



# **Candidates Guide**

## **LEGISLATIVE ASSEMBLY**



## OUR PURPOSE

To provide Western Australians with accessible, efficient and high quality electoral and enrolment services - thereby fostering public confidence and participation in the electoral process.

## OUR VALUES

### **Independence** How we are perceived by others

We act at all times with integrity, independence, impartiality and transparency.

### **Professional** How we go about our work

We work to the highest standards by being ethical, accurate, reliable and efficient.

### **Respectful** How we treat others and expect to be treated

We focus on being courteous, honest and fair in all our dealings.

### **Customer Focused** How we deliver our services

We build a positive work environment through teamwork, support and good working relationships.

### **Collaboration** How we work together

We continually review our systems and practices and seek to remain progressive and innovative.

### **Continuously Improving** How we move forward and work better

We continually review our systems and practices and seek to remain progressive and innovative.

### **Teamwork** How we work together and in collaboration with others

We build a positive work environment and successful relationships through teamwork and cooperation.



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## Foreword

This guide is issued by the Western Australian Electoral Commission to assist candidates at Western Australian State elections. It contains a broad outline of Western Australia's electoral process, including the nomination process and rules regulating campaign activity.

As a prospective Member of Parliament, you should also familiarise yourself with the eligibility requirements set down in Western Australia's Constitution Act. Western Australian legislation can be accessed at [www.slp.wa.gov.au](http://www.slp.wa.gov.au).



David Kerslake  
**Electoral Commissioner**

**February 2018**



# 1 What You Should Know Before You Nominate

This section describes the qualifications required to be a member of the Legislative Assembly (MLA) and the qualifications to nominate as a candidate for election as a MLA. It also provides guidance for public servants who nominate as candidates in State elections.

## 1.1 Qualifications to be a Member of the Legislative Assembly

Any person is qualified to be elected as a member if he or she:

- has reached the age of 18
- is not subject to any legal incapacity
- is an Australian citizen
- has resided in Western Australia for one year
- is an elector entitled to vote in a district.

## 1.2 Disqualifications to be a Member of the Legislative Assembly

A person cannot nominate as a candidate in an election if, prior to and until the hour of nomination, he or she is, either by the *Electoral Act 1907* or any other Act, disqualified from being elected at that election as a member of the House of Parliament for which the election is being held.

A booklet, *Eligibility for Membership of State Parliament*, summarising qualifications and disqualifications can be obtained separately from the Commission or downloaded from the election website ([www.elections.wa.gov.au](http://www.elections.wa.gov.au)). The qualifications and disqualifications are also summarised in Appendix 2.

The penalty for nominating when a candidate is not qualified is \$1000.

## 1.3 Public Employees Standing for Election

A member of the Judiciary or a Parliament of the Commonwealth or another State or Territory must resign his or her office in order to nominate. Holders of certain other senior positions must also resign in order to nominate.

State public sector employees may nominate but must take leave of absence for the election period commencing on the first working day after nomination. The Electoral Regulations authorise public sector employees to apply for and take leave and for public employers to grant leave for this period.

A State employee may be required to resign, by other legislation, before nominating for election. Subject to some conditions, a State employee may be entitled to re-enter public sector employment after results have been declared, should he or she not be elected.

It is recommended that public sector employees considering nominating as a candidate seek independent legal advice if at all unclear about their rights and obligations under their present employment.

## 2 Nominating as a Candidate

This section describes the process of nominating as a candidate.

### 2.1 How and When is a Candidate Nominated?

A nomination form can be obtained by contacting the Returning Officer for the district or online at [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

Nominations may be received at any time between 6.00 pm on the day of the issue of the writ and 12.00 noon on the day that nominations close.

Candidates can be nominated in two ways:

- Candidates who are endorsed by a registered political party may have their nomination endorsed by the party secretary and complete form *RO30 Centralised Nomination Form – Legislative Assembly*. The registered political party can submit the nomination to the Electoral Commissioner up to noon on the day before nominations close.
- Candidates who are not endorsed by registered political parties can nominate themselves, using form *RO17 Nomination Form and Receipt – Legislative Assembly*, with the Returning Officer by noon on the day nominations close.

### 2.2 Deposit

Nominations are not valid unless a deposit of \$250 is paid before the close of nominations. Payments can only be made in cash (including money order) or by bank cheque drawn by a financial institution made payable to the Electoral Commissioner.

A personal cheque or credit card payment is NOT acceptable.

The deposit is returned:

- in an election with two candidates, if the total number of votes polled by the candidate is more than 4% of the total votes polled by both candidates;
- in an election with three or more candidates, if the total number of first preference votes polled by the candidate is more than 4% of the total number of first preference votes polled by all the candidates; or
- on the death of a candidate either before polling day or on polling day before the close of the poll.

Deposits not returned are forfeited to the State.

### 2.3 How Candidate Names Appear on the Legislative Assembly Ballot Paper

The form of a candidate's name to appear on the ballot paper is specified on the nomination form. It must include the candidate's surname and may include one or more of the candidate's given names which may be stated as one of the following:

- the given name(s) in full;
- an initial standing for the given name(s); or

- a commonly accepted variation of the given name (including an abbreviation or truncation of the name or an alternative form of the name).

Be very clear with names such as van de Klashorst, de Bono or l’Estrange as to what is the exact form and punctuation of the surname.

Where two or more candidates’ names are similar and are likely to cause confusion, the names of those candidates may be arranged with such description or addition as to distinguish them from one another by the Returning Officer.

A candidate’s name must be written in the alphabet used for the English language.

