Candidate Handbook

Local Government postal by-elections 2021



Victorian Electoral Commission

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(Victorian Electoral Commission)
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Candidate Handbook

Local Government postal by-elections 2021

Victorian Electoral Commission

The Victorian Electoral Commission

Our Vision	All Victorians actively participating in their democracy.
Our Values	Independence: acting with impartiality and integrity.
	Accountability: transparent reporting and effective stewardship of resources.
	Innovation: shaping our future through creativity and leadership.
	Respect: consideration of self, others and the environment.
	Collaboration: working as a team with partners and communities.
Our Purpose	To deliver high quality, accessible electoral services with innovation, integrity and independence.

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Introduction

This handbook is intended to assist candidates in Victorian local government postal by-elections conducted by the Victorian Electoral Commission (VEC).

The handbook outlines aspects of electoral law that directly relate to candidates. The handbook is not a substitute for the law and should be read in conjunction with the *Local Government Act 2020* (the Act) and the Local Government (Electoral) Regulations 2020 (the Regulations). The public can access the most recent version of Victorian legislation at *legislation.vic.gov.au*.

Candidates are encouraged to make appointments with the Election Manager early in the nomination period to discuss election arrangements and to use the VEC's Candidate Helper available online at vec.vic.gov.au to pre-complete their nomination, candidate statement and questionnaire lodgement forms.

The Election Manager will conduct an information session for prospective candidates. *Candidate Information Kits* containing relevant handbooks and forms for candidates and their scrutineers will also be available from the election office and online at vec.vic.gov.au.

Candidates are reminded that while the VEC will provide information, it does not provide legal advice. Candidates must satisfy themselves as to their legal position including, where appropriate, by obtaining their own legal advice.

It is the responsibility of individual candidates to ensure that they comply with electoral law.

Please note that the ongoing COVID-19 pandemic may impact some election activities, including those discussed in this *Candidate Handbook*. The VEC will provide further information to candidates and scrutineers about any restrictions on election activities as required. The by-election timeline can be found on the VEC website (vec.vic.gov.au/candidates-and-parties/candidate-forms-and-handbooks)

1. Nominating as a candidate

Overview

This chapter provides information on the eligibility requirements to nominate as a candidate for local council. Prospective candidates must consider their eligibility in reference to this chapter and the relevant provisions of the *Local Government Act 2020* (the Act). It is an offence to submit a nomination if you are not entitled to be a candidate.

The chapter provides information on the process of nominating, including how to prepare a *Nomination Form* using the VEC's online Candidate Helper. Candidates must lodge their *Nomination Form* in person with the Election Manager for the council election in which they are nominating.

1.1 Eligibility to stand for council

Please see the Act for more detail on candidate eligibility.

Important: Prospective candidates should read sections 34 and 256 of the Act prior to completing a Nomination Form. It is each candidate's responsibility to ensure that they are qualified to nominate. If necessary, they should seek their own legal advice.

Qualifications

Section 34(1) of the Act states that:

A person is qualified to be a Councillor of a Council if the person—

a) has attained the age of 18 years; and

b) is an Australian citizen or an eligible British subject referred to in section 48(1)(a) of the *Constitution Act 1975*; and

c) is enrolled on the voters' roll for the Council or would be enrolled on the voters' roll for the Council on a particular day if a voters' roll were to be prepared on that particular day; and

d) is not disqualified from being a councillor.

The Election Manager must reject as being void a nomination from a person who is not enrolled on the voters' roll for the election.

It is an offence to nominate as a candidate for election if you are not entitled to do so. See section 6.1 *Election offences*.

Disqualifications

The Act lists circumstances which disqualify a person from becoming a councillor or nominating as a candidate. These include if the person:

- is a member of an Australian Parliament, including the Federal Parliament or a Parliament of a State or Territory of the Commonwealth of Australia
- is employed as a Ministerial officer, Parliamentary adviser or an electorate officer (however designated) by a member of an Australian Parliament, including the Federal Parliament or a Parliament of a State or Territory of the Commonwealth of Australia (unless the person has taken leave from that office or position for the election period – see section 256(8) of the Act)
- is a councillor of another council, including interstate councils
- is a member of council staff of the council (unless the person has taken leave from that office or position for the election period – see section 256(8) of the Act)
- is an undischarged bankrupt
- has property that is subject to control under the law relating to bankruptcy
- has been convicted of any of the offences referred to in section 34(2) of the Act, or
- is otherwise incapable of becoming or continuing to be a councillor.

Important: This list is not exhaustive. A person intending to nominate should familiarise themselves with the Act for a full list of eligibility requirements that apply to candidates.

1.2 Enrolment on voters' roll

Prospective candidates are advised to read sections 240 to 246 of the Act regarding the enrolment qualifications that apply to local government elections. If interpretation is required in relation to a candidate's particular circumstances, it is important to seek legal advice prior to lodging a nomination form.

For completeness, this section summarises each of the enrolment entitlements that exist at local government elections. These entitlements include voters who are not Australian citizens. However, only Australian citizens (and qualified British subjects) who are enrolled on the voters' roll for a council may stand for election.

Persons entitled to be enrolled without application

The following persons are entitled to be enrolled without application:

- a person who at the close of roll date would be an elector in respect of an address in a municipal district if a roll of electors for the Legislative Assembly was compiled from the register of electors under the *Electoral Act 2002*, is entitled as a resident without application to be enrolled on the voters' roll in respect of the ward in which that address is located [section 241 of the Act].

- a person who before commencement of the new Act is enrolled on the last voters' roll for the relevant council in respect of a rateable property in accordance with section 13 of the *Local Government Act 1989* and would continue to be entitled to be so enrolled. The 'last voters' roll' includes any by-elections held since the last general election [section 243 of the Act].

Persons entitled to apply to be enrolled

Applications to the council for enrolment on the Chief Executive Officer's list may be made by a person aged 18 years or over who is:

- an owner of a property (including non-Australian citizens) not otherwise automatically enrolled [section 242 of the Act]

- an occupier and liable to pay the rates in respect of a rateable property [section 244 of the Act], or

- a person who holds the office of company secretary or director of a corporation that owns or occupies a rateable property, whether solely or jointly with other persons, and is liable to pay rates in respect of the rateable property and appoints the person in writing to vote on its behalf [section 245 of the Act].

Only two ratepayer entitlements for any rateable property

For non-resident property owners, there can be no more than two voting entitlements for the same rateable property on the council's Chief Executive Officer's list. Owners should contact the council to confirm an entitlement [sections 240(6) and 242 of the Act].

For occupiers of rateable properties who are liable to pay the rates for that property (whether solely or jointly), there can be no more than two voting entitlements for the same rateable property on the council's Chief Executive Officer's list. Occupiers should contact the council to confirm an entitlement [sections 240(6) and 244 of the Act].

Applications for enrolment

Section 240(7) of the Act requires that an application must:

a) be in writing

b) contain the details required by the Local Government (Electoral) Regulations 2020 (Regulations), and

c) be delivered to the council office before the close of the roll.

Penalties

Refer to section 6.1 *Election offences* for more information on penalties for false information in relation to enrolment.

Limitations on right of entitlement

If a person is automatically enrolled for an election, the person is not able to apply to be enrolled by application in lieu of the person's automatic enrolment. Regardless of how many voting entitlements a person may have within a particular council area, the person is only entitled to be enrolled on the voters' roll for that council once [section 240(2) of the Act].

1.3 Mandatory local government candidate training

Prior to lodging a nomination form, a prospective candidate must have completed the mandatory local government training required by the Act. This includes prospective candidates who are currently or have previously been a councillor of a council in Victoria.

The training requirements are prescribed by the Regulations and are not administered or delivered by the VEC. However, prospective candidates are required to declare their completion of the mandatory local government candidate training, including prescribed details of their training, on the nomination form prior to lodging it with the Election Manager.

A prospective candidate who has not completed the mandatory local government candidate training within the last four years is not qualified to become a candidate. It is an offence to make a false declaration under section 293 of the Act.

For further information on the mandatory local government candidate training, contact Local Government Victoria or visit localgovernment.vic.gov.au.

1.4 Nomination procedures

In order to nominate, prospective candidates must first complete and lodge a *Nomination Form*. The *Nomination Form* can be pre-completed using the online Candidate Helper on the VEC website vec.vic.gov.au. It can also be downloaded from the VEC website or obtained from the Election Manager for completion by hand.

The VEC encourages prospective candidates to contact the election office to make an appointment to lodge their *Nomination Form.* Nominations must be lodged by 12 noon on Nomination Day. **Late nominations cannot be accepted.**

Candidate Helper

Prospective candidates are encouraged to use the online Candidate Helper available on the VEC website to pre-complete the *Nomination Form.* The online Candidate Helper guides candidates through each part of the *Nomination Form.*

Once all details have been entered and are correct, the information should be saved and the pre-completed *Nomination Form* can be printed.

Prospective candidates must print their *Nomination Form* prior to attending the election office to nominate. Any requests to use VEC infrastructure at the election office to print a pre-completed *Nomination Form* will be refused.

Candidates who wish to save their progress and return to the *Nomination Form* at a later time should make a note of the reference number provided by the application. Candidates can also request the online Candidate Helper email the reference number directly to their email address for future reference.

Nominations cannot be finalised online. All candidates must lodge their completed *Nomination Form*, with their nomination fee, **in person** with the Election Manager.

Paper *Nomination Form*

The *Nomination Form* can be downloaded from the VEC website for completion by hand. The paper *Nomination Form* can also be found in the *Candidate Information Kit* obtained from the VEC prior to the nomination period or the Election Manager once the election office is open to the public.

Nomination forms completed by hand will need to be entered into the VEC's Election Management System at the election office. Depending on the number of candidates nominating, especially on Nomination Day, there may be a significant wait time for candidates who lodge a hand-written *Nomination Form*.

