8** Envelopes containing postal votes handed in at polling stations should be passed to those staff allocated to deal with them.

**3.9** The packets and parcels from polling stations should be organised for easy location of any packet that may be urgently required in the count venue for reconciliation of the number of unused and spoilt ballot papers against the ballot paper account.

**3.10** Staff should be briefed about moving ballot boxes and carrying heavy sacks in order to prevent any injuries occurring.

## The rummage

**3.11** Where the Returning Officer has taken the decision to proceed with a combined count, there will be no need to rummage ballot papers prior to scanning as the electronic counting software automatically ‘sorts’ ballot papers into the correct contest.

**3.12** Where the Returning Officer has taken the decision to conduct two separate counts, a manual rummage must be conducted.<sup>11</sup> Once ballot papers have been removed from the ballot boxes the Returning Officer’s staff will carefully sort through each batch of local government papers looking for Scottish Parliamentary ballot papers that have been put in the wrong ballot box by the voter. When any Scottish Parliamentary ballot papers are found in the local government ballot box, staff should transfer them to the correct box. This process

ensures that all Scottish Parliamentary ballot papers are found and can be included in the count, thus avoiding disenfranchisement of any voter. Any local government ballot papers in the Scottish Parliamentary batch will be identified when the Scottish Parliamentary ballot papers are scanned, and these can then be returned to the appropriate local government batch.

**3.13** The Returning Officer should ensure that there is sufficient space in the area set aside for the rummage for candidates, agents and observers to witness the process.

**3.14** Where separate counts are to be held, local government ballot papers must be stored securely following completion of the rummage. Local government ballot papers will be removed from secure storage and commence their passage through the count at such later time as determined by the Returning Officer.

## Postal ballot papers

**3.15** The ballot boxes containing the postal votes already received and processed by the Returning Officer will have been delivered separately to the count. There is no requirement to mix postal ballot papers with ballot papers received from a polling station prior to the votes on them being counted. This means that postal ballot papers opened prior to the close of poll can start their progress through the count process at the commencement of the count.

**3.16** There will also be some unopened postal ballot papers to be processed at the count. These will have been delivered to the Returning Officer’s office or handed in at polling stations throughout polling day, as well as any collected from a final sweep conducted by Royal Mail. Although the Returning Officer can make arrangements to collect any postal votes

<sup>11</sup> Rule 55(1)(b), Scottish Parliament Order; Rule 42(1)(b), Local Government Rules, both as substituted by Schedule 5, Scottish Parliament Order.

that are handed in at polling stations throughout the day to expedite the count process, there are still likely to be some postal votes handed in at polling stations which will arrive at the count. It is important that staff receiving the ballot boxes are handed the packets of postal votes and that they know where to take them. It is also important to have an area and staff specifically allocated for opening these postal votes, as the number received may be considerable, and the process demanding. This process should be conducted at a separate location in the count venue at an appropriate juncture and in view of candidates, agents and observers.

**3.17** The lists of postal ballot papers received without a postal voting statement and postal voting statements without ballot papers, together with the actual ballot papers and postal voting statements, should be taken to the count in case any can be matched up with those postal votes returned from the polling stations. Any ballot papers and postal voting statements which can be matched up should be included in the count. Any which cannot be matched must be rejected and placed in the appropriate packets.

## Adjudication of doubtful ballot papers

**3.18** As with a manual count, there will be some ballot papers on which the Returning Officer or an appointed Depute will be required to take a decision. At the standard adjudication stage of the count, staff will only be able to make simple decisions as to the voter's intention, such as count staff would instinctively make at a manual count.

**3.19** Where any interpretation needs to be made about a voter's intention, an image of the ballot paper will be passed to the Returning Officer, or their authorised Depute(s), for decision. Additionally, if a candidate or agent objects to a workstation operator's decision, the operator should pass the image to the Returning Officer.



The Electoral Commission is producing separate guidance on the adjudication of doubtful Scottish Parliamentary and local government ballot papers. This guidance will be available for download from eXtra, and hard copies will also be sent to councils as per previously submitted orders.

**3.20** The Returning Officer's adjudication should be carried out in the presence of the candidate and agents, Electoral Commission representatives and observers, with reasons given for each decision.