## 2.4 Use of a Registered Political Party Name on a Ballot Paper

Only candidates endorsed by a registered political party may apply to have the name of that party printed underneath their name on the ballot paper. The use of this political party name must be authorised by the secretary of the party or, in the case of a composite name of two registered political parties, by the secretaries of both parties, by endorsement on the forms *HO 2 Centralised Nominations Lodgement Form and Receipt* or *RO 18 Application for Registered Political Party Name on Ballot Paper – Legislative Assembly*.

Names are printed on ballot papers in the following format:

**SMITH, Lee**  
**Purple Party**

## 2.5 Applications for the Word Independent to be Used on a Ballot Paper

A candidate may apply to have the word ‘Independent’ printed on the ballot paper by completing the section on the form *RO 17 Nomination Form and Receipt – Legislative Assembly*.

This will be shown on the ballot papers as:

**SMITH, Lee**  
**Independent**

Candidates may also opt to have no designation beside their name on the ballot paper.

This will be shown on the ballot paper as:

**SMITH, Lee**

### **3 What Happens After You Have Nominated?**

This section describes what happens after you have lodged your nomination form with the Electoral Commissioner or Returning Officer.

#### **3.1 Can a Person be Nominated More Than Once?**

No, if at the hour of nomination a person has nominated more than once to be a candidate in a particular electorate, or a person is nominated to be a candidate in more than one electorate, each such nomination is invalid and the person will be not be listed as a candidate.

#### **3.2 Can a Nomination be Rejected?**

No nomination paper shall be rejected by the Returning Officer because of any defect or error, if the Returning Officer is satisfied that the provisions of the Act have been substantially complied with.

#### **3.3 Can a Nomination be Withdrawn?**

Yes, a candidate may withdraw a nomination up to the hour of close of nominations by notice in writing to the Returning Officer. A candidate may not withdraw a nomination after the close of nominations.

Upon withdrawal of nomination, the deposit is forfeited to the State.

#### **3.4 Close of Nominations**

The date and place for the close of nominations will be published in *The West Australian* newspaper following the issue of the writ. Information is also available from the Returning Officer or the Commission and on the Commission's website [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

The Returning Officer will be available at the place of declaration of nominations between 11.00 am and 12.00 noon on the day of close of nominations. At other times a suitable place and time to lodge a nomination can be negotiated with the Returning Officer.

#### **3.5 Draw for Position on Ballot Paper**

A draw to determine the order of candidates on the ballot paper is conducted by the Returning Officer at the designated place of declaration of nominations immediately after the close of nominations.

In the draw, the Returning Officer:

- places a slip bearing the name of each candidate in separate hollow opaque spheres, places all spheres in a ballot box and closes it
- shakes and rotates the ballot box and permits any other person present to do likewise upon request
- opens the ballot box
- takes out and opens one of the spheres to remove the slip enclosed, announces the name and records it
- repeats the procedure until all spheres have been removed and ballot paper position have been determined for all candidates.

The order of names derived from this process becomes the order in which they appear on the ballot paper, with the first name drawn being the first listed candidate on the ballot paper.

Candidates and other interested persons are entitled to observe this process.

Candidate details will be published in *The West Australian* newspaper and an electronic version of candidates' names in ballot paper order will also be available from [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

### **3.6 Death of a Candidate**

If a candidate dies after the close of nominations and before or on polling day (before the hour of closing of the poll) the election is void. The deceased candidate's deposit shall be returned to his or her legal representative.

Should it become known that a candidate has died on polling day, the Returning Officer shall immediately:

- close the poll for the election in that district;
- report the fact of the death and the time and close of the poll to the Electoral Commissioner.

If, after the close of the poll on polling day and before the counting of votes has been completed, a candidate dies, and on completion of the count of votes it is found that this candidate would have been elected, no candidate shall be returned as elected at the election. A new writ shall forthwith be issued for a supplementary election.

The other candidates who had nominated for the election that has failed shall be deemed to have been duly nominated for the new election and shall not be required to re-nominate.

### **3.7 Uncontested Elections**

If by the close of nominations only one candidate has nominated at an election the Returning Officer declares that candidate elected unopposed at the close of nominations.

### **3.8 Candidate Details Publicly Available**

Candidates should note that once nominations close, candidate contact details, as specified by the candidate on the nomination form, automatically become publically available and will be published in local community newspapers.

The WAEC will also publish candidates' contact details on its website, and will provide the media and the public with candidates' contact details where requested.

The address details of a candidate who is a silent elector, under section 51B of the *Electoral Act 1907*, will not be made public.

### 3.9 Copies of the Electoral Roll to Candidates

Candidates may request an electronic list of electors enrolled for the district for which they are a candidate. Candidates who belong to a well-established and registered political party will typically obtain a copy of the roll directly from their party administration. The data included on the roll is to be used for electoral purposes only.

To receive the electronic roll for their district, candidates must first complete an application form/confidentiality agreement (Form RM27C). Depending on when they nominate, candidates can receive a copy of the latest electoral list (available in 2 working days from the date the application is received) or the final roll within 8 days of the close of enrolments.

Form RM27C is available from the Returning Officer, the Commission's Enrolment & Education Branch (tel: 9214 0400), or can be downloaded from the Commission's website at [www.elections.wa.gov.au](http://www.elections.wa.gov.au). It should be lodged directly with the Enrolment & Education Branch at [enrolinfo@waec.wa.gov.au](mailto:enrolinfo@waec.wa.gov.au) or by fax to (08) 9226 0577. Once a request has been processed, the electronic roll is provided for download through a secure internet site.

## 4 What You Must, Can and Cannot do as a Candidate

This section describes what a candidate must and can do in an election, and those things that a candidate is not permitted to do.

The most obvious role for a candidate in an election is to conduct their campaign in an attempt to be elected. In doing so, there are some rules that apply, for example, with advertising in both electronic and paper forms. There are requirements of how gifts (donations) and electoral expenditure must be recorded and reported.

