The Electoral Commission

Part E – Verifying and counting the votes

Council elections in Scotland: guidance for Returning Officers

December 2016 (updated November 2021)

In this guidance we use ‘must’ when we refer to a specific legal requirement. We use ‘should’ for items we consider to be recommended practice, but which are not legal requirements.

Translations and other formats

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Updates to this document

Updated	Description of change
	Updated to take account of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018
November 2021	Some updates to the planning section to reflect changes to the e-count process

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1 Principles for an effective verification and count

You should read this guidance in conjunction with any additional guidance and directions issued by the Convener of the EMB. The Convener has the power to give general or specific directions to ROs relating to the discharge of their functions, and so when acting as RO you must comply with any such directions and consider any additional guidance.[1]

1.1 Even though votes will be verified and counted electronically, the key principles for effective verification and count processes are still relevant and the systems and processes used should be designed to meet these principles.

1.2 You should ensure that your verification and count arrangements can deliver the key principles for an effective verification and count, which are as follows:

- All processes are transparent, with a clear and unambiguous audit trail.
- The verification produces an accurate result. This means that the number of ballot papers in each box either matches the number of ballot papers issued as stated on the ballot paper account or, if it does not:
    - the source of the variance has been identified and can be explained, and/or
    - the box has been recounted at least twice, until the same number of ballot papers is counted on two consecutive occasions
- The count produces an accurate result, where:
    - at the first stage, the total number of first preference votes cast for each candidate and rejected votes matches the total number of ballot papers given on the verification statement for that ward
    - the transfer values and calculations are performed accurately by the e-counting software
- The verification and count are timely.
- The secrecy of the vote is maintained at all times.
- The security of ballot papers and other stationery is maintained at all times.
- The communication of information at the verification and count is clear and timely.

1.3 In addition to considering how to ensure that your processes will enable you to meet the key principles, you will need to consider other relevant practical factors that will affect the organisation and timing of the verification and count, such as:

- the size and number of wards in your area
- other polls taking place on the same day in your area
- size and capacity of your venue
- cost
- transparency for candidates, agents and observers

1.4 The geography of your area will also affect how early you will be able to start your verification of the unused ballot papers.

a You should read this guidance in conjunction with any additional guidance and directions issued by the Convener of the EMB.

You should also read any guidance provided by the e-count contractor.

2 Preparing for the verification and count

Planning for the verification and count

2.1 This chapter covers the general considerations you will need to make when preparing for the verification and count in your area.

2.2 Your project plan should include your arrangements for the management of the verification and count.

2.3 As set out in Part B – Planning and organisation, to plan effectively for the election, you should prepare a project plan, treat it as a 'living document', keeping it under regular review and use it to monitor progress.

2.4 In developing and maintaining your plans, you will need to ensure that your plans reflect any additional guidance and directions issued by the Convener of the EMB and the e-count contractor.

2.5 You should also liaise regularly with the e-count contractor to ensure that you sufficiently understand the technical aspects of the e-counting system so that you can satisfy yourself that the system is working as expected and challenge the contractor if it is not. You should also ensure that contingency arrangements are discussed with the e-count contractor and that your plans are robust should anything go wrong.

2.6 You should keep your plans for the resourcing and delivery of the verification and count under review, taking into account the particular context of the elections.

2.7 Working jointly with the e-count contractor, you should review your assumptions to ensure they continue to be realistic and robust, including your assumptions on turnout, the number of candidates, capability of your count staff – including those operating the electronic counting system – and the expected timing for completing the various processes. Such a review will help inform a realistic assessment of whether you will be able to deliver the overall plan for the count, and whether and when it may be necessary to implement contingency plans. In all cases your plan should be flexible enough to allow you to respond if any of your assumptions change, covering what contingency actions you will take in such circumstances.

2.8 To help build confidence in your plans for the verification and count, you should, as a minimum, share information on your plans with local political parties, elected representatives and prospective candidates. To help manage expectations you should also identify in advance those decisions about the management of the count to be taken in consultation or agreement with candidates and agents, and make clear to them on what basis you will be

making decisions. This may include, for example, decisions on recounts and the suspension of the count. While you should seek input from those affected or interested to inform your decision-making, ultimately the responsibility for making decisions remains with you.

2.9 The following sections in this chapter set out the legal requirements and provide general guidance on:

- the timing of the verification and count
- staffing and training
- layout and equipment at the verification and count
- communicating during the verification and count
- managing attendees
- security of ballot papers

Timing of the verification and count

2.10 The Convener of the EMB may direct when the first ballot boxes are opened.

2.11 You may, however, carry out the reconciliation of unused ballot papers and the checking of ballot paper accounts before the time designated by the Convener to open the first ballot box. In all cases, you should ensure that candidates and agents know that they are entitled to attend this process and are given information on where and when the reconciliation of unused ballot papers and checking of ballot paper accounts will take place.