When adjudicating doubtful ballot papers, the following principles should be followed:

- take time to ensure that a considered decision is given in every case
- endeavour wherever possible to discern the intention of the voter and to give effect to it
- attempt to allow, not reject
- always be clear and consistent

## Scottish Parliamentary elections

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**3.21** The Returning Officer can only reject a Scottish Parliamentary ballot paper on the following grounds:<sup>12</sup>

- that it does not bear the official mark and the unique identifying mark
- in the case of a constituency ballot paper, where votes are given for more than one candidate
- in the case of a regional ballot paper, where votes are given for more than one registered political party or individual candidates, or for a registered political party and an individual candidate
- where anything is written or marked by which the voter can be identified, except the ballot paper number and other unique identifying mark on the back
- where it is unmarked or where the voter's intention is uncertain

**3.22** However, a ballot paper on which the vote is marked in the following ways should not be rejected if the voter's intention is clear, unless the way the paper is marked identifies the voter:<sup>13</sup>

- elsewhere than in the proper place
- otherwise than by means of a cross
- by more than one mark

**3.23** Additionally, the legislation now makes it explicit that if a voter has marked their ballot papers using numbers as if ranking the candidates or parties in order of preference, the ballot paper should be treated as being a valid vote for the candidate (or, as the case may be,

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<sup>12</sup> Rule 58(1), Scottish Parliament Order.

<sup>13</sup> Rule 58(4), Scottish Parliament Order.

registered political party) against whom the figure '1' is marked.<sup>14</sup>

**3.24** Where the Scottish Parliamentary constituency and regional ballot papers are printed on the same sheet, rejection of either of the ballot papers on the grounds either that it does not bear the official mark and unique identifying mark or that the ballot paper has anything written or marked by which the voter can be identified, except the ballot paper number and other unique identifying mark on the back, the other ballot paper on the sheet should also be rejected on the same ground.<sup>15</sup> Rejection on any of the other grounds of one of the ballot papers on the ballot sheet does not affect the other ballot paper on that sheet.

**3.25** Despite the fact that the ground for rejection states that a ballot paper should be rejected where it does not bear the unique identifying mark **and** the official mark, where the votes are counted electronically the Returning Officer is required to check only whether the ballot paper contains the unique identifying mark and is not required to check whether the paper contains both the unique identifying mark **and** the official mark.<sup>16</sup>

**3.26** The decision of the Returning Officer on any question arising in respect of a ballot paper is final and is only subject to review via an election petition.

**3.27** Each rejected ballot paper or electronic copy thereof should be marked as rejected, and if any agent objects to the decision to reject, this objection should also be recorded.<sup>17</sup>

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<sup>14</sup> Rule 58(5), Scottish Parliament Order.

<sup>15</sup> Rule 58(2), Scottish Parliament Order.

<sup>16</sup> Rule 58(3), Scottish Parliament Order.

<sup>17</sup> Rule 58(6), Scottish Parliament Order.

**3.28** The Returning Officer must draw up a statement showing the number of ballot papers rejected under each of the grounds for rejection.<sup>18</sup>

### Local government elections

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**3.29** The Returning Officer can only reject a local government ballot paper on the following grounds:<sup>19</sup>

- that it does not bear the unique identifying mark in a form capable of being read by electronic means
- that the figure '1' standing alone is not placed so as to indicate a first preference for some candidate
- that the figure '1' standing alone indicating a first preference is set opposite the name of more than one candidate
- where anything is written or marked by which the voter can be identified, except the ballot paper number and other unique identifying mark on the back
- where it is unmarked or where the voter's intention is uncertain

**3.30** However, a ballot paper on which the vote is marked in the following ways should not be rejected if the voter's intention is clear, unless the way the paper is marked identifies the voter:<sup>20</sup>

- elsewhere than in the proper place
- otherwise than by means of a figure indicating a first or subsequent preference
- by more than one mark

**3.31** A ballot paper can be accepted in part. If, for example, the elector has marked their ballot paper ranking the candidates in order of preference but there is a break in the sequence (e.g. 1, 2, 3, 4, 6, 7...) the ballot paper will be partially accepted, with the preferences marked up to the point where there is a break in the sequence accepted as valid.

**3.32** The decision of the Returning Officer on any question arising in respect of a ballot paper is final and is only subject to review via an election petition.