Completing the *Nomination Form*

Candidates must provide their full name, the address for which they are enrolled on the voters' roll, and, if different, their residential and/or postal addresses on the *Nomination Form*.

If a candidate has changed his or her name from that which appears on the voters' roll, the candidate must attach evidence of the change of name to the *Nomination Form*.

A person must not nominate as a candidate for more than one election of councillors to be held on the same day otherwise all nominations by that candidate are void [section 256(5) of the Act].

Candidates should carefully check their contact details before lodging the *Nomination Form*. Once these details are published, changes may not be possible.

Candidates must sign the first page of the *Nomination Form* after checking the correctness of the details on that page. The signature on the second page of the *Nomination Form* relates to the candidate's declaration and **must be signed in the presence of the Election Manager.**

At the election office, candidates will be given an opportunity to confirm their nomination details have been captured correctly by the Election Manager before their nomination is finalised.

Candidate name on ballot paper

A candidate's name will appear on the ballot paper as specified on the *Nomination Form*. The candidate's surname (i.e. family name) must be as it appears on the voters' roll.

Acceptable alternatives to a candidate's full given name(s) include:

- initial(s) standing for that name
- a commonly accepted variation of that name, including an abbreviation or an alternative form of that name
- a commonly used other name specific to the candidate by which the candidate is usually identified. A candidate will be required to produce evidence to the satisfaction of the Election Manager that it is a name by which the candidate is usually identified. This includes where a person's middle name is used as their given name.

If a candidate has changed his or her name from that which appears on the voters' roll, the candidate must attach evidence of the change of name to the *Nomination Form*. The evidence must be a legal document such as a certificate from a government organisation such as the Victorian Registry of Births, Deaths and Marriages.

When specifying the way in which a name is to appear on the ballot paper, candidates must:

- print their SURNAME and INITIALS (if given), in capitals (e.g. SMITH, T. E.):
  - if the surname normally has any lower-case letters or special characters such as accents, please specify them clearly on the form (e.g. McALISTER, van LEW or GLASÉ)
  - ensure the format of initial(s) includes a full stop and, if more than one initial, a space between each letter (e.g. T. E.)
- print their given name or names in title case (e.g. McALISTER, John P. or de FRIES, Joan Anne).

No affiliations or allegiances (e.g. ALP, Liberal, Australian Greens), titles (e.g. Dr, Prof.), professional memberships (e.g. FRACP, CPA, MIPAA), qualifications (e.g. PhD, MA, DipEd), or honours (e.g. AO, PSM, OBE) may appear on a ballot paper beside the name of any candidate.

Candidates pre-completing their *Nomination Form* using the online Candidate Helper will be assisted in this process. If a candidate requires a special character such as an accent applied to a letter, they must inform the Election Manager when lodging the *Nomination Form*.

Short-notice contact

The *Nomination Form* requests candidates to identify a preferred short-notice contact. Candidates are asked to place an asterisk next to the phone number or email address that can be used by the Election Manager when they need to contact the candidate urgently.

The email address provided by candidates will be used for normal communications with the candidate, such as bulletins from the Election Manager about any important updates. The email address will also be used to contact candidates regarding access to the voters' roll.

Payment of fee

A nomination fee of $250 must accompany each *Nomination Form*. The nomination fee must be paid in cash or by a cheque drawn on a bank, building society or credit union. Personal cheques or money orders cannot be accepted.

Cheques must be made payable to the Victorian Electoral Commission.

Important: Nomination forms must be lodged *in person*.
A candidate must sign the declaration on the Nomination Form in the presence of the Election Manager and therefore will need to attend the election office in person to lodge the form. Nomination forms must be lodged with the Election Manager after the voters' roll has been certified and no later than 12 noon on Nomination Day.

Candidate Lodgement Record

The *Candidate Lodgement Record* (Appendix 1) is the candidate's record that they have submitted each document to the Election Manager. The candidate should complete and retain the form as evidence of the completed process.

Candidate not on voters' roll

The Election Manager must reject a nomination from a person who is not enrolled on the voters' roll for the election.

Voters' roll

Following the close of nominations, candidates may request access to the voters' roll for the nominated ward or unsubdivided council for the purpose of conducting their election campaign. It is an offence to use the voters' roll information for any other purpose.

The voters' roll will be provided to candidates using the VEC's secure data exchange server. Instructions on how to use the data exchange will be provided by email to the candidate.

Candidates who receive a copy of the voters' roll must ensure it, and any copies made from it, are destroyed or returned to the VEC within 30 days of election day.

Availability of nomination information

A summary of nominations, including the contact person's details for each candidate, will be updated at the end of each business day during the nomination period and displayed at the election office. Contact details for candidates will be updated on the VEC website twice daily during the nomination period.

Ballot draw

The order that candidates' names will appear on the ballot paper is determined by a computerised single random draw or, in some cases, a manual draw will be conducted.

The computerised draw software has been independently audited and certified, determining that the draw is completely random. The software component that generates the random order for the ballot is available from vec.vic.gov.au/files/ballot-draw-helper.

The Election Manager will conduct the draw at the election office after nominations close. Candidates will be advised of the time for the ballot draw and Following the draw, the Election Manager will provide a report listing candidates in the ballot paper order.

Refund of fee

The $250 nomination fee is refunded to candidates who:

- are declared elected; or
- receive at least four percent (4%) of the total number of formal votes received by all candidates for the election the candidate was contesting.

Refunds will be provided as soon as practicable after all elections have been declared.

To claim the refund, candidates are requested to complete the electronic transfer request form (*Candidate Refund of Fees*) available in the *Candidate Information Kit*. The completed form must be lodged with the Election Manager before the close of voting.

Any candidate who is entitled to a refund and has not lodged the electronic transfer request form will be issued with a refund by cheque. This is a manual process and may take additional time.

Withdrawal of a candidate

A candidate may withdraw their nomination prior to the close of nominations. A *Notice of Withdrawal* form is available from the Election Manager and must be completed and submitted to the Election Manager prior to 12 noon on Nomination Day. The nomination fee will not be refunded.

Note: Should more than one by-election for a council be held on the same day, a candidate cannot transfer nomination details or nomination fee if they wish to withdraw from one election and nominate for another election otherwise all nominations will be void. They must withdraw the first nomination and complete a new *Nomination Form* and pay the nomination fee for the other election.

Retirement of a candidate

A candidate may only retire from an election after nominations close if:

- the retirement will result in an uncontested election; or
- after receiving advice from the Election Manager stating that they are not qualified to be a councillor as required under section 34 of the Act.

The candidate must give the Election Manager a signed notice of retirement, which can be completed on the *Notice of Retirement* form.

The nomination fee will not be refunded to a retiring candidate.

Retiring candidates who received a copy of the voters' roll must ensure it, and any copies made from it, are destroyed or returned to the VEC within 30 days of their retirement from the election.

Death of a candidate

If a candidate who has nominated dies before the close of nominations, their nomination is void. If a candidate dies after the close of nominations, but before close of voting, the election continues and the VEC will make every effort to have ballot papers reprinted without the name of the deceased candidate. Where it is not possible to reprint the ballot papers, the Act provides particular directions for managing the preferences assigned to the deceased candidate during the counting activities.

If the death of a candidate results in an uncontested election the remaining candidate(s) will be declared elected.

The nomination fee will be refunded to the candidate's personal representative.

Uncontested elections

If, at the close of nominations or on the retirement of a candidate, the number of nominations is equal to the number of vacancies to be filled, the Election Manager must declare the nominated candidate(s) elected and give public notice of their election.

In the case of a general election, the Election Manager's declaration must be made as soon as practicable on or after Election Day. In a by-election, the declaration is made immediately following the close of nominations or immediately following the date specified in the outgoing councillor's notice of resignation, whichever is the later.

If the number of candidates is less than the number of vacancies to be filled, the Election Manager must declare those candidates elected. The remaining vacancies will be treated as extraordinary vacancies (see section 6.5 *Extraordinary vacancies*).

If there are no candidates for an election, the election fails, and the Election Manager must give public notice that the election has failed.

1.5 Nomination checklist

Nomination Checklist for Candidates	
1. Confirm eligibility to nominate.	✓
Ensure you are enrolled on the voters' roll for the council you wish to nominate for.	
Ensure you are an Australian citizen or a qualified British subject.	
Ensure you are not disqualified for any reason.	
Complete the mandatory local government candidate training For further information visit http://www.localgovernment.vic.gov.au	
2. Complete a *Nomination Form*.	
Use the online Candidate Helper at vec.vic.gov.au and print the completed *Nomination Form* or	
Download a *Nomination Form* at vec.vic.gov.au or find one in the *Candidate Information Kit* and complete it.	
3. Nominate before 12 noon on Nomination Day (see the Election Timetable).	
Make an appointment with the Election Manager.	
Lodge the Nomination Form at the election office and sign the declaration on the *Nomination Form* in the presence of the Election Manager.	
Pay the nomination fee ($250) by cash or bank cheque made payable to the Victorian Electoral Commission.	
Complete the *Candidate Lodgement Record* form (Appendix 1).	
4. If election material is published and distributed to support a campaign:	
Ensure that election material is compliant with requirements listed in chapter 3, and that all election materials are authorised.	

2. Candidate statement and photograph

Overview

This chapter provides information for candidates on how to complete and lodge their candidate statement text and photograph. Candidates are encouraged to use the VEC's online Candidate Helper to prepare this information.

Candidate statements and photographs will be included in ballot packs mailed to voters and will be published on the VEC website—usually from the Monday after the close of candidate statements.

2.1 Candidate statement

General information

A candidate may lodge a statement of 300 words with the Election Manager for inclusion in the ballot pack sent to voters. If a candidate does not lodge a statement, the Election Manager must include such advice in the pack in place of the statement.

If lodging in person, candidates (or their representative) **must** make an appointment with the Election Manager to review the statement and ensure that it meets the legislative requirements. Candidate statements that do not comply with these requirements will be rejected. The requirements are discussed under 'Statement requirements' and 'Rejection criteria' later in this section.

