



WESTERN AUSTRALIAN
Electoral Commission

Scrutineers Guide – **2021 State General Election**



OUR PURPOSE

To provide Western Australians with an electoral experience that they understand, trust and can access easily and efficiently.

OUR VALUES

Impartial

Our electoral outcomes will not be influenced by others

Professional

Our work will be at the highest standards for ethics, accuracy and efficiency

Respectful

Our relationships will be courteous, honest and fair with all

Innovative

Our systems and processes will adapt to customers' needs

Collaborative

As a team we will consult and test new ideas with customers

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Foreword

This booklet is issued by the Western Australian Electoral Commission as a guide for scrutineers at the 2021 State general election.

Transparency is a vital feature of the electoral process and scrutineers play a critical role in ensuring transparency by observing the electoral process, in particular the counting of votes, so that candidates, political parties and the general public can be assured of the integrity of both the election process and the outcome. Your assistance and commitment to that end is acknowledged and respected.

I trust that this guide provides a clear outline of the rules that underpin the conduct of Western Australian elections and thank you for your contribution to public confidence in our electoral system.

Additionally, with regards to the COVID-19 global pandemic, all candidates and political parties should be familiar with Government health advice provided in a separate publication titled State General Election 2021 Covid-19 Management Plan which can be accessed at www.waec.wa.gov.au

Candidates should note that the 2021 State general election will be conducted differently from past elections. Physical distancing and hygiene practices are likely to impact such activities as voting, counting and scrutineering. The extent of this impact will be determined by the status of the COVID-19 pandemic in Western Australia at the time of the election.

A handwritten signature in blue ink, appearing to read 'R. Kennedy'.

Robert Kennedy
Electoral Commissioner

September 2020



2021 State General Election Timeline

DAY OF ISSUE OF WRITS (First Wednesday of February) 6pm	39	FEB 3	Wed
Nominations & Applications for Early Votes (by post) open	38	FEB 4	Thurs
	37	FEB 5	Fri
	36	FEB 6	Sat
	35	FEB 7	Sun
	34	FEB 8	Mon
	33	FEB 9	Tues
	32	FEB 10	Wed
Close of Party Nominations (12pm) & Rolls Close (6pm)	31	FEB 11	Thurs
CLOSE OF NOMINATIONS (12pm) & Draw For Ballot Paper Positions	30	FEB 12	Fri
	29	FEB 13	Sat
	28	FEB 14	Sun
Voting Ticket Lodgement (12pm)	27	FEB 15	Mon
	26	FEB 16	Tues
	25	FEB 17	Wed
	24	FEB 18	Thurs
	23	FEB 19	Fri
	22	FEB 20	Sat
	21	FEB 21	Sun
Early Voting (by post) commences	20	FEB 22	Mon
	19	FEB 23	Tues
Early Voting (in person & technology assisted) commences	18	FEB 24	Wed
	17	FEB 25	Thurs
	16	FEB 26	Fri
Mobile Polling for Special Institutions, Hospitals and Remote Areas may commence	15	FEB 27	Sat
	14	FEB 28	Sun
Public Holiday – Labour Day	13	MAR 1	Mon
	12	MAR 2	Tues
	11	MAR 3	Wed
	10	MAR 4	Thu
	9	MAR 5	Fri
	8	MAR 6	Sat
	7	MAR 7	Sun
	6	MAR 8	Mon
	5	MAR 9	Tue
Scrutiny of Early Votes may commence (8am)	4	MAR 10	Wed
Close of Written Applications for Early Votes (by post) (6pm)	3	MAR 11	Thu
Close of Issue of Early Votes (in person) (6pm)	2	MAR 12	Fri
POLLING DAY (8 am to 6pm) (Second Saturday of March)	1	MAR 13	Sat
	2	MAR 14	Sun
	3	MAR 15	Mon
	4	MAR 16	Tue
	5	MAR 17	Wed
Close for Receipt of Early Votes (by post) (9am)	6	MAR 18	Thu
Last possible date for Return of Writ	53	MAY 4	Tues

The planned 2021 State General Election timeline is as shown above however S.64(1) of the Electoral Act 1907 and Government health advice may necessitate changes to these abovementioned dates. It is therefore current as of 10 June 2020.