**3.33** Each rejected ballot paper should be endorsed with the appropriate rejected category, and if any agent objects to the decision to reject, the ballot paper must also be endorsed with the words 'rejection objected to'.<sup>21</sup> This mark need not be physically made on the ballot paper but can instead be made by marking the image of that ballot paper as captured by the electronic counting system.

**3.34** The Returning Officer must draw up a statement showing the number of ballot papers rejected under each of the grounds for rejection.<sup>22</sup>

### Consolidation of results

**3.35** Once the processes have been completed for each batch of ballot papers for a particular contest, the electronic counting system will ascertain the result for that contest.

**3.36** The next stage is to call the relevant candidates and election agents together to advise them of the outcome of the count and

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18 Rule 58(7), Scottish Parliament Order.

19 Rule 43(1), Local Government Rules.

20 Rule 43(2), Local Government Rules.

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21 Rule 43(3), Local Government Rules.

22 Rule 43(4), Local Government Rules.

to seek their agreement on the announcement of the result. The Returning Officer should allow candidates and agents sufficient time to digest the provisional result before continuing. It is at this point that any recount may be requested and the Returning Officer will need to make a decision on how to proceed. Any Electoral Commission representatives and observers present at the count should also be invited to view this part of the process.

## 4 Recounts

**4.1** A candidate or election agent (or, in respect of a Scottish Parliamentary regional election, the election agent of a registered political party standing nominated or an individual candidate or their election agent), may request a recount, but the Returning Officer may refuse this request if it is their opinion that the request is unreasonable.<sup>23</sup> A recount of votes at a Scottish Parliamentary regional election can only take place at constituency level and then only before the Regional Returning Officer has been informed of the result.

**4.2** No step should be taken by the Returning Officer following the count or any recount until all candidates or election agents have been given the opportunity to exercise their right to request a recount.<sup>24</sup>

**4.3** Although the basic statutory rights around recounts remain unchanged, the introduction of electronic counting means that the options available to the Returning Officer in the event of such a request are substantially different, ranging from the re-scanning of individual batches of ballot papers, to re-adjudication of ballot papers and to a full re-scan of all ballot papers. It is for individual Returning Officers to decide what approach is desirable and proportionate in the circumstances.

**4.4** It is of crucial importance that, in advance of the 2007 Scottish elections, candidates and agents are afforded an enhanced level of awareness of the use of the electronic counting technology in order to promote confidence, not only in the capabilities of the counting system but also in the ability of the technology to count ballot papers accurately. Particular attention should be paid to helping candidates and agents understand their role and what they should focus on in order to best satisfy themselves about the conduct of the count. It may also be helpful to advise candidates and agents of the circumstances in which Returning Officers may consider granting a recount and what form any such recount would take.

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<sup>23</sup> Rules 56(1) and 57(1), Scottish Parliament Order; Rule 53(1), Local Government Rules.

<sup>24</sup> Rules 56(2) and 57(2), Scottish Parliament Order; Rule 53(2), Local Government Rules.

## 5 Equality of votes

### Scottish Parliamentary elections

**5.1** In the event of an equality of votes following a count in a Scottish Parliamentary constituency election, the Returning Officer is required to decide between the candidates by drawing lots.<sup>25</sup> Whichever candidate wins the lot receives the equivalent of an additional vote and is declared elected.

**5.2** Where there is a tie in respect of the allocation of the last regional seat, the Regional Returning Officer is required to add one vote to the total number of regional votes given for each party or individual candidate involved in the tie in each of the constituencies they contested in the region and, in the case of a party, to recalculate the regional figure accordingly.<sup>26</sup> If this does not resolve the tie, the Regional Returning Officer should then decide between those parties or individual candidates by lot. The Constituency Returning Officer does not need to draw lots if there is a tie in the number of votes cast for more than one registered political party or individual candidate in that particular constituency.

**5.3** A 'lot' is defined as an object, for example, a slip of paper or a straw, drawn or thrown out from among a number in order to reach a decision by chance.