2.12 The period of time allowed for the count to take place should be such that you can resource and conduct well-run count processes within it, ensuring accurate results in which voters, candidates and agents can have confidence.

2.13 Your plan should also identify key points during the count process at which you will review progress against the expected schedule. This progress review should be used to keep candidates, agents and the media informed of the progress of the count

Staffing and training

2.14 To ensure that voters can have confidence that their votes will be counted in the way they intended, you will need to put in place appropriate resources to ensure the verification and count are timely.

2.15 It is important you ensure there are the right number of competent, skilled and knowledgeable staff – and that each member of staff is clear about their role – so that the count is run efficiently and effectively and according to the principles in **chapter 1 Principles for an effective verification and count**. You should also ensure there is an appropriate number of reserve staff in case of staff absence on the day of the count.

You should ensure that staff receive appropriate training and instructions to allow them to carry out their duties effectively and in accordance with the law.

To be able to achieve the outcome set out in performance standard 1, you will need to put in place appropriate resources to ensure the verification and count are timely.

To demonstrate that the outcome can be met you will need to set out how the verification and count are to be organised and managed, including the process you followed to arrive at your decision.

2.16 The e-count contractor should outline the different roles at the count and provide you with guidance on the numbers of staff that should be assigned to each role based on the number of workstations allocated.

2.17 In addition to the roles set out by the e-count contractor, you will also need to designate staff to be part of your immediate Returning Officer team, including to assist you and any appointed depute with the adjudication process. You should also identify other support staff that may be necessary, taking account of the capacity of the venue.

2.18 The e-count contractor should organise role-based training days a few months prior to polling day. This hands-on training will include refresher days on election week, should it be required, and will be supported by online resources and written instructions.

2.19 You should make your own arrangements to train relevant staff on processes that are not directly related to the e-count, such as the collection and receipt of ballot boxes and the verification of unused ballot papers.

2.20 You should take steps to ensure that staff assigned to work on the count are fully briefed and able to fulfil their roles competently.

2.21 While the e-count contractor will oversee the technical installation and testing of the e-counting system, you are still responsible for the verification and counting of votes.

Further guidance on staffing the verification and count and the training of verification and count staff can be found in Part B – Planning and organisation.

Layout and equipment at the verification and count

2.22 So that those attending the count can have confidence that the process is well-managed, you should ensure that your processes are transparent, with everything at the verification and count carried out in clear view of those entitled to attend.

2.23 Layout plans for your count venue should be prepared at an early stage and in conjunction with the e-count contractor. The layout should be designed

to maximise the efficiency of the workflow, but also so that agents, candidates and others can easily observe the ongoing verification and counting of votes.

2.24 The wider venue plans should also encompass areas for:

- access for vehicles transporting ballot boxes and count staff
- receiving and storing the ballot boxes on the night before the count as required
- accreditation
- security checks
- refreshments
- making public announcements and declarations
- the media

2.25 Each venue should have clear signage and information posters. You should also ensure that there is sufficient information for staff and others attending the count, including a venue plan and information about venue facilities and the day's proceedings.

2.26 Access to the area within which the ballot paper storage racks sit should be restricted to count staff and Commission representatives. However, the operation of the scanners and the reconciliation and adjudication process should be visible. Dual PC screens, which will be provided by the e-count contractor, should make it easy to see the information being entered and the adjudications being made. There will also be at least one large screen in each venue, which will be provided by the e-count contractor, and which should be used for final adjudications.

2.27 Any scrolling display screens used should be set at a pace which makes it easy for candidates and agents to observe the processes.

2.28 You should ensure that all equipment used is set up and tested in advance of the verification and count. You should also ensure that you have contingency arrangements in place in case of equipment or power malfunction.

a Further guidance on selecting verification and count venues can be found in Part B – Planning and organisation.

Communication during the verification and count

2.29 Good communication, both at candidate and agent briefings in advance of the count and at the event itself, allows those present to properly scrutinise all of the processes and will help to build confidence in the administration of the verification and count. Providing information on the process can also help to lower the number of queries raised by candidates and agents – in particular from new or inexperienced candidates or agents - thus reducing the pressure on staff.

2.30 You should produce and distribute an information pack to anyone attending the count containing, for example, information on the facilities, the processes and what those in attendance can expect to see and the procedures for the declaration of results.

2.31 You should also ensure that there are timely and co-ordinated communications throughout the verification and count, for example by using a public address system, to ensure that information is communicated in a way that allows those in attendance to fully understand what is happening where and when and alerts candidates and agents to any particular processes at which their attendance is required (e.g. at the adjudication of doubtful ballot papers).

To be able to achieve the outcome set out in performance standard 2, you will need to ensure count processes are transparent, with everything at the verification and count carried out in clear view of all those entitled to attend, with information provided to attendees on the processes to be followed.