To assist in the smooth processing of a candidate statement, refer to the checklist on the *Candidate Statement Lodgement Form* prior to lodging it. Candidate statements must be lodged before 12 noon on the day after Nomination Day.

Online completion of statement

Candidates are encouraged to pre-complete their statement using the online Candidate Helper available on the VEC website. The Candidate Helper guides candidates through each part of preparing their statement.

The benefits of using the Candidate Helper to prepare a candidate statement include:

- checking for approved formatting and providing an indicative word count
- allowing changes before lodgement
- reducing waiting time in the election office

Candidate statements cannot be finalised online. Once a candidate is satisfied that the details are correct, the information should be saved, and the pre-completed *Candidate Statement Lodgement Form* can be printed for lodgement with the Election Manager.

Candidates who wish to save their progress and return to the online Candidate Helper later should make a note of the reference number provided by the application. Candidates can also request the application to email the reference number directly to their email address for future reference.

Paper completion of statement

The *Candidate Statement Lodgement Form* can also be printed from the VEC website and is available in the *Candidate Information Kit*.

Declaration

The candidate statement must be accompanied by a signed and dated declaration by the candidate that states:

'I declare that my candidate statement is true and correct, that it does not contain matter that may mislead or deceive a voter in the casting of the voter's vote and that I am aware I may be liable to prosecution if my candidate statement contains matter that may mislead or deceive a voter when casting a vote.'

Statements that are lodged without a signed declaration cannot be accepted.

Penalties

Refer to section 6.1 *Election offences* for more information on penalties for false declarations.

Evidence of endorsement

Candidates who lodge a statement that includes a claim of endorsement or support from a party, organisation or person must also provide written evidence of consent to the claim by the party, organisation or person at the time of lodging their candidate statement.

Lodging the statement

Candidate statements must be lodged by the candidate, or by a person **authorised in writing** by the candidate, no later than 12 noon on the day after Nomination Day. Candidate statements must be lodged with the Election Manager in person or by scanning and sending the completed and signed *Candidate Statement Lodgement Form* to the email address provided by the Election Manager.

The completed *Candidate Statement Lodgement Form* must include the declaration signed by the candidate and, if the form is being lodged by an authorised person, the candidate's written authorisation for that person to lodge the candidate statement.

Once the *Candidate Statement Lodgement Form* has been submitted, the Election Manager will check the statement. If all details are complete and the statement complies with the legislation and formatting rules, it will be accepted.

If a candidate statement is not prepared using the online Candidate Helper, the statement will need to be entered into the VEC's Election Management System at the election office. Note that candidate statements must include the signed declaration, no matter the method of lodgement.

The text of a candidate statement will be printed in the ballot packs as it was lodged and signed by the candidate. The candidate is responsible for the accuracy of the statement, including any grammar, punctuation or spelling checks. Candidates should check and proof-read their statement carefully before lodging it.

Statement requirements

It is important that candidates take particular note of the following requirements when preparing their statement:

- Statements cannot exceed 300 words and, if they do, only the first 300 words will be printed
- Statements must be in English
- Statements must be submitted in continuous text, with no paragraph breaks
- Statements must be aligned to the left
- Punctuation marks (dashes, brackets, etc.) are not counted in the word count.

The Election Manager is not responsible for correcting any errors in grammar, punctuation or spelling in candidate statements. Candidates are advised to proof read their statement thoroughly before submitting it to the Election Manager.

If a candidate requires a special character such as an accent applied to a letter, they must inform the Election Manager when lodging the statement.

The Election Manager will apply the following rules in order to verify the final word count.

Formatting

Not allowed (will be automatically removed by the system if entered electronically):

- bullet points
- tab indentations
- bolding
- italics
- underlining.

Word Count Guidelines

Guideline	✓ **Allowed**	× **Not Allowed**
Non-standard use of punctuation to join words, characters or numbers will be corrected.	1, 2, 3, 4 (4 words)	1,2,3,4
	Vote! For! Me! (3 words)	Vote!For!Me!
Use of punctuation and characters to create emphasis will be corrected.		Any emojis, e.g.: :) : 0 : (
	level! (1 word)	level!!!!!
Non-standard use of hyphenated words or numbers will be corrected.	day of the week (4 words)	day-of-the-week
	19-08-1909 (1 word)	1-2-3-4-5-6
Non-standard use of the forward slash (/) to join words or numbers will be corrected.	disadvantaged/disabled (1 word)	council/resident/ ratepayer
	19/8/2017 (1 word)	1/2/3/4/5/6
Non-standard characters to join words and numbers will be corrected.	roads & rubbish & rates (5 words)	roads&rubbish&rates
	Increase of 50% to 60% (5 words)	Increase of 50%to60%
Reference to multiple social media locations must be separated by spaces.	#votefor #election (2 words)	#votefor#election
	#vec @elections (2 words)	#vec@elections
Telephone numbers will count as one word as long as they adhere to the following formats.	(xx) xxxx xxxx (1 word) xxxx xxxx (1 word) xxxx xxx xxx (1 word)	

Guideline	✓ Allowed	✗ Not Allowed
Commonly accepted acronyms and initialisms will be counted as one word.	VCAT (1 word) VEC (1 word)	
Commonly accepted abbreviations will be accepted as one word	Ph.D. (1 word) DipEd (1 word)	
Acceptable use of initials will be counted as one word.	J.D. Rowley (J.D. = 1 word)	

Word Guidelines

Guideline	✓ Allowed	✗ Not Allowed
Non-standard use of upper case will be corrected.	Make sure you vote for me.	MAKE SURE YOU VOTE FOR ME.
Websites and email addresses will be counted as one word.	vec.vic.gov.au facebook.com/councilcandidate same.person@gmail.com	

Note: To ensure the word count limit is not exceeded the VEC prefers that candidates prepare their statements using the VEC's online Candidate Helper and lodge the barcoded form, rather than a handwritten statement (or an attachment to an email).

Formatting limitations apply to the publication of candidate statements. Statements submitted online using the Candidate Helper will have the correct formatting required by the VEC.

If the Candidate Helper is not used and a statement does not comply with the statement requirements listed above, the Election Manager may have to alter the format of the submitted statement.

Important: Please check the final statement carefully as full responsibility for the accuracy of the statement rests with the candidate or authorised person.

Rejection criteria

The Election Manager will reject any candidate statements that:

- refer to another candidate standing for an election in the council without their written consent
- include a claim of endorsement or support from a party, organisation or person without providing the written consent of that party, organisation or person at the time of lodging the statement
- include material that, in the Election Manager's opinion, is offensive or obscene
- include material that, in the Election Manager's opinion, is likely to mislead or deceive a voter in casting a vote
- include material that is in breach of an Act or regulation
- are not lodged with a signed declaration
- are received after the deadline for lodging statements.

If the Election Manager rejects a candidate statement, they must notify the candidate no later than 12 noon on the second day following the close of nominations. The Election Manager will use the short-notice contact information specified by the candidate on their *Nomination Form*.

Candidates will receive notification:

- that the statement has been rejected and the reasons for the rejection
- of the section or sections of the statement that needs to be amended for it to be accepted
- that they may amend the section or sections of the candidate statement and resubmit the statement.

A candidate whose statement is rejected by the Election Manager may, no later than 24 hours after being notified, resubmit their statement to the Election Manager. If the resubmitted candidate statement is not received by the Election Manager within the timeframe, the ballot pack mailed to voters will contain advice as if the candidate had not lodged a statement.

Note: A candidate who resubmits a candidate statement may only amend the section or sections of the statement that need to be amended for it to be accepted.

2.2 Candidate photograph

Candidates are permitted to include a photograph of themselves to accompany their candidate statement in the ballot pack mailed to voters.

Candidates should provide either an electronic copy or a hard-copy photograph to the Election Manager.

Photographs should be supplied at the time of nomination to allow the VEC time to ensure suitability for publication. The Election Manager can only accept photographs up to 12 noon on the day after Nomination Day (refer to the Election Timeline).

Candidate photographs **will only be accepted** in any one of the following formats:

Electronic:

- as an attachment to an email sent to the address provided by the Election Manager
- in JPG format, with a minimum quality of 300 DPI (dots per inch) to ensure clarity when printed and
- endorsed by naming the file “<Council Name>, <Ward Name> (if applicable),<Family Name, Given Name>”.(jpg). This is a format requirement.

Note: The use of USB devices for electronic submission is not permitted.

Hard copy:

- two identical copies no larger than A4 and no smaller than 38mm x 32mm (passport sized) and
- endorsed by “<Council Name>, <Ward Name, if applicable>,<Family Name, Given Name>” clearly written on the back of **one** hard-copy photograph. Use a pen with quick-drying ink that will not smudge.

Photographs will be published by the VEC in greyscale.

Note: A candidate who submits a replacement photograph must endorse it using the conventions described above, with the addition of “_replacement1” at the end. Any further replacement must show “_replacement2”, etc. For a visual representation of candidate photograph requirements, please refer to the document ‘Candidate Photograph Guidelines’ in the Candidate Information Kit.

Photograph requirements

Where required, candidate photographs will be cropped and resized to fit the specific printing requirements. All photographs will be printed in greyscale (black & white). To ensure the best printing quality, photographs should:

- be recent (taken in the last 12 months)
- have a plain, light-coloured background
- contain only the person (distracting objects, animals or other people cannot be included)
- show the head and shoulders of the candidate
- not use filters or digital zoom
- not be cropped.

Unsuitable photographs

The following photograph types and formats are unsuitable for reproduction:

- Side profiles
- Photocopies
- Scans
- Draft quality prints
- Group photographs or pictures cut from group photographs
- Copies from printed documents
- Under- or over-exposed photographs
- Distracting backgrounds
- Low resolution photographs.

The VEC cannot accept any responsibility for the reproduction of photographs that do not comply with these specifications.