1 Appointment and Role of Scrutineers

Scrutineers are an important part of the election process and are appointed by candidates or official agents 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*.

E, s 114

Scrutineers may be appointed for the following stages of the election process:

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

Scrutineers are required to wear name tags and vests as provided by the Returning Officer (or Polling Place Manager), after being appointed by written notice to the Returning Officer or Polling Place Manager. This notice must be signed by a candidate (or any candidate in a group) or an official agent. The appointment must bear the name and address of the scrutineer, be signed, witnessed, and handed to the Returning Officer (or Polling Place Manager, as appropriate). The Commission supplies forms to candidates and political parties for this purpose.

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
- wear or display any badge or emblem of a candidate or political party whilst in a polling place or performing their role.

Penalties are prescribed for these offences.

2 Polling Places

A polling place is any building or structure in which polling at elections is appointed to take place.

The Electoral Commissioner may, by notice in the *Government Gazette*:

- appoint polling places for each district
- appoint general polling places for all districts
- appoint polling places in any institution or hospital
- declare any institution or hospital to be a special institution or hospital where mobile polling takes place
- declare any part of the State a remote area where mobile polling can take place
- abolish any polling place.

E s 100, 100A

3 Hospitals, Institutions, Remote Areas and Early Voting Centres

Mobile polling can take place in declared special institutions, hospitals, and remote areas of the State, up to and including 14 days prior to polling day. These special institutions, hospitals, and remote areas are published in the *Government Gazette* and on www.elections.wa.gov.au. Generally such mobile polling will be conducted within the last week prior to polling day. At least 48 hours' notice shall be provided to candidates of the times that voting will take place at these locations.

*E, s 100, 100A
100B*

A hospital may be declared a normal polling place and may also function as a mobile polling place on polling day and the days preceding polling day.

How-to-Vote information for electors may typically be left at the general office of a special institution or hospital by candidates and political parties. During mobile polling at an institution, hospital or remote area, when accompanying polling officials with a mobile portable ballot box, scrutineers can generally distribute literature (including 'how-to-vote' cards) but may not otherwise influence, canvass, solicit or petition voters. Care must be taken not to disrupt normal operations at the facility being used for mobile polling.

As a trial at the next State general election, remote mobile polling teams will be authorised to carry a file containing plastic sleeves in which a copy of each how to vote card or pamphlet relevant to the Mining & Pastoral region/districts can be placed by the Remote Polling Manager.

At each remote mobile polling venue, the file referred to will be placed in a location where it can be accessed by electors.



In the lead-up to polling day, the Commission also operates a number of Early Voting Centres throughout Western Australia, as well as at various interstate and overseas locations, where electors may cast an early vote (in person). Within WA, early voting locations may include Magistrates Courts, commercial premises, Perth domestic airport terminals and the Commission's office within the Perth CBD. 'How to vote' materials can typically be left at these locations.

4 Operation of Polling Places

A presiding officer, known by the title of Polling Place Manager, supervises staff and ensures the smooth operation of the polling place. The Polling Place Manager is then responsible for the scrutiny of ballot papers and the counting of votes commencing after 6.00 pm on polling day.

*E, s 104,
s 105, s 141*

5 During Polling at a Polling Place

On polling day scrutineers may:

- witness the sealing of ballot boxes by the Polling Place Manager after they have been examined to determine that they are empty at the commencement of polling
- accompany the Polling Place Manager or another polling officer when assistance is given in marking the ballot paper of an elector. Only an electoral official or nominated person assisting can mark the elector's ballot paper when assistance is being provided; never a candidate or scrutineer
- observe an electoral official assisting an elector to vote when the elector is unable, because of physical disability, to enter the polling place
- request that an elector, who claims to vote, make a declaration in the prescribed form (a declaration vote) before being permitted to vote, if that person is believed to be ineligible to vote
- enter and leave the polling place at any time and be replaced by another appointed scrutineer.