Candidates are not permitted to take a direct role in certain operational aspects of the election, including observing electors casting their vote and scrutineering the count.

However, candidates can appoint scrutineers to represent them during the voting process and at the scrutiny of votes.

### 4.1 Campaigning

Prospective candidates can commence their campaign for election at any time. They do not have to formally nominate or have their nomination declared before they start campaigning.

Campaigning can take a number of forms, including advertising in the press, on radio and television, through websites, through the distribution of pamphlets, flyers and posters, email, social media, public relations exercises or meeting the public face to face. How a candidate conducts their campaign is entirely up to the candidate (or the party they represent) within the confines of the law.

However, there are legal requirements that must be met. The *Electoral Act 1907* requires that campaign material be authorised. The requirement to authorise radio and television advertising is regulated under the Commonwealth's *Broadcasting Services Act 1992*.

### 4.2 Electoral Material Must be Correctly Authorised

Any publication of material that is intended to, calculated or likely to affect voting in an election is required to be authorised.

Any publication of any electoral advertisement, handbill, pamphlet or electoral notice (other than an advertisement in a newspaper announcing the holding of a meeting), must have at the end of it, the name and address of the person authorising it. The address must be a physical address, as opposed to a PO Box number.

If that material is printed, then it must also include the name and place of business of the printer at the foot of the material, unless the advertisement is in a newspaper, in which case the printer is obvious.

If advertising material is produced and printed, say on a home computer by one person, then the legislative provisions are satisfied by adding 'authorised and printed by (name) (address)' at the end of it.

Certain small items of a candidate or party promotional nature are exempt from the requirement to carry the authorisation and addresses. These include:

- T-shirts, lapel buttons, lapel badges, pens, pencils or balloons
- business or visiting cards that promote the candidacy of any person in an election
- letters and cards that bear the name and address of the sender and which do not contain a representation or purported representation of a ballot paper for use in an election.

Any advertising on the Internet (eg. banner ads) must also be authorised. Comments posted to a social media site do not need to be authorised.

Penalties apply for non-compliance with the authorisation requirements.

### **4.3 Signage**

The *Electoral Act 1907* imposes no limitations on the size or placement of electoral signage (apart from in respect to the immediate vicinity of a polling location), however, it is recommended that candidates make themselves familiar with relevant local government by-laws and ensure the placement of signage near road verges does not impact on traffic safety.

### **4.4 Misleading or Deceptive Publications Must Not be Produced**

A person must not, during the relevant period in relation to an election, print, publish or distribute or cause, permit or authorise to be printed, published or distributed:

- any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the elector's vote (ie. in the act of voting)
- an advertisement, handbill, pamphlet or notice that contains a representation of a ballot paper for use in that election that is likely to induce an elector to mark a ballot paper otherwise than in accordance with the directions on the ballot paper.

To 'publish' includes publish by radio, television or other electronic means. The 'relevant period' means the period commencing when the notice of the issue of the writ is published in the *Government Gazette* and ending at the latest time on polling day at which an elector can enter a polling place to cast a vote.

### **4.5 Prohibition on Canvassing or Polling within 100 metres of a Polling Place**

It is unlawful to collect, canvass for, solicit or invite signatures or comments for the purpose of any petition, opinion poll or survey, or display or distribute any information for such a purpose within 100 metres of a polling place.

### **4.6 Rules Relating to Income Received and Expenditure Incurred**

All candidates should be aware that they, or their agent, have a requirement to disclose information about gifts (donations) received and certain electoral expenditure relating to the election. Even if no money is received or spent there is

a requirement to indicate this to the Western Australian Electoral Commission after the election by lodging a 'NIL' return.

For candidates endorsed by a political party the party agent is automatically the candidate agent.

All other candidates are personally responsible for keeping and maintaining records for any gifts (donations) or electoral expenditure unless they appoint an agent to do so on their behalf. The deadline for appointing an agent is before 6.00 pm on the day before polling day.

The publication *Funding and Disclosure in Western Australia: Guidelines* outlines in greater detail the disclosure obligations of political parties, associated entities, candidates and other persons and is available from Returning Officers or the Commission's website [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

#### **4.6.1 Disclosure Period – for Returning Candidates**

If a candidate has previously stood for election within the past five years the disclosure period for gifts and expenditure commences 31 days after polling in the most recent previous election at which the person was a candidate. The disclosure period ends 30 days after polling in the current election.

#### **4.6.2 Disclosure Period – for New and Other Candidates**

For new and other candidates the disclosure period extends from one year before the candidate is nominated in the current election to 30 days after polling day in the current election.

#### **4.6.3 Gifts (Donations)**

A gift can be defined as income that is provided for a political purpose and no consideration or payment is made by the recipient for the amount or service donated. A gift can be a monetary donation, discounted or free rent, discounted or free professional services like accounting, printing, legal fees, etc.

Candidates, or their agents, must issue receipts for all gifts to donors. The details of donors who contribute \$2,500 or more, including donors who make a series of donations that equal or exceed \$2,500 must be disclosed. The receipt must include:

- a unique reference
- the date of the receipt
- the amount of money received
- the form, for example: cash, cheque, electronic transfer etc, in which the money was received
- the name and address of the donor
- the purpose of the donation (for example: candidate donation 2018 By-election).

It is unlawful to accept gifts equal to or more than \$2,500 from unidentified donors.