A candidate whose candidate photograph is rejected by the Election Manager must follow the same process and timeline to resubmit the photograph as applies to the rejection of candidate statements discussed above.

Note: If a candidate does not lodge a photograph, the ballot pack mailed to voters will contain a statement in place of the photograph that a photograph was not provided.

2.3 Candidate statement checklist

Candidate Statement Checklist for Candidates	
Submit a candidate statement for inclusion in the ballot pack.	✓
Use the online Candidate Helper at vec.vic.gov.au and print the completed *Candidate Statement Lodgement Form* or Download a *Candidate Statement Lodgement Form* or find one in the *Candidate Information Kit* and complete it.	
The word count and formatting requirements for the statement have been checked.	
Spelling, grammar and punctuation of the statement have been checked.	
The declaration on the form has been read and signed.	
Remember! Submit the completed form in person, via an authorised person or by email (if available).	
Candidate Lodgement Record (Appendix 1) has been completed.	
Election Timeline checked for submission dates and times.	

2.4 Candidate photograph checklist

Candidate Photograph Checklist for Candidates	
Submit a photograph (for inclusion in the ballot pack).	✓
The photograph specifications in this chapter and the *Candidate Photograph Instructional Sheet* have been read.	
A photograph with a plain light-coloured background has been found or taken. The photograph has space around the head and shoulders and digital zoom was not used.	
The photograph meets the minimum resolution of 300 DPI.	
The formatting requirements for the photograph have been checked.	
Remember! Submit the photograph by email or provide two hard copy photographs in person or by authorised person at the election office.	
Candidate Lodgement Record (Appendix 1) has been completed.	
Election Timeline checked for submission dates and times.	

3. Candidate questionnaire
Overview

This chapter provides information for candidates on how to complete and lodge their answers to the candidate questionnaire. Candidates are encouraged to use the VEC's online Candidate Helper to prepare their answers.

The candidate questionnaire is prescribed by the Local Government (Electoral) Regulations 2020 and candidates' answers will be published on the VEC website. Candidates' answers to the questionnaire will also be available from the election office on request. Where any candidate has not lodged a candidate questionnaire or provided answers to one or more questions, advice to this effect will be published.

3.1 About the candidate questionnaire

What is the questionnaire?

The purpose of the candidate questionnaire is to provide voters with information on the background of each candidate. The information will allow voters to compare each candidate's experiences.

Answers to the candidate questionnaire must be lodged with the Election Manager by 12 noon on the day after nomination day.

Questionnaire format

The candidate questionnaire consists of several questions and includes a mixture of yes/no, multiple choice and free-text responses.

Word limitations on the free text responses are prescribed by legislation.

Note: Completion of the candidate questionnaire is voluntary. However, the VEC will publish advice showing which candidates did not lodge answers to the candidate questionnaire or did not answer any particular question.

When completing the questionnaire, candidates must not:

- include material that is offensive or obscene
- complete the form except in accordance with the instructions on the form
- include material unrelated to the question
- include a claim of endorsement from a registered political party without written consent (see section 'Evidence of political party endorsements')

The VEC will not publish answers that do not comply with the criteria.

Online completion

Candidates are encouraged to prepare their answers to the candidate questionnaire using the online Candidate Helper available on the VEC website. The Candidate Helper guides candidates through the candidate questionnaire similar to completing an online survey. The application will allow candidates to proceed without answering a question, as responding to the questionnaire, or any question within the questionnaire, is voluntary.

Answers to the candidate questionnaire cannot be finalised online. Once a candidate is satisfied that their answers are complete, the information should be saved, and the pre-completed candidate questionnaire can be printed for lodgement with the Election Manager.

Candidates who wish to save their answers and return to Candidate Helper later, should note the reference number. Candidates can also request the application to email the reference number directly to their email address for future reference.

Paper completion of questionnaire

The *Candidate Questionnaire Lodgement Form* can also be printed from the VEC website and is available in the *Candidate Information Kit* from the Election Manager. The form includes the declaration prescribed by the legislation.

Candidate questionnaire lodgement forms that are not completed using the Candidate Helper will need to be entered into the VEC's Election Management System at the election office.

Note: Please check the completed questionnaire carefully as candidates are responsible for the accuracy of each answer. Questionnaires must not contain any offensive or obscene content.

Declaration

Answers to the candidate questionnaire must be accompanied by a signed and dated declaration by the candidate that the answers provided in the *Candidate Questionnaire Lodgement Form* are true and correct.

Answers lodged without a signed declaration cannot be accepted.

Evidence of registered political party endorsement

Where a candidate's answer to the questionnaire claims an endorsement by a registered political party, the candidate must lodge a document with the Election Manager containing the written consent of the registered officer of the party at the same time as lodging the *Candidate Questionnaire Lodgement Form*.

Note that only political parties registered under the *Electoral Act 2002* at the time of lodging the *Candidate Questionnaire Lodgement Form* will be accepted. The VEC website includes the list of registered political parties and their registered officers.

Lodging the answers to the questionnaire

A candidate's answers to the candidate questionnaire must be lodged by the candidate, or by a person **authorised in writing** by the candidate, no later than 12 noon on the day after the close of nominations. Candidate questionnaire lodgement forms must be lodged with the Election Manager in person or by scanning and attaching the completed (and signed) form to an email sent to the email address provided by the Election Manager.

The completed *Candidate Questionnaire Lodgement Form* must include the declaration signed by the candidate, and if the form is being lodged by an authorised person, the candidate's written authorisation for that person to lodge the candidate questionnaire.

Once the *Candidate Questionnaire Lodgement Form* has been submitted, the Election Manager will check the answers. If the answers comply with legislation, they will be accepted.

The answers to the candidate questionnaire will be printed as they were lodged and signed by the candidate. Candidates are responsible for the accuracy of the answers. Candidates should check and proof-read their answers carefully before lodging the *Candidate Questionnaire Lodgement Form*.

Important: Questionnaires must be submitted to the Election Manager with the declaration signed by the candidate prior to 12 noon on the day after the close of nominations.

3.2 Candidate questionnaire checklist

Candidate Questionnaire Checklist for Candidates	
If you wish to submit the candidate questionnaire (for publication on the VEC website):	✓
Use the online Candidate Helper at vec.vic.gov.au and print the completed *Candidate Questionnaire Lodgement Form* or	
Download a *Candidate Questionnaire Lodgement Form* from vec.vic.gov.au or find one in the *Candidate Information Kit* and complete it.	
Complete the declaration on the form and sign it.	
Submit it in person, via an authorised person or by email (if available).	
Complete form *Candidate Lodgement Record* (Appendix 1)	
Election Timeline checked for submission dates and times.	

4. Candidate election campaign material
Overview

A person may publish electoral material in relation to a candidate's campaign and/or any issue before the voters at the election. This chapter provides information on the legal requirements that apply to electoral material published and distributed for local government elections.

4.1 Printing and publication of election material

A person may publish electoral material in relation to a candidate's campaign and/or any issue before the voters at the election.

Important: All electoral material must be authorised and must comply with the Act.

Authorisation of electoral material

A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice unless:

- the name and address of the person who authorised the electoral advertisement, handbill, pamphlet or notice appears on its face. (The address can be a street address or a PO Box address but cannot be an email address.)

The authorisation requirements do not apply to a car sticker, an item of clothing, lapel button, lapel badge, fridge magnet, pen, pencil or balloon. Candidates may authorise and print their own electoral material.

This requirement applies at all times, not just during an election period.

PENALTY: In the case of a natural person, 10 penalty units; In the case of a body corporate, 50 penalty units.

Misleading or deceptive matter

A person must not print, publish, distribute or cause, permit or authorise to be printed, published or distributed:

- any matter or thing that the person knows or should reasonably be expected to know is likely to mislead or deceive a voter in relation to the casting of their vote.

- election material that contains a representation or purported representation of a ballot paper that is likely to induce a voter to vote in an election other than in accordance with the directions on the ballot paper.

PENALTY: 60 penalty units or imprisonment for six months if the offender is a natural person or 300 penalty units if the offender is a body corporate.

Identification of authors

During an election period, all articles containing electoral matter which are printed, published or distributed in a newspaper, circular or pamphlet must include the name and address of the author at the end.

Letters to a newspaper must include the author's name and the suburb or locality in which the author's address is located.

The identification requirement does not apply to a newspaper leading article or an article that is solely a report of a meeting.

PENALTY: In the case of a natural person, 10 penalty units; In the case of a body corporate, 50 penalty units.

Social media, blogs and emails

Electoral material published through social media must comply with the terms and conditions of the relevant platform, as well as the requirements of the *Local Government Act 2020*.

All electoral material posted to social media (including platforms like Facebook, Twitter, blogs, websites, and other social media sites) must carry or directly link to an authorisation statement (see 'Authorisation of electoral material' above).

Just like in real life, messages sent through social media that defame, threaten, or harass another person are against the law. Significant penalties apply, including prosecution and imprisonment, for any person convicted of threatening or harassing another person.

Leaflets and direct mail

Leaflets, flyers and other forms of unaddressed mail delivered to households or distributed in public locations must be authorised if they contain electoral matter. Letters or cards that are addressed to individual voters by name do not have to include an authorisation statement, but must clearly identify the name and address of the person who distributed it. Australia Post has previously advised that electoral material is included in mail that is exempt from letterboxes marked 'No Junk Mail'. Producers and distributors should be aware of other Australia Post rules relating to handling and delivering unaddressed direct mail. For further information, contact Australia Post directly.

Matter broadcast or televised

All electoral material broadcast on radio or television (including election advertisements), must comply with the requirements in Schedule 2 of the *Broadcasting Services Act 1992* (Commonwealth).