*E, s 100A,
s 115, s 117,
s 119, s 129,
s 189, s 184,
s 190, s 192,
s 197*

E, s 129

Scrutineers must not bring any election material into the polling place.

6 During the Count of Votes

For each polling place, unless otherwise agreed to by the Returning Officer, no more than two scrutineers may be appointed to represent each candidate at the scrutiny and count of votes after the close of the poll for the Legislative Assembly, (or in practice, one scrutineer per count table if multiple tables are being used) and no more than three scrutineers can represent candidates in a group for the Legislative Council.

*E, s 137,
s 146C*

Physical distancing rules in place due to the current Government health instructions related to COVID-19 pandemic, may require less scrutineers be allowed in a polling place. The Polling Place Manager has absolute discretion in this situation.

*E, s 134,
s 136, s 138, s
142, s 146, s
156G, s 146H*

Scrutineers may during the counting of ballot papers:

- observe the scrutiny of votes
- observe all proceedings at the count of votes
- make submissions regarding the formality of any ballot paper. The Polling Place Manager conducting the count can then endorse the back of the paper as 'admitted' or 'rejected', according to his or her decision to admit or reject the ballot paper
- observe the sealing or affix a seal to a packet containing the used ballot papers sealed by the Polling Place Manager
- when the Polling Place Manager sends a list of contents of packets to the Returning Officer, may countersign the list
- request the Returning Officer to re-count the ballot papers contained in any parcel. The Returning Officer may, if they think fit, grant the request
- if the count is adjourned, observe the sealing of packets and the scrutineer may then affix their own seal on the ballot box.

E, s 136(1)

Scrutineers **must not** assist with the unfolding or counting of ballot papers during the scrutiny or otherwise touch ballot papers at any time.

7 Party Workers During Polling

Party workers can only enter the polling place in order to cast their vote. Before entering the polling place, all material that may persuade an elector to vote in a certain way must be removed from, or be covered by, the party worker including hats, badges and T-shirts.

*E, s 190,
s 192, s 192A,
s 193*



Party workers may hand out *how-to-vote* cards and other printed information to electors but not within six metres of the entrance to any polling place. Polling Place Managers have some discretion relating to the application of the 'six metre rule' depending on the physical layout and positioning of a polling place.

8 Polling Day Offences

Party workers, candidates, scrutineers and the public are not permitted to engage in the following activities which constitute offences under the *Electoral Act 1907*:

E, s 190

- 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
- 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 prescribed for these offences.

8.1 Prohibitions Outside a Polling Place – Six Metre Rule

The following activities are prohibited within six metres of the entrance to any polling place:

E, s 192

- canvassing for votes
- soliciting the vote of any elector
- inducing any elector not to vote for any particular candidate
- inducing any elector not to vote at the election.

The entrance to a polling place and the precise application of the 'six metre rule' will be determined by the Polling Place Manager.

8.2 Prohibitions Outside Declared Institutions and Hospitals

All acts which are prohibited within six metres of a normal polling place are at all times prohibited in the grounds of a declared institution or hospital, or within six metres from the entrance or the entrance to the grounds, whichever entrance is the furthest distance away from the hospital or institution.

E, s 192

8.3 Restrictions Relating to Petitions, Opinion Polls or Surveys in or near Polling Places

Collecting, canvassing for, soliciting or inviting signatures or comments for the purpose of any petition, opinion poll or survey (or display or distribution of any information for such purpose) may be prohibited in an area up to 100 metres from the entrance to a polling place.