**5.4** Examples of types of lot include:

- ballot papers, each marked with a vote for one of the candidates with the same number of votes, placed in a container such as an empty ballot box or hat, mixed around, and then one drawn by the Returning Officer

- slips of paper with the candidates' names on them, placed in sealed envelopes, shuffled, and then drawn by the Returning Officer
- a pack of cards, shuffled and a card selected, with the holder of the lowest or highest card (as agreed prior to the drawing of lots) elected (ace high)
- a coin is tossed, the Returning Officer deciding in advance who shall be heads and who shall be tails

**5.5** The method of drawing lots is for the Returning Officer to decide.

**5.6** A formal announcement should be made that it is intended to proceed with the drawing of lots between the candidates having an equal number of votes, explaining precisely what is about to happen and the method to be used. Candidates, agents, Electoral Commission representatives and observers should be present during any preparation and the actual drawing of lots.

**5.7** The Returning Officer or an appointed Depute should undertake the drawing of lots.

**5.8** If, for example, the Returning Officer opts for the method as set out in the first example in the bullet points above, the Returning Officer should, in full view of any candidates or election agents, particularly those affected by the result, fold and place a previously counted ballot paper for each of the candidates with the same number of votes, marked with a good vote for that candidate, into an empty ballot box. An assistant should then raise the box to a height where the Returning Officer is unable to see the papers inside the box, but is still able to reach inside to pick one. After mixing, one of the ballot papers should be drawn from the box, opened and the name of the candidate

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<sup>25</sup> Rule 60, Scottish Parliament Order.

<sup>26</sup> Rule 65, Scottish Parliament Order.

with the vote marked against their name read out loud. That candidate is then adjudged to have been allotted the additional vote. Similar preparations should be made for any of the other methods outlined above.

**5.9** A statement should be included on the result sheet to the effect that 'following an equality of votes, lots were drawn, and as a consequence an extra vote was allotted to candidate X'.

## Local government elections

**5.10** Despite the introduction of the Single Transferable Vote (STV) electoral system for local government elections, there are still several situations in which the drawing of lots as set out above may be required.

**5.11** When there is a surplus to be transferred and two or more candidates have the same surplus, the transferable papers of the candidate who had the highest number of votes at the most recent preceding stage at which they had unequal numbers of votes should be transferred first. If, however, the numbers of votes credited to the candidates have been the same at all stages of the count, the Returning Officer decides which surplus to transfer first by lot.<sup>27</sup>

**5.12** When a candidate has to be excluded and two or more candidates have the same number of votes, the total number of votes credited to the candidates at the end of the most recently preceding stage of the count should be considered, and the candidate with the lowest number of votes at that stage should be excluded. If, however, the number of votes credited to the candidate has been the same at all stages of the count, the Returning Officer decides which candidate to exclude by lot.<sup>28</sup>

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<sup>27</sup> Rule 49(2) and (3), Local Government Rules.

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<sup>28</sup> Rule 51(1) and (2), Local Government Rules.

## 6 Declaration of results

**6.1** It is essential that the arrangements for the giving of the declaration of results are established well before the count takes place.

**6.2** The following factors should be taken into account when considering the declaration of results:

- Decide the exact location in the count venue where the result will be declared and who will be on the platform at this time. The platform should be accessible for all those who need to get on to it. Some authorities make use of display boards etc. for the announcement of results.
- Any announcement equipment should be in place and checked before the count begins.
- Double check that the result is accurate, and make sure that it is written in a form of words for the oral delivery in order to avoid any errors. Copies of the result sheets should be prepared for any media present and made available to them at the time the announcement is made.
- Once a result has been declared and public notice of the result given, the Returning Officer has no power to amend the result, even if uncounted ballot papers are subsequently found. It is therefore essential that the result is correct and empty ballot boxes are checked before the end of the count. Careful planning should avoid the occurrence of any problems.



Once the result is declared it is final and cannot be amended afterwards. The new power to correct procedural errors does not empower a Returning Officer to correct an incorrect result once it has been declared.<sup>29</sup> See also Part B – Preparing for the Scottish Parliamentary and local government elections, Section 1, Planning and risk management.

### Scottish Parliamentary constituencies

**6.3** The responsibility for declaring the constituency results rests with the Constituency Returning Officer,<sup>30</sup> although the responsibility may be delegated to an appointed Depute.

**6.4** Candidates and agents should be invited to accept the provisional result prior to the Returning Officer making the formal declaration. When candidates and agents have had the opportunity to accept the provisional result, the Returning Officer will declare the result of the constituency election.