The VEC is unable to provide advice regarding the operation of Commonwealth legislation. Any enquiries concerning the operation of the *Broadcasting Services Act 1992* (Commonwealth) should be directed to the Australian Communications and Media Authority (ACMA):

Post
PO Box 13112
Law Courts
Melbourne VIC 8010

Phone
1300 850 115

Email
info@acma.gov.au

Online
acma.gov.au/contact-us

Posters and billboards

All posters and billboards containing electoral matter must be authorised (see 'Authorisation of electoral material' above).

People producing, distributing and displaying posters and billboards should check with:

- the owner and, if relevant, resident of any private property or business where the poster or billboard is intended to be displayed
- the relevant local council about any local laws that may apply to the display of electoral material (includes public and private property)
- VicRoads for regulations that apply to the display of electoral material on and alongside freeways, highways and major road corridors
- Public Transport Victoria in relation to the display of electoral material at public transport locations (buses, bus stops, trains, train stations, trams, and tram stops)
- the Department of Education and Training in relation to the display of electoral material on government-owned schools.

Local laws and public land

Candidates must check with the relevant local authority (e.g. the local council, Department of Transport) to see if there are any laws that apply to the distribution and display of electoral material in public spaces, on public land or alongside highways or road corridors. This includes the holding of events or campaigning in public spaces.

5. Voting and results

Overview

This chapter provides candidates with information on the voting process at local government elections. It includes the VEC's processes for issuing and receiving ballot packs as well as extracting and counting the ballot papers.

The chapter also discusses the important role of scrutineers in elections for representing candidates' interests during these processes.

5.1 Ballot packs

Issue of ballot packs

At least 15 days before the last day of voting, ballot packs will be mailed to all enrolled voters in contested elections containing:

- a ballot paper attached to candidates' statements, photographs and voting instructions
- a multi-language leaflet, where relevant
- a ballot paper envelope with a flap for the voter's declaration
- a reply-paid envelope in which to return the completed ballot material to the Election Manager.

The ballot packs will be posted or delivered to voters on a random basis across three days, with no more than 35% mailed on any one day.

Voters who will not be at their mailing address during the voting period can arrange for the ballot material to be redirected to another address. A redirection request must be made in writing to the VEC (addressed to the Election Manager) by the close of the date that nominations open and must be signed by each voter included in the request.

Early votes

An election official may issue a voter with special circumstances a ballot paper prior to the general mail-out of the ballot packs if the election official considers that the request is reasonable.

Replacement and unenrolled ballot packs

Replacement and unenrolled ballot packs may be issued under certain circumstances.

The categories of vote are defined as follows:

Replacement vote

This regulation applies if, on or before the last day of voting, a voter:

- claims that they have not received a postal ballot envelope at the address to which the postal ballot envelope was sent
- claims that they are not at the address to which the postal ballot envelope was sent and has not received a postal ballot envelope
- claims that they have lost or destroyed the ballot paper envelope or ballot paper or both, or
- satisfies an election official that they have spoilt the ballot paper envelope, ballot paper, or both, and returns the spoilt ballot paper envelope, the spoilt ballot paper or both.

Unenrolled vote

This regulation applies if, on or before the last day of voting, a voter:

- claims to be entitled to vote but has not been issued a ballot pack and their name cannot be found on the voters' roll.

Return of ballot paper envelopes

Voters must post or deliver the reply-paid envelope containing their completed ballot paper and ballot paper envelope on or before 6.00 pm on the last day of voting. On receipt of the reply-paid return envelopes, election officials may:

- remove the ballot paper envelopes from the reply-paid envelopes
- record the return of the ballot paper envelopes on the voters' roll
- sort the signed ballot paper envelope declarations from the unsigned ballot paper envelope declarations
- disallow the unsigned ballot paper envelope declarations
- place the ballot paper envelopes in properly sealed security boxes until after the close of voting
- ensure that only one ballot paper envelope received from each enrolled voter is included in the count
- set aside ballot paper envelopes returned without declaration flaps.

Scrutineers may be present for these activities.

Close of postal vote receipt period

Postal votes that were completed by 6.00 pm on the last day of voting may be admitted if they are received by the Election Manager by 12 noon on the fifth working day after Election Day.

In determining whether a voter voted before 6.00 pm on the last day of voting, election officials will refer to the date that the declaration on the ballot paper envelope was signed by the voter.

Postal votes received after the last day of voting that do not satisfy these requirements will be rejected.

5.2 Obtaining the result

The methods of counting votes to determine the election result are described in Divisions 6 and 7 of Part 8 of the Act. The methods of counting are summarised in Appendices 2 and 3.

The Regulations allow for postal votes to be received until 12 noon on the fifth working day after the close of voting. Accordingly, results cannot be finalised until after this time. The Election Manager will advise candidates of local counting arrangements after the close of nominations.

Candidates are not entitled to be present at the counting of votes, but scrutineers may observe all aspects of the count. See section 5.3 *Scrutineers*.

A description of the counting activities is included in Appendix 4.

Ballot paper extraction

Ballot papers must be extracted from the ballot paper envelopes before they can be counted. Envelopes are first run through a letter opening machine to separate the identifying declaration flap on the envelope. Envelopes are run through the machine a second time to open them. Teams of election officials carefully remove ballot papers and batch them into 50s. The number of ballot papers and envelopes will be reconciled before any empty or rejected envelopes are removed from the extraction area.

If the ballot papers will be counted by computer, election officials may perform a further sort after extracting the ballot papers and before batching them into 50s to identify any obviously informal ballot papers.

Computer count

For elections involving multiple vacancies the counting method is proportional representation, conducted by computer. Computer counting may also be used for some elections involving single-councillor vacancies where there are a larger number of candidates,.

The Election Manager will advise candidates of an information session to explain the computer count process in detail. Candidates and their scrutineers are encouraged to attend this information session.

At a computer count, the preferences shown on each ballot paper are entered into the VEC's Computer Count application by data entry operators. The application checks each ballot paper for formality.

Only formal ballot papers are saved to the database. Once all formal ballot papers have been entered into the system, and the number of informal votes totalled, the results can be calculated.

Manual count

For elections involving single vacancies the preferential counting method is used. Preferential counting is usually conducted manually.

At a manual count, formal ballot papers are sorted to candidates using the first preferences marked on each ballot paper. If a candidate does not reach an absolute majority of votes (i.e. more than 50% of the total formal ballot papers), a preference distribution is required.

Preference distributions involve excluding the candidate with the least votes and transferring each of their ballot papers to the remaining candidates in the order of the preferences marked on the ballot papers. This process is repeated until one of the remaining candidates reaches an absolute majority of the vote.

After each distribution, ballot papers from the excluded candidate are checked that they have been sorted to the correct remaining candidates, and the total number of ballot papers is reconciled.

Formality of votes

Each ballot paper must have a number '1' in or adjacent to one box.

All boxes should be numbered using the full sequence of numbers as indicated on the ballot paper. The only exception is where one box is left blank and would logically have contained the last preference. For example, on a ballot paper with six candidates, the voter's sixth preference may be omitted.

More than one box left blank makes the vote informal. Omission of a number other than the last preference or any duplication of a number within the sequence makes the vote informal.

Numbers next to, or on the other side of the candidates' names, and amendments are acceptable providing the voter's intention is clear. All other marks are to be ignored.

The number '0' (zero) makes the vote informal and letter sequences cannot be used in place of numbers, except for Roman numerals, but they too must be fully sequential.

More information regarding formality can be found in the *Scrutineer Handbook*.

Adjournment

The Election Manager may from time to time adjourn the extraction of ballot papers or the count of votes. If an activity is adjourned, the Election Manager will advise any scrutineers present and authorised persons of the adjournment.

Recount of votes

At any time before a candidate has been declared elected, the Election Manager may:

- if they think fit, or
- at the written request of a candidate specifying reasons

open any sealed parcel containing ballot papers and recount the ballot papers.

The following applies to recounts:

- a recount may be conducted at the discretion of the Election Manager
- the Election Manager may conduct one or more recounts
- the Election Manager must make reasonable efforts to notify candidates or their representatives before a recount is conducted.

Candidates are not entitled to be present at a recount but can be represented by scrutineers. See section 4.4 *Scrutineers*.

In making the decision to conduct a recount, the Election Manager will consider a number of factors, including:

- the occurrence of close margins at critical points during the distribution of preferences
- any procedural or system error or failure that may have interrupted or interfered with the counting process
- the accessibility of the counting process for scrutineers to properly perform their duties.

The Election Manager's interpretation of what constitutes a close margin is informed by the VEC's experience at previous elections. This has shown that limited variation occurs when comparing the final or critical recounted margin to the original count. In particular, the greatest variation in local council election recounts conducted by the VEC since 2008, where counting has been performed by computer data entry, has been seven.

Counting timetable

The VEC will establish a counting timetable to ensure that reconciliations can be completed before the start of each stage in the extraction and counting process. In establishing the timetable, the VEC will allow for events that cannot be predicted prior to the close of voting and the close of the postal vote receipt period. The VEC will also manage staff wellbeing during long working hours across the election timeline.

Every effort will be made to complete counting as quickly as possible, but preference distributions cannot be completed until the postal vote receipt period has closed. The VEC will ensure that all elections are declared as soon as practicable after counting has been completed (including any recounts).

Further details of the counting timetable will be prepared once nominations have closed and the number of candidates is known. However, close elections and where recounts are required will still be unknown. Activities undertaken after the close of voting, including key reconciliation points during the counting process, are listed in Appendix 4.

Declaration of the result

The Election Manager will publicly declare the result of the election at a suitable time following the completion of counting (including any recounts). Candidates will be advised of the declaration time and venue. The VEC will also publish a notice of results and advise the Minister for Local Government.

5.3 Scrutineers

Role of scrutineers

A candidate may appoint one or more scrutineers to observe election proceedings on their behalf. A scrutineer represents a candidate's interests by ensuring the integrity of the election process.

Scrutineers have the right to observe certain election activities prior to the close of voting and to observe the counting of votes. They may challenge the admission or rejection of ballot paper envelopes and the formality of ballot papers, but the ruling of the Election Manager over any challenge is final.