E, s 193

For the 2021 State election the Electoral Commissioner will declare a 100 metre area around all polling places by notice in the *Government Gazette*.

9 Voting

Under the *Electoral Act 1907*, there are several ways in which an elector may cast a vote.

9.1 Early Voting

An elector who cannot attend a polling place on election day may apply for an early ballot paper either by going to an early voting centre and requesting an early ballot paper in person, by completing a postal vote application form, or for electors who are eligible, by using Telephone Assisted Voting or Vote Assist. Residents or occupants at hospitals or declared special institutions or at remote locations may also be visited by a mobile polling team.

E, s 90

E, s 92(8)

Checking Early Votes

Initial checking of early votes received (but not vote counting) can commence in the three days prior to polling day. This takes place at the Processing Centre and involves:

- checking the declaration forms for completion
- confirming eligibility of the electors
- removing the declarations
- opening the ballot paper envelopes
- placing the ballot papers uninspected in a ballot box



9.2 Ordinary Voting

Ordinary ballot papers are issued to those people enrolled for the district in which the polling place is situated. The elector's name must appear on the electoral roll without being marked as having already voted.

The majority of electors will attend a polling place within their own electoral district and cast an ordinary vote on polling day.

The *Electoral Act 1907* provides that certain questions must be put to all electors to establish their identity and make sure that they have not voted previously in the election. The questions can be asked in less formal language if necessary.

An elector must be asked:

QUESTION 1

Have you cast an early vote for this election or already voted today?

If the response is YES, the elector is not entitled to vote again.
If NO, the elector is asked question 2

QUESTION 2

What is your full name?

QUESTION 3

Where do you live?

If the elector lives in the local district they can be marked off the roll and given ballot papers.

The elector is still entitled to vote if they are on the electoral roll for one address but have moved to another address within the same district.

If the elector does not live in the local district they may be entitled to a declaration vote.

9.3 Absent Voting (Declaration Vote)

An absent declaration vote is given to an elector who is enrolled in another district and is temporarily out of that district. Absent ballot papers may be issued for any district in any polling place within the State.

The elector's name will not appear on the electoral roll for the polling place district, as only the local roll is held.

E, s 119

*E, s 4, s 99A,
s 142A*

The elector will be asked the compulsory questions, as above, to determine eligibility before being given the ballot papers for his or her enrolled district. The elector will then be asked to sign a declaration of eligibility to vote.

The manual declaration form is then sent to the Commission attached to the envelope containing the ballot papers. It is used to confirm the elector's eligibility and mark the elector's name off the electoral roll.

Some polling places may use netbook computers with the Elector Recording System (ERS) installed on them. This allows electors to apply for an absent vote orally, be found on the electoral roll, marked as having voted and be given appropriate ballot papers without signing a declaration form.

9.4 Provisional Voting (Declaration Vote)

A provisional 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 name on the electoral roll has already been marked
- the elector's claim to vote is challenged by a scrutineer
- the elector's name has been objected to by an enrolment officer.

E, s 122A

E, s 122A

E, s 119(4)

E, s 122(2)

The elector will be asked the compulsory questions to determine initial eligibility before being given ballot papers to complete and place into an envelope.

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

The eligibility of provisional voters is checked and confirmed at the Processing Centre before the final count of votes by the Returning Officer.

10 Count of Ballot Papers

Counting commences immediately after the poll closes at 6.00pm on polling day. Legislative Assembly ballot papers are always counted before Legislative Council ballot papers.

*E, s 134,
s 135, s 136*



10.1 Legislative Assembly

Scrutineers are entitled to be present at the scrutiny and count of votes. Ordinary ballot papers are firstly removed from the ballot box by the Polling Place Manager at each Polling Place and then sorted into the order of first preference for each candidate. Ballot papers which are obviously informal are put to one side for checking by the Polling Place Manager.