#### 4.6.4 Electoral Expenditure in Relation to an Election

Electoral expenditure, in relation to an election, means expenditure incurred (whether or not incurred during the election period) on —

- (a) the broadcasting, during the election period, of an advertisement relating to the election
- (b) the publishing in a journal, during the election period, of an advertisement relating to the election
- (c) the display, during the election period, at a theatre or other place of entertainment, of an advertisement relating to the election
- (d) the production of an advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c)
- (e) the production of any material (not being material referred to in paragraph (a), (b) or (c)) that is required to include the name and address of the person authorising the material and that is used during the election period
- (f) the production and distribution of electoral matter that is addressed to particular persons or organisations and is distributed during the election period
- (g) consultant's or advertising agent's fees in respect of —
  - (i) services provided during the election period, being services relating to the election, or
  - (ii) material relating to the election that is used during the election period;
- (h) the carrying out, during the election period, of an opinion poll, or other research, relating to the election;

#### 4.6.5 Reimbursement of Electoral Expenditure (Public Funding)

Candidates are not automatically entitled to a reimbursement of their electoral expenditure. Reimbursement of electoral expenditure can be made if the number of valid first preference votes received by the candidate is over 4% of the total number of formal votes cast at the election in the electorate.

If candidates meet the requirement, a claim must be submitted within 20 weeks of polling day. For candidates who are endorsed by a political party, the party agent must make the claim on their behalf.

The amount paid will be the lesser of the declared electoral expenditure or of the entitled amount. The entitled amount is the number of formal first preference votes multiplied by the public funding amount, which is \$1.889 until 30 June 2018.

A claim for reimbursement of electoral expenditure is able to be processed faster if accompanied by an audit statement indicating the claim and supporting records are in compliance with the *Electoral Act 1907 and Electoral (Political Finance) Regulations 1996*.

The audit statement should indicate that the audit was conducted in accordance with the Australian auditing standards and be certified by a qualified member of a recognised accounting organisation; for example CPA Australia, the Institute of Chartered Accountants, or the National Institute of Accountants. The statement should be attached to the claim form.

Where a claim is not accompanied by an audit statement the candidate may be requested to provide copies of receipts or other evidence to substantiate the claim.

## 4.7 Appointing Scrutineers

Scrutineers are an important part of the election process and are appointed by candidates (or their official agent) to represent them during various stages of the election. Scrutineers provide a vital role as a safeguard of the integrity and transparency of elections to ensure that they are conducted according to the *Electoral Act 1907*.

Scrutineers may be appointed to observe the following stages of the election:

- accompanying mobile polling teams
- observing the processing of declaration votes
- observing the operation of polling places during polling
- observing the scrutiny of ballot papers.

The appointment of scrutineers is made in writing to the Returning Officer or Polling Place Manager and must be signed by the candidate or their official agent. An appointment form is available from the Returning Officer or Polling Place Manager, or can be downloaded from the Commission's website. After being appointed, scrutineers are required to wear name tags and a yellow vest at most locations, as provided by the Returning Officer or Polling Place Manager.

A *Guide for Scrutineers* is also available from the Returning Officer or [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

Scrutineers must never:

- interfere with or attempt to interfere with the free exercise of the franchise of any elector
- wilfully make a false statement in any objection to any claim or to any name on the roll
- disclose any knowledge officially acquired that concerns the vote of any elector
- fail to obey lawful directions of the Returning Officer or Polling Place Manager
- handle ballot papers or voting declaration made by electors
- remove any identification required by the Returning Officer or Polling Place Manager
- wear or display any badge or emblem of a candidate or political party while in a polling place

Penalties are prescribed for these offences.

## 5 The Voting Process

This section describes the various means by which an elector may cast a vote in an election, as well as details about the electoral roll.

### 5.1 Electoral Roll

The electoral roll contains the name and address of all WA residents who are eligible to vote at the State election, except for the address of those electors whose address has been suppressed for reasons of personal safety (i.e. known as silent electors).

The rolls for the election close at 6.00 pm 8 days after the issue of the writ.

An electronic electoral district roll using the Elector Recording System (ERS) will be used in early voting centres and in polling places for ordinary votes in this by-election.

By connecting through wireless communication to a central copy of the electoral roll, ERS will:

- identify electors who have already voted or been issued a postal vote
- reduce the risk of a voter being marked off the roll more than once
- reduce the manual tasks and time needed for reconciling and processing of rolls at the end of the election day
- reduce the amount of time required to process early votes prior to them being included in the full distribution count process.

### 5.2 Ballot Papers

There will be one white Legislative Assembly ballot papers issued to each voter.

### 5.3 Ordinary Voting

Ordinary voting is the most common type of voting and occurs on polling day when electors cast their vote at a polling place within the district in which they are enrolled.

Each elector must answer three questions prior to being issued with their ballot papers:

1. Have you cast an early vote for this election or already voted today?
2. What is your full name?
3. Where do you live?

After the elector has answered the three compulsory questions and been marked off the electoral roll, they are handed the ballot paper and directed to a voting screen. The ballot paper is then placed into a ballot box.

### 5.4 Absent Voting

There is no absent voting in a by-election.

## 5.5 Early Voting by Post

Early Voting (by post) is a vote cast by an elector by post after applying for a postal vote before the day of the election, because they are unable to attend a polling place on election day.

Electors can apply for a postal vote from the announcement of polling day until 6.00 pm on the Wednesday before polling day. Electors must have the declaration on the postal vote witnessed before the close of polls and the postal vote must not be postmarked later than the Sunday after polling day. The postal vote must be received by the Commission no later than 9.00 am on the Thursday after polling day.

## 5.6 Early Voting (in Person)

Early Voting (in person) is a vote cast by an elector in person at a designated location before the day of the election.

Early voting (in person) will be available from Wednesday after close of nominations until 6.00 pm on the Friday before polling day. The locations at which early votes (in person) can be issued will be advertised on the Western Australian Electoral Commission website.

## 5.7 Technology Assisted Early Voting

An internet and/or IVR telephone voting system will not be available at this by-election.