A scrutineer may be appointed by a candidate to observe the following electoral activities only:

- the posting of postal ballot envelopes
- the opening and emptying of a post office box
- the opening and emptying of a postal ballot receptacle
- the receipt and processing of ballot paper envelopes
- the extraction, counting and recounting of ballot papers.

The Local Government (Electoral) Regulations 2020 provide for the number of scrutineers each candidate may appoint to observe for each electoral activity. Scrutineers can only observe activities for the specific election they are appointed for.

Important: A scrutineer may be removed from observing electoral activities if:

- **a candidate has more than the number of scrutineers they are entitled to for the particular electoral activity**
- **the scrutineer commits any breach of the Act or Regulations**
- **the scrutineer disrupts or hinders electoral activities**
- **the scrutineer fails to obey a lawful direction from an election official.**

Appointment and declaration of scrutineer

Before a scrutineer can perform their role at an electoral activity, the scrutineer must make a written declaration containing the details required by the Regulations. The declaration is contained on the *Appointment and Declaration of Scrutineer* form available in the *Candidate Information Kit*, on the VEC website (vec.vic.gov.au) or from the Election Manager. The completed appointment form must be signed by the candidate that the scrutineer is representing and must be submitted to the appropriate election official at the election office, extraction or counting venue.

Election Managers will advise candidates of the proposed time for counting to commence.

Disqualifications for scrutineers

A person cannot be appointed as a scrutineer if they are:

- a councillor of the council
- a candidate in the election or in any other election for that council conducted simultaneously with that election, or
- a person appointed by the VEC in the conduct of the election.

During the count

Scrutineers are entitled to observe all proceedings during the processing of ballot papers to obtain the results of the election. The Election Manager must inform any scrutineers present of any adjournment and advise the location, date and time when the activities will continue.

Scrutineers may challenge the admission or rejection of ballot paper envelopes and the formality of ballot papers. These must be referred to the election official leading that activity in the first instance, and, if that person is not the Election Manager, any challenges may be escalated to the Election Manager. *The Election Manager's decision is final.*

Counting must proceed smoothly and efficiently, and scrutineers should not unnecessarily communicate with anyone at these proceedings.

Scrutineers **must not** handle ballot papers, ballot paper envelopes or any other election material. Scrutineers are entitled to observe all the markings on ballot papers, but they must not delay proceedings except where it is necessary in the performance of their duties.

Information for scrutineers

Scrutineers will be informed of the total number of ballot paper envelopes to be included in the count, prior to the opening of ballot paper envelopes and the extraction of ballot papers.

Scrutineers will also be informed of the total number of ballot papers to be accounted for prior to the commencement of first preference counting for manual counts or data entry for computer counts.

On request, the Election Manager will provide scrutineers with reports on:

- the total first preference votes for each candidate
- details of the preference distribution. The preference distribution report shows how preferences are allocated to candidates during the preference distribution.

Two additional reports will be available to scrutineers for computer counts:

- progressive first preference results during data entry
- ballot paper details. On request, scrutineers may ask that the ballot paper details report is printed for a **particular batch** so that they may compare the preferences recorded on the computer for that batch against the actual ballot papers.

After the completion of the counting, candidates may request a full report showing how preferences were distributed.

More information about scrutineers can be found in the *Scrutineer Handbook*.

5.4 Voting and results checklist

Voting and Results Checklist for Candidates	
If you wish to appoint scrutineers:	✓
Obtain a *Local Government postal by-elections - Scrutineer Handbook 2021*	
Complete an *Appointment and Declaration of Scrutineer* form for each scrutineer	
Brief each scrutineer on their role	
Each scrutineer must submit an *Appointment and Declaration of Scrutineer* form with the candidate's original signature at each venue they attend.	

6. Election compliance and post-election activities

Overview

This chapter describes the offences that exist for local government elections and explains the VEC's election complaints process activities that occur after the election and during the council term. These include compulsory voting enforcement and the process for filling extraordinary vacancies that may occur on a council.

The chapter also provides candidates with information on the VEC's election complaints process and the Victorian Civil and Administrative Tribunal (VCAT), which is responsible for hearing any disputes arising from a local government election, as well as the requirement to lodge an *Election Campaign Donation Return* form.

6.1 Election offences

The following list of offences is **not exhaustive** and should not be taken as legal advice. Candidates are encouraged to refer to the Act and the Local Government (Electoral) Regulations 2020 for more information and, if necessary, seek their own legal advice.

False or misleading information

It is an indictable offence for a person to make a statement knowing that it is false in a material particular in any information provided orally or in writing in relation to voter enrolment or in any declaration or application in relation to an election under the Act or the Local Government (Electoral) Regulations [section 293 of the Act].

PENALTY: 600 penalty units or imprisonment for five years.

Unlawful nomination

It is an offence for a person who is not entitled to nominate as a candidate for election under section 256 of the Act to nominate as a candidate for an election [section 286 of the Act].

PENALTY: 240 penalty units or imprisonment for two years.

Interference with rights

It is an indictable offence for a person to hinder or interfere with the free exercise or performance of any other person's political right or duty relevant to an election under the Act [section 301(1) of the Act].

PENALTY: 600 penalty units or imprisonment for five years.

Misleading or deceptive matter

It is an offence for a person to print, publish or distribute or cause to be printed, published or distributed any matter or thing that the person knows, or should reasonably be expected to know, is likely to mislead or deceive a voter in relation to the casting of the vote of the voter [section 288(1) of the Act].

Note: The terms ‘misleading’ and ‘deceptive’ in this context have been narrowly defined by the courts to refer to the effect and understanding of a voter’s vote rather than the decisions made by the voter as to how they will vote.

PENALTY: 60 penalty units or imprisonment for six months if the offender is a natural person or 300 penalty units if the offender is a body corporate.

Offences relating to voting

It is an indictable offence for a person to:

a) forge any ballot paper, prescribed form or other form or document submitted or lodged in connection with an election or

b) utter any forged ballot paper, prescribed form or other form or document submitted or lodged in connection with an election or

c) forge the signature of any person on any ballot paper, prescribed form or other form or document submitted or lodged in connection with an election or

d) in respect to an election, vote in the name of another person, including a dead or fictitious person or

e) in respect to an election, vote more than once or

f) in respect to an election, apply for a ballot paper in the name of another person [section 294 of the Act].

PENALTY: 600 penalty units or imprisonment for five years.

Interfering with postal ballot materials

It is an indictable offence for a person to interfere with any material being, or to be, sent or delivered to a voter by the VEC at an election. This does not apply to a person who is acting with the authority of the VEC [section 299 of the Act].

PENALTY: 600 penalty units or imprisonment for five years.

Bribery, treating and undue influence

It is an indictable offence for a person to ask for, receive or obtain, or offer to ask for, receive or obtain, or agree to ask for, receive or obtain any property or benefit of any kind for themselves or any other person on an understanding that the person’s election conduct will in any manner be influenced or affected section 300(2) of the Act].

PENALTY: 600 penalty units or imprisonment for five years.

It is an indictable offence for a person to give or confer, promise to give or confer, or offer to give or confer any property or benefit of any kind to any person in order to influence or affect the person's or any other person's conduct at an election [section 300(4) of the Act].

PENALTY: 600 penalty units or imprisonment for five years.

Offences under sections 300(2) or 300(4) of the Act do not apply in relation to a declaration of public policy or a promise of public action. An offence under either section 300(2) or 300(4) of the Act also applies to officers of a body corporate if the offence is committed by body corporate (see section 320 of the Act).

Secrecy of vote

Except as authorised by law, it is an offence for a person who is present when a voter votes to:

a) ascertain or disclose by word, act or other means, the vote of the voter or

b) directly or indirectly require, induce or attempt to induce the voter to show how the voter intends to vote or

c) communicate with or assist the voter while voting or look at the voter's vote or ballot paper [section 297 of the Act].

PENALTY: 120 penalty units or imprisonment for one year.

Election campaign donation return

Offences relating to candidates' election campaign donation returns are set out in the Act [section 306(6) of the Act].

PENALTY: Fine not exceeding 60 penalty units.

An offence under section 306(6)(b) or (c) of the Act may also represent an offence of providing false or misleading information under section 293 of the Act.

Prohibition on councillors and council staff

It is an offence for a councillor or a member of council staff to use council resources in a way that is intended or likely to affect the result of an election under the Act [section 304(1) of the Act].

PENALTY: 60 penalty units.

It is an offence for a councillor or a member of council staff to use council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation [section 304(2) of the Act].

PENALTY: 60 penalty units.

Defamatory statements

Defamatory statements are not specifically referred to in the Act but are discussed in the *Defamation Act 2005*.

Provision of voters' roll to a candidate

A voters' roll provided to a candidate under the Act must only be used by the candidate for the purpose of conducting the election campaign [section 252(3) of the Act].

PENALTY: 120 penalty units.

A candidate who retires after nominations have closed must destroy or return the copy of the voters' roll and any copies made from it within 30 days after retiring [section 252(4) of the Act].

PENALTY: 120 penalty units.

A candidate must destroy or return the copy of the voters' roll and any copies made from it within 30 days after the election day [section 252(5) of the Act].

PENALTY: 120 penalty units.

6.2 Compulsory voting enforcement

Voting at local government elections is compulsory for all residents who are enrolled on the State roll for an address in the ward or council area where the election is being held.

Voters who can provide a sufficient excuse will not be fined for failing to vote. For the 2020 local government elections, voting is not compulsory for voters enrolled through the Chief Executive Officer's list of entitlements, except in Melbourne City Council elections.

The VEC is responsible for compulsory voting enforcement at local government elections. Any person who is required to vote and does not vote, or is not otherwise excused, will be fined. The VEC will prosecute any person who fails to pay the fine or does not satisfactorily respond to an infringement notice or penalty reminder notice.