To demonstrate that the outcome can be delivered you will need to have in place a layout plan of the count and have in place information to be provided to attendees at the count.

2.32 To ensure transparency of communication between counting staff and other attendees at the count (including counting agents) you should make clear in instructions to those attending the count that any questions should be directed to count supervisors rather than counting assistants.

2.33 Also, if agents or observers are dissatisfied in any way with the manner in which the proceedings are being carried out, the opportunity should always be available for them to make direct representations to you at the earliest opportunity so that any concerns may be considered, explanations and reassurances given, and any corrective action taken if necessary.

2.34 You should consider the following when determining what information you will provide to anyone attending the verification and count on the processes to be followed, and how you will provide it:

- Placing information posters and boards throughout the verification and count venue. These should be large enough to be clearly visible, and should show the key members of staff and provide an overview of the procedures to be followed in order to help attendees identify what is happening and where. You may wish to provide pictures of yourself and your key staff to help attendees identify you at the count. This information could also be provided in advance of the count, for example as part of an information pack.
- Providing a layout plan of the venue, indicating the key areas of interest for counting agents and observers.

- Appointing a member of staff to respond to queries and to act as liaison between candidates, agents, observers and key staff.
- Providing a hand-out listing all ballot box numbers and the names of the polling stations they relate to.
- How you will manage provision of the verification and results statements to those entitled to receive a copy.

Managing attendees

2.35 Your plans should include mechanisms for managing the expectations of those attending the verification and count, so all attendees know what to expect and what their role is. They should also cover how you will maintain the secrecy of the vote throughout the verification and count.

2.36 You should ensure that all attendees at the count, including candidates, their guests, election agents, counting agents and the media, are briefed on and fully understand the process for conducting the count and the standards of behaviour which are expected of them at all times. You should make clear in both written and face-to-face briefings for attendees that you will be excluding attendees from the count venue if their behaviour interferes with the effective conduct of the count. This should help count staff to carry out verification and count activities without interference from counting agents and observers.

2.37 You should also decide on a policy for the use of mobile phones and photography / filming in the verification and count venue and provide this information in advance to those who are entitled to attend.

2.38 Tickets or admission passes should be issued to everyone entitled to attend the count, except accredited observers and Commission representatives who will be wearing silver or pink accreditation badges. You should give consideration to issuing different-coloured tickets or passes to identify the different categories of attendees.

2.39 You should liaise with the police to check that their plans for managing the public space outside the count venue will enable people entitled to attend the count to enter and leave the venue freely and without obstruction.

a See **Chapter 3 – Attendance at the verification and count** for further guidance on who is entitled to attend the verification and count.

Ensuring the security of ballot papers

To be able to achieve the outcome set out in performance standard 1, you will need to maintain the secure storage of ballot papers at all times.

To demonstrate that the outcome can be delivered you will need to have in place arrangements for securely storing ballot papers.

2.40 Between close of poll and the start of the count, the ballot papers must be stored in their sealed ballot boxes in a secure place. You should always open the sealed ballot boxes in clear view of any candidates and agents present, so they can satisfy themselves that nobody has interfered with the ballot boxes or their contents.

2.41 Once counting has commenced, should there be a break in proceedings, the ballot papers must be sealed and stored securely, allowing agents to attach their seals[2].

2.42 You should liaise with your local police Single Point of Contact (SPOC) when deciding on the most appropriate method for ensuring secure storage.

2.43 You should also brief candidates and agents about your arrangements, so that they can have confidence in the integrity of the process.

3 Attendance at the verification and count

To be able to achieve the outcome set out in performance standard 2, you will need to ensure count processes are transparent, with everything at the verification and count carried out in clear view of all those entitled to attend, with information provided to attendees on the processes to be followed.

To demonstrate that the outcome can be delivered you will need to have a layout plan of the count, and have in place information to be provided to attendees at the count and arrangements to communicate progress at the count.

Who can attend?

3.1 The following people are entitled by law to attend the verification and count:

- you and your staff
- staff performing duties under a contract for services entered into in connection with the conduct of or the administration of the election
- candidates
- one guest per candidate
- election agents
- counting agents
- Commission representatives
- accredited observers
- any other person permitted by you to attend[3] (see paragraph **3.5** below)

3.2 You must give counting agents reasonable facilities for overseeing the verification and counting of the votes[4]. You should also ensure that anyone else who is entitled to attend has an unrestricted view of the proceedings, while also ensuring that they will not be able to interfere with the work of your staff.

3.3 You should take all necessary steps to ensure that anyone attending does not interfere with or compromise the secrecy of the vote. You must ensure that all attendees are provided with a copy of the secrecy requirements.[5]

3.4 There is no requirement for those attending to arrive by a certain time, and so those entitled to attend should be admitted whenever they arrive. Also, a procedure should be in place so that any attendee who wishes to leave and return later is not prevented from doing so.