## 5.8 Mobile Polling at Special Institutions and Hospitals

Mobile polling is conducted at special institutions (typically hospitals, nursing homes, remand centres and prisons) within the district. A team of election officials conduct mobile polling at specified times during the 14 days prior to polling. Election officials may move around the venue issuing early votes to voters or establish a static voting area within the venue for a period of time.

Candidates may appoint scrutineers to accompany the mobile team. The Returning Officer will advise candidates of dates and times for mobile polling.

Information for electors can usually be left at the general office of a special institution or hospital by candidates and political parties. During mobile polling at an institution or hospital, when accompanying polling officials with a mobile portable ballot box, scrutineers may distribute literature (including 'how-to-vote' cards) but may not otherwise influence, canvass, solicit or petition voters.

## 5.9 Provisional Declaration Voting

A provisional declaration vote may be issued to an elector in a polling place in the following situations:

- the elector claims to have lived in the district and enrolled, yet the elector's name cannot be found on the electoral roll
- the elector's entry on the electoral roll is already marked and the elector stipulates that they have not already voted
- the elector's claim to vote is challenged by a scrutineer

- the elector's name has been objected to by an enrolment officer.

The elector will still be asked the compulsory questions before being given a ballot paper to complete and place into an envelope.

The elector will be asked to sign a declaration of eligibility. All electors who complete a provisional declaration vote should also complete a new electoral enrolment form.

All provisional declarations are checked at the Count Centre before the final count of votes by the Returning Officer.

## 6 Counting the Votes

This section describes the processes for the counting of votes. Counting of votes is undertaken over a number of stages, from the initial count at polling places and the check of declaration and postal votes at the Count Centre, to fresh and further scrutinies of ballot papers, and the final distribution of preferences by the returning officer.

### 6.1 At Polling Places

Counting of ordinary votes commences soon after the poll closes at 6.00 pm on polling day and the last electors present have cast their vote.

Legislative Assembly ballot papers are firstly removed from the ballot boxes by the Polling Place Manager and then sorted into the order of first preference for each candidate (i.e. ballot papers are sorted and then counted based on which candidate has the number 1 vote). Ballot papers which are possibly informal are put to one side for checking by the Polling Place Manager.

Polling Place Managers are also asked to complete an indicative two candidate preferred count or notional distribution of preferences. This involves the distribution of preferences from candidates who will probably be excluded under the preferential system. The Electoral Commissioner selects the two candidates in the district that he believes are likely to receive the highest number of first preference votes. The preferences of the other candidates are distributed to the two selected candidates. When the results of all the polling places in the district are aggregated, it provides an indicative and unofficial, but fairly accurate, means of predicting the likely result on election night.

After each count described above, the results are recorded and phoned or faxed through to the Returning Officer. The Returning Officer will then enter the figures into the election management system portal for posting to the results section of the Commission's website at [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

Provisional envelopes are counted and packaged then sent to the Commission's Count Centre as soon as practicable after election night to be checked and counted in the days following polling day.

### 6.2 Results to be Published Online

As results become available they will be progressively published online at [www.elections.wa.gov.au](http://www.elections.wa.gov.au). There is no physical tally room. It should be noted that the count on polling day provides an indicative result only, as all ballot papers are rechecked and counted by the Returning Officer after the close off for the receipt of postal votes at 9.00 am on the Thursday after polling day.

Results will be available at polling place level. Results and party summaries and will be updated every few minutes up to the close of counting on election night. Updates will also be available as the counting of declaration votes proceeds after polling day.

### 6.3 Fresh Scrutiny

In the 72 hours after polling day, the Returning Officer may conduct a fresh scrutiny of ballot papers to ensure that no gross errors have been made at the polling place. Additionally all ballot papers considered informal by Polling Place Managers will be verified. The fresh scrutiny is a quality checking exercise that will help the Returning Officer prepare for the full distribution of preferences count.

### 6.4 Count Centre

The following activities will be undertaken at the Count Centre:

- checking of declaration certificates from 8.00 am on the Wednesday before polling day
- preliminary counting of all declaration votes into first preferences and notional distribution of preferences.

After the close of polling all the verified early votes received up to that point will be counted at the Count Centre.

### 6.5 Determination of the Poll

The Returning Officer will contact all candidates in their district to notify them of the time and place for the full distribution of preferences count. The Returning Officer will be able to commence the full count after the processing of all declaration ballot papers for the district has been completed. This is likely to be from the Saturday following polling day.

After the count for the full distribution of preferences has occurred the Returning Officer declares the poll and returns a statement, endorsed with the name of the elected member of the Legislative Assembly, to the Electoral Commissioner.

### 6.6 Count Checking and Re-counts

Polling Place Managers may need to recheck some or all of the ballot papers from their polling place when the number of first preference votes plus informal and discarded ballot papers does not equal the number of ballot papers issued. A small discrepancy (less than 10) at the indicative counts on election night is allowable.

If after the full count for the distribution of preferences for a Legislative Assembly seat, the margin between the two highest polling candidates is 100 votes or less, the Returning Officer will be advised to automatically offer the candidates another full count for the distribution of preferences before declaring the result.

Where the margin after the full count for the distribution of preferences is greater than 100 votes, the Returning Officer will only consider a full recount where a candidate or scrutineer provides sufficient evidence in writing that in the Returning Officer's opinion calls into question the accuracy of the count figures.

A Returning Officer may also, at the request of a candidate or scrutineer or of their own volition, recount a particular bundle or group of ballot papers at any time prior to the poll being declared.

If after a full recount of all votes there is a tied election, the Returning Officer will notify the Electoral Commissioner, who will petition the Court of Disputed Returns.