6.3 Feedback and complaints

Responding to feedback and complaints

The VEC has a robust customer feedback and complaints process for receiving and responding to all feedback and complaints.

Feedback and complaints must be made in writing directly to the Election Manager or to the VEC's Customer Feedback and Complaints team either in writing or via the online submission tool available on the VEC website:

Online
vec.vic.gov.au

Email
complaints@vec.vic.gov.au

Post
Customer Feedback and Complaints Team
Victorian Electoral Commission
Level 11, 530 Collins Street
Melbourne VIC 3000

Feedback and complaint processing

Any feedback or complaint made in writing will be reviewed by the VEC.

If the feedback or complaint:

- alleges an offence against the Act, it will be referred to the relevant enforcement agency (i.e. Local Government Inspectorate or, if the alleged offence was committed by a current councillor, IBAC)
- alleges a breach of local laws, it will be referred to the Chief Executive Officer of the relevant council
- alleges a criminal offence, it will be referred to Victoria Police
- relates to the administration of the election, including the actions and behaviours of Election Managers or their staff, it will be referred to the Electoral Commissioner or another authorised person for investigation and response.

If the matter has been referred externally, the VEC will advise the person who lodged the feedback or complaint that the matter has been referred. In some cases, it may also be appropriate for the VEC to notify the subject of the feedback or complaint that a matter has been raised, particularly where further information is necessary.

Existing complainants may enquire about the progress of their complaint by contacting the Customer Feedback and Complaints Team on 131 832 or (03) 8620 1100.

6.4 Injunctions

If a person has engaged, is engaging or is proposing to engage in any conduct that constituted, constitutes or would constitute an offence under section 287 or 288 of the Act, the Supreme Court may on the application of a candidate in an election grant an injunction restraining that person from engaging in the conduct and, if in the opinion of the Supreme Court it is desirable to do so, requiring that person to do any act or thing [Section 307 of the Act].

6.4 Disputing the validity of an election

The Victorian Civil and Administrative Tribunal (VCAT) is responsible for hearing disputes on the validity of an election under section 311 of the Act.

Applications for a review of the declaration of the results of an election must be lodged within 14 days of the declaration and can be made by a candidate in the election, 10 persons who were entitled to vote at the election, or the VEC.

The powers of the VCAT when conducting a review are prescribed by section 312 and include:

- declaring a person declared elected in the election was not duly elected
- declaring a candidate in election duly elected who was not declared elected
- declaring an election void
- dismissing or upholding an application, in whole or in part
- amending, or permitting the amendment, of an application
- ordering or permitting the inspection or copying of documents used in the election, subject to terms and conditions considered appropriate by the VCAT
- undertaking a preliminary review of an application
- requiring any further information relating to an application and
- making any declaration in relation to its powers of review into the election.

The VCAT cannot order a recount of the whole or any part of the ballot papers for an election unless it is satisfied that a recount is justified, and it has advised the VEC of its intentions. In the event that an election for a ward or an unsubdivided council is declared void, an extraordinary vacancy occurs in each office of councillor for the ward or the council on the day on which the declaration is made.

The VCAT may impose financial penalties for election disputes on the condition that any penalty does not exceed the amount prescribed for the purpose of the Act.

Decisions by the VCAT may be appealed by the Supreme Court in accordance with section 148 of the *Victorian Civil and Administrative Tribunal Act 1998*.

For further information on the VCAT, including its procedures and details on making an application, contact the VCAT directly on 1300 018 228 Monday to Friday from 9.00 am to 4.30 pm or visit https://www.vcat.vic.gov.au.

Please note that the VEC is unable to provide advice on the specific grounds or likelihood of success of an application to the VCAT in respect to any election. A person considering applying to the VCAT under section 311 of the Act is recommended to consider appropriate, independent legal advice.

6.5 Extraordinary vacancies

An extraordinary vacancy occurs when a councillor resigns, dies, or otherwise ceases to become eligible to hold the office of councillor before the next general election.

Extraordinary vacancies may either be filled by a by-election or a countback depending on how the vacating candidate was elected. If an extraordinary vacancy occurs during the period before the next general election and the VEC determines there is insufficient time to complete the by-election or countback at least three months before the election, the extraordinary vacancy will not be filled.

By-elections

If the vacating councillor was elected through preferential voting, a by-election is necessary to fill the extraordinary vacancy. The by-election must be held on a date fixed by the VEC within 100 days of the vacancy occurring. However, if the by-election timeline would be adversely affected by a public holiday or school holidays, the VEC may vary the election timeline up to, but within 150 days of the vacancy occurring.

Countbacks

Where the vacating councillor was elected by proportional representation, the extraordinary vacancy will be filled, in the first instance, by a countback of votes rather than a by-election.

All candidates who were not elected at the original election, and who are still qualified to be a councillor, are automatically participants in the countback. The *original election* is the most recent election that was not conducted by a countback. If a countback is required, the VEC will make all reasonable efforts to notify candidates of the countback and will refer to the contact details provided on each candidate's *Nomination Form* for the election.

Countback calculations will be performed by computer. Computer countbacks are open to the public so candidates, their families and supporters, as well as council officers, the public, and members of the media may attend.

All votes from the original election are included in the countback. To be successful at a countback, a participating candidate needs to achieve a quota. The quota for election in the countback is the same quota as that which applied to the count of votes in the original election.

A successful candidate at a countback has up to 48 hours to complete and return a declaration stating that they are still qualified to be a councillor before they can be declared elected. If the declaration is not returned within the 48 hours, a further countback will be required.

A countback fails and a by-election is required when there are no remaining eligible candidates to participate in the countback.

6.6 Disclosure of election campaign donations

All candidates at a local government election are required to lodge an *Election Campaign Donation Return* form with the Chief Executive Officer of the council for which they were a candidate. This includes candidates who have not received any campaign donations.

Lodgement

Election Campaign Donation Return forms must be lodged with the Chief Executive Officer within 40 days after Election Day. Failure to lodge an *Election Campaign Donation Return* form is an offence and penalties apply [section 306 of the Act].

For further information on these requirements, refer to the leaflet provided by the Local Government Inspectorate contained in the *Candidate Information Kit* available from the Election Manager. The *Candidate Information Kit* also includes an *Election Campaign Donation Return* form that candidates can use to record their donations.

Councils are required to publish a summary of the disclosures on their website, including the details prescribed in the Act, as well as any late returns. The summary must be available on the council's website until the close of roll date for the council's next general election.

Election Campaign Donation Return forms **must not** be lodged with the Election Manager or the VEC.

Enquiries in relation to the disclosure of election donations should be referred to the Local Government Inspectorate on 1800 469 359 or by email to inspectorate@lgi.vic.gov.au

6.7 Election compliance and post-election activities checklist

Election Compliance and Post-Election Activities Checklist	
1. Election offences:	✓
Become familiar with the offences that exist for local government elections.	
Seek independent legal advice if uncertain.	
2. Alleged election offence complaints process:	✓
Is an offence being alleged under any act or regulation?	
Refer the matter to the Election Manager or the VEC's Feedback and Complaints Team directly.	
Ensure that all complaints are made in writing.	
3. Disclosure of election campaign donations:	✓
All disclosable election donations and gifts recorded, including in-kind, on the *Election Campaign Donation Return* form.	
Lodge the form with the Chief Executive Officer on the council within 40 days after Election Day.	
Returns must be lodged, even if there are no donations or gifts to disclose.	

Appendices

Appendix 1: Candidate Lodgement Record

Candidate Lodgement Record

COUNCIL	
WARD (if applicable)	
CANDIDATE NAME (as on ballot paper)	

This form should be completed when a candidate lodges a *Nomination Form*, candidate statement, photograph, or questionnaire with the Election Manager. It should be retained by the candidate as evidence of the completed interaction.

The candidate and the Election Manager should sign this form at the completion of the nomination process and if the candidate submits the *Candidate Statement Lodgement Form* and the *Candidate Questionnaire Lodgement Form* in person. If the candidate submits the candidate statement and candidate questionnaire by email, please record the time and email address from which the forms were sent.

Details on submitting the documents listed below are described in the *Candidate Handbook.* It is extremely important that candidates carefully follow the instructions in the handbook before submitting forms to the Election Manager.

	Date Lodged (DD/MM/YY)	**Signed** (Candidate) OR time sent (HH.MM am/pm)	**Signed** (Election Manager) OR sent from (email address)
Nomination Form			
Candidate Statement			
Candidate Photograph			
Candidate Questionnaire			

Appendix 2: Result where only one candidate is to be elected

The following extract is from the Act and provides information on obtaining the result in a single-councillor election (i.e. single-councillor wards).

EXTRACT FROM AUTHORISED VERSION NO. 003 (1 MAY 2020)

Local Government Act 2020

Division 6 of Part 8—Counting of votes—single vacancy

271 Application of Division

This Division applies to the following—

(a) an election of a Councillor for a single member ward of a Council with a subdivided municipal district;

(b) any by-election where only one vacancy in the office of Councillor of a Council is to be filled at the by-election.

272 Only 2 candidates

If only one Councillor is to be elected and there are only 2 candidates the result is to be determined as follows—

(a) the candidate who has received the greater number of first preference votes is to be declared elected by the election manager;

(b) if the 2 candidates have received an equal number of votes the result is to be determined by lot by the election manager.