3.5 You can, at your discretion, permit other people to attend the proceedings if you are satisfied that it will not impede the efficient verification or counting of votes and you have consulted the election agents in advance, or thought it impracticable to do so[6].

Controlling admission

3.6 You should provide a list of those people entitled to attend the verification and count to those on duty at the entrance, and instruct security staff to check the tickets or passes of anyone seeking to attend.

3.7 However, security staff should also be briefed that Commission representatives and accredited observers do not need to provide advance notification of where they intend to observe and therefore may not appear on their list but are nevertheless entitled to access the verification and count venue on production of their observer or Commission representative identification badge.

3.8 You should, for health, safety and security reasons, record the names of everyone who actually attends the verification and count.

a Further guidance on accredited observers and Commission representatives, including a quick guide to the observer badge types, can be found in Part B – Planning and organisation.

Counting agents

A Guidance on the appointment of counting agents can be found in Part C – Administering the poll.

3.9 You must give counting agents reasonable facilities for overseeing the verification and counting of the votes, and provide them with relevant information.[7] Counting agents have a number of important roles to play at the count:

- they observe the counting process and make sure it is accurate
- if they disagree with a decision by you to reject a ballot paper, you must mark on the e-counting system that the rejection has been objected to[8]
- if a count is suspended for any reason or there is a break in proceedings, counting agents can add their own seals when you seal the ballot boxes and envelopes[9]

3.10 Candidates and election agents can do anything a counting agent is allowed to do.

Accredited observers

3.11 Electoral observation is a legitimate and valuable part of the electoral process, and care should be taken not to hinder or obstruct any observers. While you are permitted to limit the number of observers who may be present at any one time during the verification and count[10], you should exercise caution in doing so. You are not entitled to bar all observers from the verification and count, only to limit the number of observers present at any one time, and this discretion must be exercised reasonably.

3.12 Should you suspend access, or exercise your power to remove an accredited observer from the verification or count due to misconduct, you should ensure there is an audit trail to support your decision.

3.13 You must have regard to the Commission's Code of practice for observers when managing the attendance of observers[11]. Should you experience any issues with observers attending the count, contact the Commission's Scotland Office at the earliest opportunity.

A Further guidance on accredited observers can be found in Part B – Planning and organisation.

Commission representatives

3.14 Commission representatives are entitled to attend the verification and count and to observe your working practices, including those carried out by the electronic counting equipment[12]. They can ask questions of your staff and of agents, but will not do so if this would obstruct or disturb the conduct of proceedings. You are not allowed to limit the number of Commission representatives at the verification and count.

The media

3.15 You should include space and opportunity for the media to report on the results of the elections. You have discretion to decide which representatives of the media you allow to attend. As with all attendees, you must ensure that media representatives do not interfere with the process or compromise the secrecy of the vote[13].

3.16 You should ensure that your public relations team are present to deal with media enquiries. You should make sure that they know who to approach if they are asked any technical electoral questions.

3.17 In addition to making practical arrangements for their attendance, any early contact with the media should also include an explanation of the processes to be followed and the expected finish and declaration times.

3.18 If media representatives are accredited by the Commission as observers and are attending in such a capacity, they have the same rights and obligations as any other accredited observer. Like any other observers, they should have regard to the Commission's Code of practice for observers and should abide by any decision that you make on the use of mobile telephones, cameras and other recording equipment.

3.19 To assist you and your public relations team we have produced, jointly with the national TV news broadcasters, some 'tips for managing the media at the count'.

4 Receipt of polling station materials and sealed boxes of postal ballot papers

To be able to achieve the outcome set out in performance standards 1 and 2, you will need to ensure count processes are designed and managed to secure an accurate result, with a clear audit trail.

To demonstrate that the outcome can be delivered you will need to have in place arrangements to maintain a clear audit trail of the count processes.

4.1 The correct and orderly receipt of ballot boxes and materials from polling stations is a key component of an accurate verification process. Your team of staff receiving materials from polling stations should use a checklist to ensure that all ballot boxes and ballot paper accounts are accurately accounted for as well as any packets containing postal votes handed in at polling stations.

4.2 Where Presiding Officers are required to transport the ballot boxes, it should be made clear to the staff receiving the ballot boxes that no Presiding Officer should be allowed to leave until their ballot box(es) and all of the documents and packets have been received and checked off by the designated staff member and, wherever possible, a cursory check of the ballot paper account has been made. Staff receiving ballot boxes should be instructed to ensure that they have the ballot paper account for each ballot box.

4.3 Following receipt, when given permission to do so, the sealed ballot boxes and their accompanying ballot paper accounts can be taken to secure storage in readiness for the count the following day. All of the other materials received back from polling stations can be released by receiving staff to the relevant teams, which allows the process of the verification of the unused ballot papers to commence. If, however, you are not going to commence the verification of the unused ballot papers overnight, these too should be taken to secure storage.