If unable to declare a candidate elected, the Court may order that a new election take place.

## 7 Complaints and Disputes

This section describes the process for lodging a complaint or disputing the result of an election, and provides a brief list of electoral offences.

Candidate complaints or queries should be directed to the Returning Officer in the first instance.

If you are not satisfied with the response from the Returning Officer you may seek a review of the matter. You should put your concerns in writing addressed to the Electoral Commissioner or follow the links on the election website [www.elections.wa.gov.au](http://www.elections.wa.gov.au). If your concern relates to electoral material, you should endeavour to supply original examples of those documents with your complaint.

Complaints lodged with the Commission will be responded to or acknowledged within 24 hours or by the next business day.

## 8 Electoral Offences

See the *Electoral Act 1907* for a detailed description of all electoral offences.

The following is a brief list of particular activities that party workers, candidates, scrutineers and the public are not permitted to engage in:

- incorrectly authorising electoral material
- permit or authorise any matter or thing that is likely to mislead or deceive the casting of the elector's vote
- personating any person to secure a ballot paper to which the personator is not entitled
- fraudulently destroying or defacing any nomination or ballot paper
- forging or uttering, knowing the same to be forged, any nomination or ballot paper
- fraudulently putting any ballot or other paper into the ballot box
- fraudulently taking any ballot paper out of any polling place
- supplying ballot papers without authority
- unlawfully destroying, taking, opening or otherwise interfering with ballot boxes or ballot papers
- voting more than once at the same election
- wilfully defacing, mutilating, destroying or removing any notice, list or other document affixed by any Returning Officer or by his or her authority.

Penalties are also prescribed for these offences.

## 9 Disputing the Result of an Election

The validity of an election may only be disputed by petition to the Supreme Court sitting as the Court of Disputed Returns after the determination of the poll by the Returning Officer and within 40 days after the return of the writ.

A petition disputing an election or return shall:

- set out the facts relied on to invalidate the election or return
- be in the format required by the *Electoral Act 1907*
- be signed by a candidate at the election in dispute
- be filed in the central office of the Supreme Court within 40 days after the return of the writ
- include a deposit of \$100 lodged with the Principal Registrar of the Supreme Court as a security for costs.

Any candidates wishing to apply to the Court of Disputed Returns should consult their own legal advisers.

## Appendix One: Glossary

Absolute Majority	The number of votes exceeding half of the total formal votes cast in an election.
Candidate	A person who nominates for election to Parliament.
Canvassing	The process of attempting to persuade electors to vote in a particular way.
Casual Vacancy	A vacancy in a Legislative Council region usually caused by retirement, death or resignation of a member for that region.
Certified List	See Electoral Roll.
Close of Rolls	<p>The date and time after which no further enrolments can be accepted for inclusion on the electoral roll.</p> <p>The rolls close at 6.00 pm eight days after the issue of the writ.</p>
Compulsory Enrolment	All eligible electors are required by law to enrol. Fines of up to \$50 can be imposed for non-compliance.
Compulsory Voting	The law requires all eligible electors to vote unless they have a valid and sufficient reason for not doing so.
Declaration of the Poll	Official announcement of the result of voting at an election or referendum by a Returning Officer.
Declaration vote	<p>Means one of the following methods of casting vote:</p> <p>Early Vote (by post)</p> <p>Early Vote (in person)</p> <p>Provisional Vote.</p>
Declared Institution	An institution such as a hospital, residential care facility or prison, which is gazetted as a declared institution and visited by polling officials for the purpose of taking votes from patients, residents or inmates.
Distribution	The review and redrawing of electoral boundaries. In Western Australia it is conducted two years after every general election by the independent Electoral Distribution Commissioners in accordance with the provisions of the <i>Electoral Act 1907</i> .
District	A district is an electorate for the Legislative Assembly. There are 59 districts, each electing one Member of Parliament.

Early Vote	A vote cast before polling day by an elector who will be unable to attend a polling place on polling day. The term includes an early vote (by post), early vote (in person), declared institution (mobile) vote and remote area vote, and a vote using iVote.
Elector	A person whose name appears on the electoral roll of eligible voters for an election.
Electoral Commissioner	The independent officer, appointed by the Governor, with the responsibility for the proper conduct of Parliamentary and other statutory elections.
Electoral Roll	The list of names and addresses of electors entitled to vote in an election or referendum. Used to mark the names of electors, is electronically scannable and is also referred to as the Certified List. May also be an electronic list accessed by a computer.
Electorate	An electoral district or region.
Enrolment	The act of having a person's name added to the list of electors entitled to vote.
Franchise	The right to vote at elections. The franchise in Western Australian elections is available to those persons 18 years of age or over.
General Election	An election for all the seats in a House of Parliament.
How-To-Vote Card	A card or pamphlet handed out at an election showing how a party or candidate would prefer the elector to vote.
Informal Vote	A ballot paper which is either left blank, does not show preferences in accordance with instructions and/or the law, or where the voter's full intention is unclear, is informal. A ballot paper will also be informal if the voter can be identified through some marking which has been made on it. These ballot papers neither contribute to the election of a candidate nor are they included in calculating the quota/absolute majority required to be successful.
Issuing Officer	A person engaged by the Returning Officer on behalf of the Electoral Commission to issue ballot papers.
Issuing Point	A place for the Issuing Officer to issuing ballot papers.
Legislative Assembly	In Western Australia this is the Lower House of Parliament. The party or coalition of parties that achieves a majority of seats in this House forms government.