### Scottish Parliamentary regions

**6.5** The Constituency Returning Officer is required to draw up a statement showing the number of votes given for each registered party and each individual candidate in accordance with any directions given by the Regional Returning Officer, and inform the Regional Returning Officer of the contents of that statement.<sup>31</sup> Constituency and Regional Returning Officers will have agreed procedures

<sup>29</sup> Article 93(2), Scottish Parliament Order; Section 4(2), LEARS Act.

<sup>30</sup> Rule 62, Scottish Parliament Order.

<sup>31</sup> Rule 61, Scottish Parliament Order.

for the transfer of information and how the announcement of the regional results should be handled prior to the count.

**6.6** As soon as practicable after they have informed the Regional Returning Officer of the regional result in that constituency, the Constituency Returning Officer must declare the total number of votes cast for each registered political party and individual candidate contesting the regional election in that constituency.

#### Allocation of regional seats

**6.7** Once each Constituency Returning Officer has informed the Regional Returning Officer of the number of ballots cast for each of the registered political parties and individual candidates in the regional vote, as well as details of the number of constituency seats gained by each registered political party, the Regional Returning Officer can then total the results for each registered political party and individual candidate in the regional ballot by constituency, as well as the number of constituency seats won in the region by each registered party.

**6.8** The regional results can only be calculated once all the results from constituencies included in the region are known, all the constituency results have been declared in a region and all regional votes have been counted and declared in each constituency.

**6.9** The Regional Returning Officer will declare the allocation of seats within the region following the calculation using the modified d'Hondt formula. The Regional Returning Officer should show each individual candidate or party standing for regional seats the basis on which they intend to allocate seats and offer them the opportunity to request a recalculation before the result is declared.<sup>32</sup>

**6.10** The modified d'Hondt formula sees the number of votes cast in the regional ballot for each registered party or individual candidate divided by the number of constituency seats gained **plus one**,<sup>33</sup> which allows parties or individual candidates that have not won any constituencies within that region or did not stand in any constituencies within that region to be included in the rest of the calculation.

**6.11** After that initial calculation is complete, the party with the highest resulting figure gains the first additional seat.<sup>34</sup> To allocate the second to seventh additional seats, the calculation is recalculated, but each time any additional seats gained are added in to the divisor of the party who has been allocated a seat.

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<sup>32</sup> Rule 64(2), Scottish Parliament Order.

<sup>33</sup> Section 7, the Scotland Act 1998.

<sup>34</sup> Section 8, the Scotland Act 1998.

**Table 1: Example of the modified d'Hondt method**

	Party 1	Party 2	Party 3	Party 4
Regional votes	61,974	63,362	61,189	37,206
Constituency seats	2	4	1	0
First win Party 4	$\div 3 = 20,658$	$\div 5 = 12,672$	$\div 2 = 30,595$	$\div 1 = 37,206$
Second win Party 3	20,658	12,672	30,595	$\div 2 = 18,603$
Third win Party 1	20,658	12,672	$\div 3 = 20,396$	18,603
Fourth win Party 3	$\div 4 = 15,594$	12,672	20,396	18,603
Fifth win Party 4	15,494	12,672	$\div 4 = 15,297$	18,603
Sixth win Party 1	15,494	12,672	15,297	$\div 3 = 12,402$
Seventh win Party 3	$\div 5 = 12,395$	12,672	15,297	12,402
Additional seats	2	0	3	2
Total seats in region	4	4	4	2

**6.12** Table 1 shows an example of the modified d'Hondt method of calculation.

**6.13** Seats won by each political party are allocated to candidates in the order in which their names appear on the list submitted by that party at nomination.<sup>35</sup> Candidates who have already been elected to a constituency (or whose election has been declared void) are disregarded for the purposes of allocation.<sup>36</sup>

### Local government wards

**6.14** The electronic counting system will handle the production of results for the local government elections, and will provide the Returning Officer with a detailed breakdown of the results on a stage by stage basis. Regardless, it is imperative that the Returning Officer and electoral staff have a good understanding of the STV system in

order to be able to explain the process to candidates and agents.

**6.15** The ballot papers are sorted according to the candidates for whom first preference votes have been cast and the total number of votes credited to each candidate at this stage is recorded.<sup>37</sup> After this has been done and any invalid ballot papers have been rejected from the count, the total number of valid votes can be ascertained.