4.4 The sacks containing the documents that need to be stored, such as sealed corresponding number lists, should be separated from those containing items that will be reused, such as general stationery items. The packets and parcels from polling stations should be organised in such a way as to enable easy location of any packet.

4.5 All packets of spoilt and unused ballot papers must be opened and counted and then resealed[14], with the numbers counted supplied to those staff members responsible for the verification process. You are prohibited from opening the sealed packets of tendered ballot papers, but you must open

and then reseal the packet containing the tendered votes list in order to check the list against the ballot paper accounts[15].

4.6 You are not permitted to open the sealed packets containing the corresponding number lists and certificates of employment, the marked copies of the register and the lists of proxies. You should ensure that the materials that you must keep sealed are placed in a designated and secure area for the duration of the verification and count.

Receipt of sealed boxes of postal ballot papers

4.7 Postal ballot papers previously received and opened will have been processed and should be brought to the count in sealed ballot boxes, with an accompanying ballot paper account for each postal ballot box. Staff receiving the postal ballot boxes should use a checklist to ensure that all postal ballot boxes and postal ballot paper accounts are accurately accounted for.

4.8 The total number of all validly returned postal ballot papers must be ascertained and recorded[16]. You should then compare the total to the number recorded on the postal ballot paper account the same way as any ballot box from a polling station.

5 The verification and count

Overview

5.1 The votes at an ordinary election of councillors must be counted electronically, except in the event of a system failure[17].

5.2 This section of the guidance does not cover the detailed count process or related logistics; rather it outlines the key principles and critical success factors for the count – which to a large extent apply to any count, electronic or manual. It also provides a broad overview of the e-counting process. You and your staff will need to understand how the electronic counting process will work end-to-end and separate instructions and training on the e-counting process will be provided by the e-count contractor.

Verifying and counting the votes

5.3 The e-count processes can be summarised as follows:

- Before the scanning can commence, you will need to run a report to demonstrate that there is no data in the system.

- Before the ballot papers are scanned, the content of each ballot box will be manually unfolded and arranged in batches, the ballot papers should be kept 'face up' and with the same orientation.

- Ballot papers are then scanned and the number verified against records of ballot papers issued at the polling station or against records of returned postal ballot papers. The verification of the used, unused and spoilt ballot papers is a legal requirement[18] and a prerequisite for declaring accurate results that those involved can have confidence in.
    - Do not mix the ballot papers from any ballot box with the ballot papers from any other ballot box, unless those ballot boxes are from the same polling station and have the same ballot paper account.

    - Check that the number of ballot papers scanned matches the numbers from the registration process, which were taken from the ballot paper account. This is a critical stage in the process (see paragraph **5.11** below for guidance on what to do if you identify any discrepancies).

- A ballot paper that has been through a scanner will have one of two outcomes:
    - The voter's marks on the ballot paper are clear and the preferences are valid and unambiguous and are therefore recorded by the system.

- The ballot paper may not be valid under the election rules, for example because the voter's preferences are not clear. An image of the ballot paper is taken and passed on for adjudication.

- The system will calculate the results based on the preferences recorded on the ballot papers, allowing you to brief the candidates as to the result, prior to a public declaration of the successful candidates.

5.4 All ballot papers will pass through this process, but different batches of ballot papers will be at different stages of the count at different times. Scanners should be staffed at all times and breaks should be organised to accommodate this.

5.5 There may be instances when details from a ballot paper are required to be entered manually by the scanner operator, for example, where the ballot paper has been torn or damaged. Where this occurs, the scanner supervisor will advise of the process to be followed.

5.6 Screens will be available for candidates, agents and observers at the count showing the adjudication of doubtful ballot papers and the progress of the count.

5.7 Your oversight and management of the count process is critical to the success of the count. It is important you use the management information available on the e-count system and your own regular assessments to track progress, resolve issues and ensure the count is progressed efficiently. You should take particular care to ensure the scanners and PC workstations remain busy to optimise the pace at which the count can progress.

5.8 You will be able to draw on the support of the e-count contractor. It is important you work closely and communicate regularly with the e-count contractor staff.

Discrepancies at verification

5.9 The training of Presiding Officers in the completion of ballot paper accounts, coupled with ballot paper accounts produced in a clear, easy-to-complete format should provide a firm foundation for the verification process.

a Information on the training of polling station staff is provided in Part B – Planning and organisation.