Legislative Council	In Western Australia this is the Upper House of Parliament. It is sometimes referred to as the 'House of Review'.
Mobile Polling	Polling which is carried out in remote areas, hospitals and declared special institutions. The electors serviced by this form of polling would usually be severely inconvenienced in attending a polling place due to remoteness or physical incapacity on polling day.
Nomination	The process by which a person applies to become a candidate for election.
Notional Distribution of Preferences	See Two Candidate Preferred Count.
Ordinary Vote	An elector visits a polling place in the district for which he or she is enrolled, has his or her name recorded on the electoral roll and casts a vote.
Political Party	A political party is a body or organisation with a constitution or rules and common political objectives. It has its own office bearers and an active membership.
Poll	An election or referendum.
Polling	The process of electors recording their votes.
Polling Officials	Staff appointed to work in polling places on polling day. The staff are selected and appointed by Returning Officers.
Polling Place	A location where electors can vote on polling day.
Preferential Voting System	<p>The term "preferential voting" means voters indicate an order of preference for candidates on the ballot paper, ie. who they want as their 1st choice, 2nd choice and so on.</p> <p>The elector must show a preference for all candidates listed on the ballot paper.</p> <p>In Western Australia, preferential voting systems are majority systems where candidates must receive an absolute majority, 50% plus 1 of the total formal votes cast, to be elected.</p>
Primary Vote	The primary vote for a candidate is the number of first preferences received on formal ballot papers in a count.

Provisional Vote	<p>A provisional vote is given in certain circumstances. These include an elector whose name cannot be identified on the roll (and who claims to have enrolled); whose name has been marked off in error; or whose eligibility has been objected to by a scrutineer.</p> <p>The elector signs a declaration regarding their electoral information; receives the ballot papers for the district and/or region that they have claimed enrolment for and casts a provisional vote. The ballot papers are placed in an envelope attached to the declaration. The declaration is subsequently checked against the roll to determine the elector's eligibility, and, if the voter is found to be eligible to vote, the ballot paper(s) are included in the count.</p>
Re-count	<p>A further count of votes in a close election, conducted at the discretion of the Returning Officer.</p>
Registered Parties	<p>Those political parties which are officially registered by the Commission and can use their name on the ballot paper.</p>
Returning Officer	<p>An electoral officer who is appointed by the Electoral Commissioner to be responsible for the conduct of elections in an electoral district or region.</p>
Roll	<p>See Electoral Roll.</p>
Scrutineer	<p>A person appointed by a candidate to observe the polling and counting procedures on the candidate's behalf during an election.</p>
Scrutiny	<p>The process following the close of polling to determine the formality of ordinary and declaration votes for the count and the result of the election.</p>
Silent Elector	<p>A person whose address details are omitted from the roll for security reasons.</p>
Two-Candidate Preferred Count	<p>An indicative sort and count of votes following the first preference count of Legislative Assembly ballot papers at polling places on election night. Sometimes referred to as a notional distribution of preferences, it anticipates the flow of preferences to the two candidates selected by the Electoral Commissioner as the likely highest first preference vote getters. The ballot papers of other candidates are examined and each ballot paper is allocated to whichever of the two selected candidates has the lowest preference number opposite their name.</p>
Vote	<p>The indication of a choice of a parliamentary representative by completion of a ballot paper.</p>



Writ

The legal instrument authorising an election to be held and which also sets key elements of the election timetable.

## Appendix Two: Eligibility for Membership of State Parliament

This summary of qualifications and disqualifications is designed to assist you in determining whether you may need to seek advice on your eligibility for nomination or membership of either the Legislative Assembly.

The qualifications and disqualifications for membership of State Parliament are to be found in the following Western Australian Acts of Parliament:

*Electoral Act 1907 (E)*, *Electoral Regulations 1996 (ER)*, *Constitution Acts Amendment Act 1899 (CAA)* and the *Public Sector Management Act 1994 (PSM)*

Certain other Acts under which candidates may be employed may stipulate the need to stand down or resign from a position prior to either nominating as a candidate or taking up a seat in either House of State Parliament.

### Qualifications for Membership of State Parliament

To be eligible to take up a seat in the Legislative Assembly, the following qualifications apply, E, s 76A:

- the candidate must have resided in Western Australia for one year
- the candidate must be 18 years or more
- the candidate must not be subject to any legal incapacity
- the candidate is an Australian citizen
- the candidate must be an elector entitled to vote at an election of a member of the Legislative Assembly.

### Disqualifications for Membership of State Parliament

If any one of the following circumstances exists, a person will be disqualified from taking up a seat in either House of State Parliament:

- a person is an undischarged bankrupt, or a debtor against whose estate there is a subsisting receiving order in bankruptcy, CAA, s 32(1)(a)
- has been attainted of treason, E, s 18(1)(b)
- a person has been convicted on indictment of an offence for which the indictable penalty was or included imprisonment for life or imprisonment for more than 5 years, CAA, s 32(1)(b)
- a person is serving or is yet to serve a sentence or sentences of detention (imposed under the *Young Offenders Act 1994*), or imprisonment, of one year or longer E, s 18(1)(c)
- a person is serving or is yet to serve indefinite imprisonment imposed under Part 14 of the *Sentencing Act 1995*, E, s 18(1)(ca)
- a person is subject to an order under section 279(5)(b) of The Criminal Code, E, s 18(1)(cb)
- a person is subject to an order under sections 19(6a)(a), 282(c)(iii) or