E, s 136A–146

When the count of the first preferences is finished, the results are recorded and phoned or faxed through to the Returning Officer for each district. The Returning Officer will then publish the results online at www.elections.wa.gov.au.

Declaration envelopes are counted and packaged (unopened), then sent to the Commission's Processing Centre as soon as practicable after election night to be checked and counted.

*E, s 144,
s 145,
s 146*

Technology assisted votes recorded via Telephone Assisted Voting (TAV) or Vote Assist are also processed and counted at the Processing Centre.

Indicative Two Candidate Preferred (2CP) Count – Legislative Assembly

Polling Place Managers will be asked to complete an indicative 2CP on election night. This involves the distribution of preferences from candidates who will probably be excluded under the preferential system. 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.

The Electoral Commissioner will select two candidates in each district for the Indicative 2CP.

Steps of the Indicative 2CP Count:

- 1 Ballot papers for the two selected candidates are set aside.
- 2 Each non-selected candidates' ballot papers are allocated in turn between the two selected candidates. The selected candidate will be the candidate with the lowest numbered preference mark. For example, a 2 next to a selected candidate's name shows the voter prefers that candidate over a 4 marked against the other selected candidate. A single blank square is treated as the least preferred candidate.
- 3 The new ballot papers allocated for the two selected candidates are counted and recorded and then set aside.
- 4 Steps 2 and 3 are repeated for each of the remaining non selected candidates' ballot papers.

- 5 When ballot papers for all non-selected candidates have been distributed, the results are tallied by the Polling Place Manager and are then telephoned through to the Returning Officer.

This whole process should not take long, as the majority of the votes recorded in the polling place have usually been cast for the two selected candidates.

It may transpire that because of the local popularity of a candidate in some polling places, a non-selected candidate may have one of the bigger bundles of votes. This will not affect the process for the whole district and the preferences of the candidate are still to be distributed to the two selected candidates.

Once the scrutiny of ordinary votes ends, the ballot papers, including those assessed as informal, are placed in sealed parcels and delivered to the Returning Officer.

Fresh Scrutiny – Legislative Assembly

The Returning Officer will then open the sealed packets of ballot papers and carry out a fresh scrutiny, usually within 72 hours after polling day. The Returning Officer has the same powers as if the fresh scrutiny was the original scrutiny and may reverse any decision made by the Polling Place Manager or Deputy Returning Officer in regard to the formality of any ballot paper.

The fresh scrutiny is essentially a quality control measure to ensure polling places have sorted bundles of ballot papers correctly and that ballot papers deemed to be informal by Polling Place Managers were assessed correctly. Scrutineers may be present at the fresh scrutiny.

Full Distribution of Preferences – Legislative Assembly

A full distribution normally takes place from the Saturday after polling day. This is the formal count to determine the actual final result and for the first time includes all ballot papers. Note that postal votes can be accepted up to the Thursday morning following polling day.

Declaration ballot papers and Technology Assisted votes are forwarded to the Returning Officer after they have been processed at the Processing Centre for inclusion in the full distribution.

The Returning Officer will advise the candidates 48 hours prior to the count of the time and location of the scrutiny, which will allow time for them to appoint scrutineers to be present at the count.

E, s 144



All ballot papers are counted and distributed until there are two candidates remaining.

10.2 Legislative Council

There are two alternative methods of voting on Legislative Council ballot papers:

- **Above the Line Vote (ATL) Ticket Vote**
By marking with a numeral '1', a tick or a cross in one square only above the line. The elector automatically allocates preferences to all candidates according to the group, party or candidate's registered ticket vote claim as lodged with the Electoral Commissioner.
- **Below the line (BTL) Candidate Preference Vote**
By marking all squares with consecutive numbers starting with the numeral '1' to indicate the order of preference for all candidates below the line.

E, s 128(2)(b)

Where both the ATL and BTL preference vote sections of the ballot paper are marked as above, the BTL vote is counted and the ATL vote section is ignored. If, however, the BTL vote section is not filled out correctly, the ATL vote section is counted.