5.10 Discrepancies at the verification stage may arise from:

- an error in counting the unused ballot papers
- a mistake in the arithmetic on the ballot paper account
- an error transferring the ballot paper account details onto the e-counting system

- entering the details onto the system incorrectly
- ballot papers being cross-posted in polling places that have more than one ballot box
- voters not putting ballot papers in the ballot box and walking off with them
- a scanning error
- ballot papers being misplaced during the count
- unaccountable errors

5.11 If a ballot paper account does not reconcile, you should explore the reason thoroughly, including by:

- making a full check of the arithmetic on the ballot paper account and the number of unused ballot papers. Check the other packets of returned materials and any polling station logbook to try to identify any reason for missing or additional ballot papers. Ensure that returned postal ballot have not been added to the number of votes cast in the polling station. You should consider contacting the Presiding Officer to ask them to try to explain any discrepancies
- checking the record of issued ballot boxes to see if more than one ballot box was issued to the polling station and ensuring that all boxes allocated to the station have been opened and accounted for
- checking whether the ballot box has come from a multiple polling station location and, if it has, complete the verification of the ballot paper account(s) for the other polling station(s) within that location to see if there is a compensating error
- checking the ballot box storage area to ensure all ballot boxes have been fully emptied and all floors and surfaces for ballot papers that may have been dropped

5.12 After assessing the reason for the discrepancy and a discrepancy remains, you can:

- Authorise that the batch to move to the next stage, using the number of ballot papers counted as the verified figure, despite a discrepancy remaining. You should document the reason for the discrepancy on the system.
- Send the batch to be rescanned. You should rescan the batches at least twice.

5.13 You should discuss any discrepancies with any agents present. Similarly you should share and discuss print outs of the statement and any agent present may make a copy of the statements. You should, on request, supply copies of the reconciliation statement of scanned ballot papers to any agent present. The statement, together with the verification statement (which will also include information on the unused ballot papers), is a key communication tool that will help to ensure that candidates and agents are confident that the processes at the verification and counts are transparent and that they will produce accurate results.

5.14 Once you have discussed discrepancies and all those present are satisfied with the accuracy, at this point you can also announce the turnout.

Doubtful ballot papers

5.15 Once a batch has passed verification, the next stage in the process is the adjudication of doubtful ballot papers. The e-count software has in-built rules to determine whether a clearly valid vote (i.e. where there is absolutely no doubt as to its validity) has been cast and to count it accordingly.

5.16 You will need to adjudicate ballot papers on which voters' preferences are unclear, contain marks outside the voting boxes, which fail the security rules or cannot otherwise be automatically counted.

5.17 When adjudicating ballot papers, you should ensure that the process is transparent and undertaken in full view of those entitled to be present. As counting agents, candidates, and election agents can object to a decision to reject a ballot paper they must be able to fully observe the adjudication processes[19].

5.18 First-level adjudication will be visible on outward facing screens and the decisions being made by staff should be clear to those observing. If a candidate or agent disagrees with any decision being made at first-level adjudication, then the ballot paper should be passed onto 'Returning Officer adjudication'.

5.19 It is important your count staff are clear about the decisions they are and are not empowered to take at first-level adjudication.

5.20 Although the mechanics of the process are somewhat different when using e-counting, the principles remain the same.

5.21 When adjudicating doubtful ballot papers, you should:

- always be clear and consistent
- take time to ensure that a considered decision is given in every case
- determine whether the intention of the voter clearly appears on the ballot paper

5.22 You should have regard to the Commission's booklet on doubtful ballot papers throughout the adjudication process. The booklet contains examples of allowed and rejected votes and the key principles to be followed in the adjudication of doubtful ballot papers.

5.23 Examples of allowed and rejected ballot papers are also set out on the doubtful ballot paper placemat which you should have on display at the count for candidates, agents and observers to refer to.

5.24 At RO adjudication, you must reject a ballot paper:

- that does not bear a unique identifying mark in a form that is capable of being read by electronic means

- that does not contain a first preference vote for any candidate
- that contains a first preference vote for more than one candidate
- on which anything is written or marked by which the voter can be identified (except the printed ballot paper number or other unique identifying mark)
- that is unmarked or void for uncertainty[20]

5.25 However, unless the ballot paper is marked in a way that identifies the voter, a vote marked in the following ways must not be rejected if the mark clearly indicates a preference or preferences:

- elsewhere than in the proper place
- otherwise than by means of a figure indicating a first or subsequent preference, or
- by more than one mark[21]

5.26 A ballot paper can be accepted in part if the voter has marked the ballot paper but there is a repetition in the sequence (e.g. 1, 2, 3, 4, 4, 6). In such a case, you should accept the preferences as valid up until the point in which there is a repetition in the sequence (in the example given, you should accept the first three preferences only). If the ballot paper contains a break in the sequence (e.g. 1, 2, 3, 5, 6), the preferences are only valid up until the break (in the example given, you should accept the first three preferences only).