**6.16** From there the quota, the number of votes that candidates need to be elected, is calculated. The quota is calculated by dividing the total number of valid votes cast by the number of councillors to be elected in each ward plus one, plus one (ignoring any decimal places).<sup>38</sup> For example, if there have been

<sup>35</sup> Section 8(4), the Scotland Act 1998.

<sup>36</sup> Section 8(5), the Scotland Act 1998.

<sup>37</sup> Rule 45, Local Government Rules.

<sup>38</sup> Rule 46, Local Government Rules.

5,000 valid votes cast and there are four councillors to be elected, the quota is  $(5,000 \div (4+1)) + 1 = 1,001$ .

**6.17** Any candidate who has received a total number of votes equal to or in excess of the quota is deemed to be elected.<sup>39</sup>

**6.18** If a candidate has exceeded the quota and there are still vacancies to be filled, the surplus votes of that candidate should then be transferred to the next available preference on the ballot paper, if indeed there is one.<sup>40</sup>

**6.19** These votes should be transferred at a value calculated as follows:

$$\left( \begin{array}{l} \text{Surplus of the} \\ \text{transferring} \\ \text{candidate} \end{array} \times \begin{array}{l} \text{Value of the} \\ \text{ballot paper} \\ \text{when received} \\ \text{by the} \\ \text{candidate} \end{array} \right) \div \begin{array}{l} \text{The total} \\ \text{number of votes} \\ \text{credited to that} \\ \text{candidate} \end{array}$$

**6.20** This value should be calculated to five decimal places. If the candidate has received votes at several different stages of the count at different values, this calculation will need to be made for each of these sets of ballot papers separately.

**6.21** Following the transfer of any surplus, the Returning Officer will then check to see if any other candidates now meet or exceed the quota. If so, they are also deemed to be elected and the process as described above should be repeated until all of the vacancies for that ward have been filled.

**6.22** If, however, there are seats to be filled in the ward and there are no (or no further) candidates who meet or exceed the quota, the candidate with the least number of votes will be excluded.<sup>41</sup> In such an instance, the votes for that candidate are credited to the next available preference given on those ballot papers. The vote on each paper is transferred either at full value or, if it has been received by the excluded candidate as a transfer, at the value at which it was received.

**6.23** The Returning Officer will then check to see if any other candidates now meet or exceed the quota. If so, they are deemed to be elected

<sup>39</sup> Rule 47, Local Government Rules.

<sup>40</sup> Rule 48, Local Government Rules.

<sup>41</sup> Rule 50, Local Government Rules.

and, if any vacancies remain, any surpluses should be transferred. If there are no surpluses to be transferred, the candidate who then has the lowest number of votes should be excluded.

**6.24** These processes are repeated until all of the vacancies for that ward have been filled. If, however, at any stage the number of continuing candidates is equal to the number of vacancies remaining unfilled, the continuing candidates are deemed to be elected, without the need for any further transfers to be made.<sup>42</sup>

**6.25** In each contested local government election, when the result of the poll has been ascertained the Returning Officer will:<sup>43</sup>

- declare to be elected the candidates who have been deemed to be returned as councillors
- give notice of the names of the candidates elected to the Proper Officer of the Council for which the election was held
- give public notice of the:
  - names of the candidates elected
  - number of first and subsequent preference votes for each candidate
  - number of ballot papers transferred and their transfer values at each stage of the count
  - number of votes allocated to each candidate at each stage of the count
  - number of non-transferable ballot papers at each stage of the count
  - number of rejected ballot papers under each head shown in the statement of rejected ballot papers

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<sup>42</sup> Rule 52, Local Government Rules.

<sup>43</sup> Rule 55, Local Government Rules.

# 7 Resources

## NOTIFICATION OF SECRECY REQUIREMENTS

### The Scottish Parliament (Elections etc.) Order 2007, Article 32

[...]

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not –

- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom or, as the case may be, registered political party for which, any vote is given on a particular ballot paper.

[...]

(6) If a person acts in contravention of this section he shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale or to imprisonment for a term not exceeding three months.

## NOTIFICATION OF SECRECY REQUIREMENTS

### Representation of the People Act 1983, Section 66

[...]

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not –

- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on a particular ballot paper.

[...]

(6) If a person acts in contravention of this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.