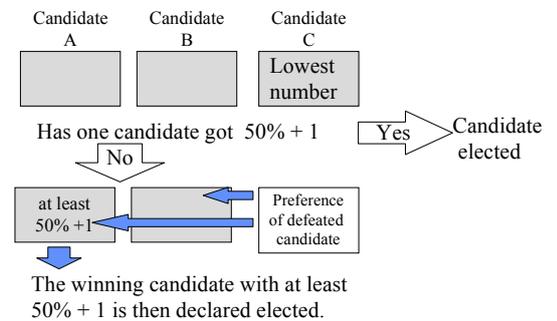
- (d)(ii), 653, 661, 662 or 693(4) of The Criminal Code (these sections have since been repealed) E, s 18(1)(cc)
- a person is, or is taken to be, a mentally impaired accused as defined in the *Criminal Law (Mentally Impaired Accused) Act 1996*, E, s 18(1)(cd)
- a person is a holder of any office specified in Part 1 of Schedule V of *the Constitution Acts Amendment Act 1899*, CAA, s 34(1)(a)
- a person is a member of the Commonwealth Parliament, a Territory Parliament or another State Parliament, CAA, s 34(1)(b)
- a person is a member of the other House of Western Australia's Parliament, CAA, s 34(2)
- a person holds an office or place in the service of the Crown in right of the Commonwealth or another State of the Commonwealth or in the service of the government of, or any department or agency of the government of, the Commonwealth or a Territory or another State of the Commonwealth and that office or place has not been exempted under section 36 of the *Constitution Acts Amendment Act 1899*, CAA, s 36(1)(a)
- a person holds an office as a member of any commission, council, board, committee, authority, trust or other body, and was appointed as such a member by the Crown in right of the Commonwealth or another State of the Commonwealth, or by the government of, or any department or agency of the government of, the Commonwealth or a Territory or another State of the Commonwealth and that office or place has not been exempted under section 36 of the *Constitution Acts Amendment Act 1899*, CAA, s 36(1)(b)
- a person is a holder of any office or place specified in Part 2 of Schedule V of the *Constitution Acts Amendment Act 1899* (not being an office also specified in Part 1 of Schedule V of the Act) and does not vacate the office or place upon his or her election to State Parliament (includes State Police, Teachers, Public Servants and various others), CAA, s 37(1)(a), S (3)
- a person is a member of any commission, council, board, committee, authority, trust or other body specified in Part 3 of Schedule V and does not vacate the office or place upon his or her election to State Parliament, CAA, ss.37(1)(b), (3)
- a person is of unsound mind, E, s.18(1)(a) and CAA, s.38(e)
- a person is the holder of a temporary entry permit for the purposes of *the Migration Act 1958*, of the Parliament of the Commonwealth as amended from time to time, or is a prohibited immigrant under that Act, E, s.18(1)(d).

**Note:** Holders of dual citizenship are not disqualified if they are otherwise qualified.

## Appendix Three: Distribution of preferences

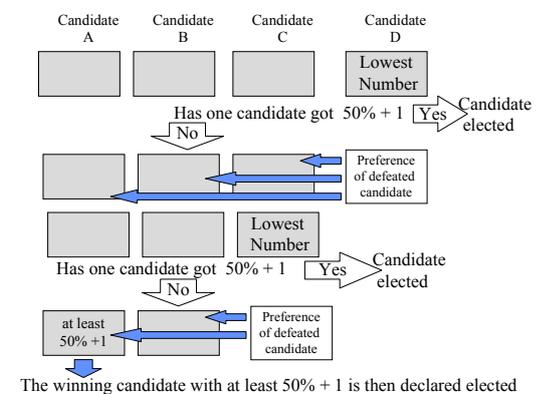
### Distribution of Preferences for Three Candidates

If there are three candidates and none has received an absolute majority, (50% + 1), of first preference votes, the candidate who has received the fewest first preference votes will be the 'defeated candidate'. The preferences of the defeated candidate are then distributed to the other two continuing candidates, according to the next preference shown on the ballot paper.



### Distribution of Preferences for Four or More Candidates

Where no candidate has received an absolute majority of first preference votes, the candidate who has received the lowest number of first preference is declared a 'defeated candidate'. These ballot papers are distributed to each continuing candidate in order of the voters' preferences. If no candidate then has an absolute majority of votes, the candidate who has the next fewest votes is declared a defeated candidate and the defeated candidate's ballot papers are distributed to the continuing candidates in the order of the voters' preferences. This process is repeated until one candidate has an absolute majority.



### Exhausted Ballot Papers

With a formal vote containing numerals other than continuing numerals, the ballot paper should be included in the count up to the last valid preference. For example, if a four candidate ballot paper is marked 1, 2, 5, 6 it is formal to the second preference. The ballot paper concerned is put aside as exhausted after the second preference and has no further impact on the count.

## Appendix Four: Material Available to Candidates

Once printed in the lead up to an election, prospective candidates may request free of charge a copy of this Guidelines document. It is however, also available for review and download from the Commission's website at [www.elections.wa.gov.au](http://www.elections.wa.gov.au).

At the time of nominating or as soon as possible thereafter, candidates will receive a candidate pack containing the following:

- Legislative Assembly – Candidates Guide (this document)
- Scrutineers Guide
- Funding and Disclosure in Western Australia Guidelines
- Electronic electoral roll (in print format and manipulable format) for the district that the candidate is contesting.

To receive the electronic electoral roll candidates must complete an application form/confidentiality agreement (Form RM27C). Depending on when they nominate, candidates can receive a copy of the latest electoral list (available in 2 working days from the date the application is received) or the final roll within 8 days of the close of enrolments. Candidates who belong to a well-established and registered political party will typically obtain a copy of the roll directly from their party administration.

Form RM27C is available from the Returning Officer, the Commission's Enrolment & Education Branch (switch: 9214 0400), or can be downloaded from the Commission's website at [www.elections.wa.gov.au](http://www.elections.wa.gov.au). It should be lodged directly with the Enrolment & Education Branch at [enrolinfo@waec.wa.gov.au](mailto:enrolinfo@waec.wa.gov.au) or by fax to (08) 9226 0577. Once a request has been processed, the electronic roll is provided for download through a secure internet site.







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