5.27 In addition, ballot papers displaying any of the following may require further consideration:

- Any ballot paper with anything unusual about it (for example, any ballot paper that appears to have been altered, either with a clearly different writing instrument or with correction fluid).
- Any ballot paper torn or damaged in any way. Whether or not such an extract of a ballot paper can be counted will depend on whether it contains the electronically readable unique identifying mark. If it does, the ballot paper can be accepted as a valid vote, provided you are satisfied that:
    - the intention of the voter is clear
    - none of the grounds for rejection apply

a See **Chapter 6** of Part D:Absent voting for guidance on how to deal with cut ballot papers at postal vote openings.

5.28 Ballot papers that appear to be altered, either with a clearly different writing instrument or with correction fluid, should be treated as 'doubtful' and put forward for adjudication, where you must decide on their validity in the presence of counting agents[22]. Any candidates, agents and observers present can also observe adjudication of doubtful ballot papers if they wish. Those that are subsequently declared as valid must be counted and included in the total number of votes cast for the appropriate candidate.

5.29 Returning Officer adjudication should be shown on the large screen to ensure all candidates and agents can observe the process. Counting agents may object to your decision to reject a ballot paper and at this point the objection must be recorded against the ballot paper and the e-counting system allows you to do this electronically[23]. Although observers should be able to see this process, they do not have the legal right to object to the rejection of a ballot paper. If an RO adjudication queue is building, you may wish to use one or more of the first-level adjudication PC workstations. If you do so, you should clearly announce that you plan to use the workstation for that purpose and make sure any candidates, agents and observers present can observe the adjudication.

5.30 The decision to accept or reject a vote is ultimately yours and is final: it can only be challenged by way of an election petition[24].

6 Concluding the count

Final verification statement and provisional results

6.1 The system will indicate when all of the ballot boxes for a ward have passed through all stages of the e-count (including adjudication) and you should then print out and review the final report for that ward, which will include the statement of the results of verification.

6.2 As with the earlier reconciliation statement, any agent present may make a copy of this report and you should make available copies for the agents present once the processes have been completed. You must also, on request, supply a copy of the report to any agents present[25].

6.3 You should be satisfied that the figures are accurate before proceeding to advise candidates and agents of the provisional results. You should also provide an explanation and print-out of the results for them to digest and seek their agreement before moving to the final results. This process should be undertaken within the framework of maximum openness and transparency implemented throughout the count.

6.4 You must give the candidates and agents time to digest the provisional results before proceeding with the declaration. You should make clear that candidates and election agents (though not counting agents) are entitled to request a recount – or, following a recount, a further recount[26].

Recounts

6.5 You must consider any request for a recount but by law may refuse if in your opinion the request is unreasonable[27].

6.6 If you agree to recount the votes, the candidates and agents present at the count should be informed before the recount commences and briefed on the processes you are going to follow. As with the original count, any recount should be carried out in full view of those present.

6.7 The candidates and election agents must be consulted on the revised provisional result in the same way as they were consulted on the provisional result at the conclusion of the first count[28].

6.8 It is possible to have more than one recount. Again, it is for you to consider any request, and you may refuse if in your opinion the request is unreasonable.

Equality of votes

6.9 There are two stages at which you may need to break an equality of votes between candidates. These are where two or more candidates have an identical surplus of votes, or where two or more candidates have the same number of votes and one of them must be excluded.

6.10 If two or more candidates have an identical surplus of votes, you must look back to the most recent stage of the count at which they had an unequal number of votes[29]. The surplus of the candidate who had the highest vote at that stage must be transferred first[30]. If they have had the same number of votes at every preceding stage, you must decide between the candidates by lot[31]. Whichever candidate is chosen by the lot will have their surplus transferred first[32].

6.11 Similarly, if you need to exclude a candidate and those with the fewest votes have the same number of votes, you must look back to the most recent stage of the count at which they had an unequal number of votes[33]. The candidate who had the fewest votes at that stage must be excluded first[34]. If they have had the same number of votes at every preceding stage, you must decide between the candidates by lot[35]. Whichever candidate is chosen by the lot will be excluded and have their votes transferred first[36].

6.12 The method of drawing lots is for you to decide. Examples of types of lot include:

- ballot papers, each marked with a first preference vote for one of the relevant candidates, placed in a container, such as an empty ballot box, mixed around, and then one drawn by you
- slips of paper with the candidates' names on them, placed in sealed envelopes, shuffled and then drawn by you

6.13 You should make an announcement that you intend to proceed with the drawing of lots between the candidates having an equal surplus/number of votes, explaining precisely what is about to happen, the method to be used and what will happen to the candidate chosen by the drawing of the lot. Candidates, agents, Commission representatives and accredited observers should be present during any preparation and the actual drawing of lots.

6.14 If you use the first method described above, you should, in full view of any candidates and agents, and in the presence of Commission representatives and accredited observers, fold and place a previously counted ballot paper showing a valid first preference vote for each of the candidates with an identical surplus/number of votes, in an empty ballot box. An assistant should raise the box to a height where you are unable to see the papers inside the box, but are still able to reach inside to pick one. After mixing, you should draw one of the ballot papers from the box, open it, and read the name of the candidate with the vote marked against their name out loud. That candidate is then adjudged to have been chosen by the lot.