E, s 146E(5)

Scrutiny – Legislative Council

At each polling place, during or after the Legislative Assembly votes have been counted, the Polling Place Manager will empty all Legislative Council ballot boxes, sorting the ballot papers into ATL and BTL votes and putting aside those that are obviously informal. Then the BTL and informal ballot papers are totalled and ATL votes are allocated to the first preference on the ticket. Thus at polling places on the night, only ATL first preference votes are counted and published on the results website.

The ballot papers are then sealed in a package and sent to the Deputy Returning Officer for the region who conveys them to the Region Returning Officer. The Deputy Returning Officer is usually the Returning Officer for the Assembly district within which the polling place is located.

E, s 146I(1)

The Region Returning Officer will then open the sealed packets of ballot papers and carry out a fresh scrutiny at the Processing Centre after polling day. The Region Returning Officer may reverse any decision made by the Polling Place Manager or Deputy Returning Officer in regard to the formality of any ballot paper.

Computer Counting

A computer counting system (CountWA) is used for the final Legislative Council count. Under this system ballot papers are manually scrutinised and separated into ATL and BTL ballot papers.

ATL votes are sorted manually into each ticket group then groups are entered in batches by the supervisor.

At the 2021 State general election it is intended that all ballot papers marked with preferences BTL will be boxed up and transported to a contracted off site scanning centre for processing.

Scrutiny of all ballot papers will occur at the sorting stage.

Scrutineers may observe the data-entry operators when they type in the details of the ballot papers. They are entered in batches of 50 ballot papers and will be re-keyed in for verification. The software can detect votes which are informal due to numerical errors or mis-numbering.

If a scrutineer wishes to query the input of a ballot paper they should record the batch number and ballot paper number from the information on the screen. This then can be later queried with the data-entry supervisor and a decision made by the Returning Officer, or Substitute Returning Officer, on the validity of the vote. The data-entry operators are not to be asked questions by scrutineers.

After all batches have been entered and verified, the Region Returning Officer generates the count of all the ballot papers. This process can be observed by scrutineers.

E, s 7

E, s 146I(3)

11 Close Seat and Re-count Policy

A scrutineer may request a re-count of votes. The Polling Place Manager or Returning Officer is not obliged to act on this, but will consider it.

E, s 146(1)

The Returning Officer may decide to undertake a re-count on his or her own volition.

Polling Place Managers may need to re-count some or all of the ballots 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 (and the discrepancy is more than just a few).



11.1 Legislative Assembly Re-count Policy

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 re-count 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, re-count a particular bundle or group of ballot papers at any time prior to the poll being declared.

If after a full re-count 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 be held.

11.2 Legislative Council Re-count Policy

With the Legislative Council count, a Region Returning Officer may of their own volition initiate a re-count of the votes on ballot papers from any district or portion of the district, or a particular bundle or group of ballot papers. A candidate requesting a Legislative Council re-count must do so in writing to the Region Returning Officer, setting forth the reasons for the request.

With the Legislative Council ballot papers, ATL votes will be counted manually twice at the Processing Centre before the numbers are entered into the electronic vote counting system (CountWA).

12 Formality of Ballot Papers

The Commission's publication *Formality of Ballot Papers* provides examples of formal and informal ballot papers.

Western Australian Electoral Commission

Level 2, 111 St Georges Terrace
Perth WA 6000
GPO Box F316
Perth WA 6841

PHONE (08) 9214 0400 or 13 63 06
EMAIL waec@waec.wa.gov.au
WEBSITE www.elections.wa.gov.au
FAX (08) 9226 0577

Translating & Interpreting Service (TIS)

13 14 50 and the ask for (08) 9214 0400

National Relay Service (NRS)

Speak & Listen number 1300 555 727
SMS Relay number 0423 677 767