6.15 If the equality was between candidates with the same surpluses, the candidate who is chosen by the lot has their surplus transferred first[37].

6.16 If the equality was between candidates with the lowest number of votes, then the candidate who is chosen by the lot is excluded[38]. The votes for the candidate who was excluded are then transferred[39].

6.17 Similar preparations should be made should you decide to use any of the other methods outlined above.

6.18 A statement should be added manually to the result sheet to the effect that: 'Following an equality of votes, lots were drawn and, as a consequence, candidate X's [*insert candidates name*] surplus was transferred first/candidate X [*insert candidates name*] was excluded first.'

Declaring the results

6.19 When the results of the election in each ward have been ascertained, you must prepare a statement of the result and declare the relevant candidates elected[40]. In practice, it is likely that a 'Declaration report and announcement script' will be produced by the e-counting system which will set out:

- the names of the candidates elected
- the number of first and subsequent preferences given to each candidate
- the numbers of ballot papers transferred and their transfer values at each stage of the count
- the number of votes credited to each candidate at each stage of the count
- the number of non-transferable ballot papers and the number of non-transferable votes at each stage of the count
- each unique sequence of preferences in which voters chose candidates in the ward, with the number of voters who adopted each of those sequences, and
- the number of rejected ballot papers under each heading[41]

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

- Decide on the exact location in the count venue where the results 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 up on it. Some local authorities make use of display boards to provide a backdrop 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. The system will produce a script, but you may need to repeat the declaration so that those in attendance are able to hear the detail clearly, particularly where there is noise from those attending.

- You should take steps to provide media representatives in attendance with a written copy of the results at the time the announcement is made and this will help them to ensure that their transmission of figures is accurate.

6.21 When a candidate has used their commonly used name, you should use both their full name and their commonly used name when declaring the result.

6.22 Once a result is declared, it is final and cannot be amended. The power to correct procedural errors does not empower you to correct an incorrect result once it has been declared[42].

a As RO, once you have declared the relevant candidates to be elected you must also give notice of their names to the Proper Officer of the council[43]. Further guidance on giving public notice after the election is provided in Part F – After the declaration of results.

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[1] Section 5(3), Local Electoral Administration (Scotland) Act 2011 (LEAS 2011).
[2] Rule 43(7), Local Government Rules.
[3] Rule 41(2), Local Government Rules.
[4] Rule 41(4), Local Government Rules.
[5] Rule 27(10), Local Government Rules.
[6] Rule 41(3), Local Government Rules.
[7] Rule 41(4), Local Government Rules.
[8] Rule 44(3), Local Government Rules.
[9] Rule 43(7)(a), Local Government Rules.
[10] Section 6E(1), Political Parties, Elections and Referendums Act 2000 (PPERA 2000).
[11] Section 6G(7)(c), PPERA 2000.
[12] Sections 6A(1)(a) and 6B(1)(b), PPERA 2000.
[13] Rules 27 and 41(3)(a), Local Government Rules.
[14] Rule 43(5), Local Government Rules.
[15] Rule 43(5), Local Government Rules.
[16] Rule 43(1)(c), Local Government Rules.
[17] Rule 42(1), Local Government Rules.
[18] Rule 43(1)(b) and (5), Local Government Rules.
[19] Rule 41(4), Local Government Rules.
[20] Rule 44(1), Local Government Rules.
[21] Rule 44(2), Local Government Rules.
[22] Rule 41(4), Local Government Rules.
[23] Rule 44(3), Local Government Rules.
[24] Rule 45, Local Government Rules.
[25] Rule 43(5), Local Government Rules.
[26] Rule 54(1), Local Government Rules.
[27] Rule 54(1), Local Government Rules.
[28] Rule 54(2), Local Government Rules.
[29] Rule 50(2), Local Government Rules.
[30] Rule 50(2), Local Government Rules.
[31] Rule 50(3), Local Government Rules.
[32] Rule 50(3), Local Government Rules.
[33] Rule 52(2)(a), Local Government Rules.
[34] Rule 52(2)(a), Local Government Rules.

[35] Rule 52(2)(b), Local Government Rules.
[36] Rule 52(2)(b), Local Government Rules.
[37] Rule 50(3), Local Government Rules
[38] Rule 52(2)(b), Local Government Rules.
[39] Rule 51(2) and (3), Local Government Rules.
[40] Rule 56(c), Local Government Rules.
[41] Rule 56(c), Local Government Rules.
[42] Section 4(2), Local Electoral Administration and Registration Services (Scotland) Act 2006.
[43] Rule 56 (a) and (b), Local Government Rules.