273 More than 2 candidates

If only one Councillor is to be elected and there are more than 2 candidates, the result is to be determined as follows—

(a) the candidate who has received the greatest number of first preference votes if that number constitutes an absolute majority of votes is to be declared elected by the election manager;

(b) ***absolute majority of votes*** means a number of votes greater than one-half of the total number of ballot-papers (excluding ballot-papers which are rejected) and if necessary, includes the vote by lot;

(c) if no candidate has received an absolute majority of votes, the election manager upon receipt of the several sealed parcels from any authorised person and with the assistance of any authorised persons and in the presence and subject to the inspection of any one scrutineer, if present, appointed by each candidate but of no other person, must—

(i) open all the sealed parcels containing used ballot-papers; and

(ii) arrange such ballot-papers together with the allowed postal ballot-papers, if any, by placing in a separate parcel all those on which a first preference is indicated for the same candidate and preference votes are also duly given for all the remaining candidates, omitting ballot-papers which are rejected; and

(iii) declare the candidate who has received the fewest first preference votes a defeated candidate; and

(iv) distribute the ballot-papers counted to the defeated candidate amongst the non-defeated candidates next in order of the voters' preference; and

(v) after the distribution again ascertain the total number of votes given to each non-defeated candidate;

(d) the candidate who has then received the greatest number of votes if that number constitutes an absolute majority of votes is to be declared elected by the election manager;

(e) if no candidate then has an absolute majority of votes the process of declaring the candidate who has the fewest votes a defeated candidate and distributing the ballot-papers counted to the defeated candidate amongst the non-defeated candidates next in order of the voters' preference is to be repeated until one candidate has received an absolute majority of votes and is declared elected by the election manager;

(f) if on any count 2 or more candidates have an equal number of votes and one of them has to be declared a defeated candidate, the result is to be determined—

(i) by declaring whichever of those candidates had the fewest votes at the last count at which those candidates had a different number of votes to be defeated; or

(ii) if a result is still not obtained or there has been no count, by lot by the election manager;

(g) if on the final count 2 candidates have an equal number of votes, the result is to be determined by lot by the election manager.

Appendix 3: Result where two or more councillors are to be elected

The following extract is from the Act and provides information on obtaining the result in a multi-councillor election (including elections for multi-councillor wards and unsubdivided councils).

EXTRACT FROM AUTHORISED VERSION NO. 003 (1 MAY 2020)

Local Government Act 2020

Division 7 of Part 8–Counting of votes—any election to which Division 6 does not apply

274 Application of Division

This Division applies to any election to which Division 6 does not apply.

275 2 or more Councillors to be elected

(1) The result of the election is to be determined as set out in this section.

(2) In this section—

continuing candidate means a candidate not already elected or excluded from the count;

quota means the number determined by dividing the number of first preference votes by one more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by one;

surplus votes means the number, if any, of votes in excess of the quota of each elected candidate.

(3) A reference to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer.

(4) The election manager upon receipt of the several sealed parcels from any authorised person and with the assistance of any authorised persons and in the presence and subject to the inspection of any one scrutineer, if present, appointed by each candidate but of no other person must—

(a) open all the sealed parcels containing used ballot-papers; and

(b) arrange the ballot-papers together with the allowed postal ballot-papers, if any, by placing in a separate parcel all those on which a first preference is indicated for the same candidate and preference votes are also duly given for all the remaining candidates, omitting ballot-papers which are rejected; and

(c) ascertain—

(i) the number of first preference votes given for each candidate; and

(ii) the total number of first preference votes.

(5) A quota is to be determined.

(6) Any candidate who has received a number of first preference votes equal to or greater than the quota is to be declared duly elected by the election manager.

(7) Unless all the vacancies have been filled, the surplus votes of each elected candidate are to be transferred to the continuing candidates as follows—

(a) the number of surplus votes of the elected candidate is to be divided by the number of first preference votes received by the elected candidate and the resulting fraction is the transfer value;

(b) the total number of ballot-papers of the elected candidate that express the first preference vote for the elected candidate and the next available preference for a particular continuing candidate is to be multiplied by the transfer value;

(c) the number obtained under paragraph (b) (disregarding any fraction) is to be added to the number of first preference votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate.

(8) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any transfer under subsection (7) is to be declared duly elected by the election manager.

(9) Unless all the vacancies have been filled, the surplus votes, if any, of any candidate elected under subsection (8) or elected subsequently under this subsection are to be transferred to the continuing candidates in accordance with subsection (7) and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of the transfer is to be declared duly elected by the election manager.

(10) If a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer of the surplus votes of a particular elected candidate under subsection (7) or (9), no votes of any other candidate are to be transferred to the continuing candidate.

(11) For the purposes of the application of subsection (7) in relation to a transfer of the surplus votes of an elected candidate under subsection (9) or (14), each ballot-paper of the elected candidate obtained by the elected candidate on a transfer is to be dealt with as if—

(a) any vote it expressed for the elected candidate were a first preference vote; and

(b) the name of any other candidate previously elected or excluded had not been on the ballot-paper; and

(c) the numbers indicating subsequent preferences had been altered accordingly.

(12) If, after the counting of first preference votes or the transfer of any surplus votes of elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes is to be excluded and all that candidate's votes are to be transferred to the continuing candidates as follows—

(a) the total number of ballot-papers of the excluded candidate that express the first preference vote for the excluded candidate and the next available preference for a particular continuing candidate are to be transferred at a transfer value of one for each ballot-paper and added to the number of votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate;

(b) the total number, if any, of other votes obtained by the excluded candidate on transfers are to be transferred from the excluded candidate beginning with the highest transfer value and ending with the ballot-papers received at the lowest transfer value, as follows—

(i) the total number of ballot-papers received by the excluded candidate at a particular transfer value and expressing the next available preference for a particular continuing candidate is to be multiplied by that transfer value;

(ii) the number so obtained (disregarding any fraction) is to be added to the number of votes of the continuing candidate;

(iii) all those ballot-papers are to be transferred to the continuing candidate.

(13) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of a transfer of votes of an excluded candidate under subsection (12) or (16) is to be declared duly elected by the election manager.

(14) Subject to subsection (15), unless all the vacancies have been filled, the surplus votes, if any, of a candidate elected under subsection (13) are to be transferred in accordance with subsection (7).

(15) If a candidate elected under subsection (13) is elected before all the votes of the excluded candidate have been transferred, the surplus votes, if any, of the elected candidate are not
to be transferred until the remaining votes of the excluded candidate have been transferred in accordance with subsection (12) to continuing candidates.

(16) Subject to subsection (18), if after the transfer of all the votes of an excluded candidate no continuing candidate has received a number of votes greater than the quota—

(a) the continuing candidate who has the fewest votes must be excluded; and

(b) that candidate's votes must be transferred in accordance with subsection (12).

(17) If a candidate is elected as a result of a transfer of ballot-papers under subsections (12) and (16), no other ballot-papers of an excluded candidate are to be transferred to the candidate so elected.

(18) In respect of the last vacancy for which 2 continuing candidates remain, the continuing candidate who has the larger number of votes is to be elected notwithstanding that that number is below the quota.

(19) Despite any other provision of this section, if the number of continuing candidates is equal to the number of remaining unfilled vacancies, those candidates are to be declared duly elected by the election manager.

(20) Subject to subsections (21), (22) and (23), if after any count or transfer, 2 or more candidates have surplus votes, the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative size of the surpluses, the largest surplus being transferred first.

(21) Subject to subsection (23), if after any count or transfer, 2 or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first.

(22) For the purposes of subsection (21), if there has been no count or transfer the election manager must determine the order in which the surpluses are to be dealt with.

(23) If after any count or transfer, a candidate obtains surplus votes, those surplus votes are not to be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer.

(24) If on any count or transfer 2 or more candidates have the fewest number of votes and the candidate who has the fewest number of votes is required to be excluded, the result is to be determined—

(a) by declaring whichever of those candidates had the fewest votes at the last count at which those candidates had a different number of votes to be excluded; or

(b) if a result is still not obtained or there has been no count or transfer, by lot by the election manager.

(25) If on the final count or transfer 2 candidates have an equal number of votes, the result is to be determined by lot by the election manager.

(26) If a candidate is elected by reason that—

(a) the number of first preference votes received by the candidate; or

(b) the aggregate of first preference votes received by the candidate and all other votes obtained by the candidate on transfers—

is equal to the quota, all the ballot-papers expressing those votes are to be set aside as finally dealt with.

(27) For the purposes of this section each of the following constitutes a separate transfer—

(a) a transfer under subsection (7), (9) or (14) of all the surplus votes of an elected candidate;

(b) a transfer in accordance with subsection (12)(a) of all first preference votes of an excluded candidate;

(c) a transfer in accordance with subsection (12)(b) of all the votes of an excluded candidate or candidates, as the case may be, at a particular transfer value.

Appendix 4: Counting activities

Activity
Extraction of ballot papers The extraction of ballot papers involves removing the identification flaps from the ballot paper envelopes. Once the flaps have been removed, the ballot paper envelopes are opened, and the ballot paper is removed. Extraction may only commence after the close of voting and will continue until final reconciliations have been completed after the close of the postal vote receipt period. Extraction will be carefully scheduled to ensure appropriate volumes are provided to the extraction team or teams during the period.
Batching (for computer counts) Ballot papers will be batched in preparation for computer counting, with any ballot papers that are obviously informal isolated into a separate batch. Batching can only commence after ballot papers have been extracted from the ballot paper envelopes. The total ballot papers after batching will be reconciled against the balance figure for that batch. Once reconciled, ballot paper batches will be secured and transported to the computer count venue.
Data entry (for computer counts) The schedule for data entry of ballot papers at the computer count venue will be established and communicated to candidates. Candidates will need to advise their scrutineers. Results for each election (i.e. a ward or an unsubdivided council) may only be calculated once the data of all formal ballot papers has been entered and all reconciliations are completed for that election. Where possible, the calculation of results will always occur locally, even if the computer count venue is outside of the local council area.
First preference sorting for single-councillor vacancies Extracted ballot papers will be sorted according to the first preferences for each candidate and informal. Tallies will be taken during each sort to maintain a balance figure. First preference sorts and final reconciliations may only be finalised following the close of the postal vote receipt period. Once all first preference sorting has been completed, the total number of ballot papers will be reconciled against the balance figure for the ward. If a candidate has achieved an absolute majority of first preference votes (i.e. more than 50% of the total formal ballot papers), the candidate will be provisionally successful. If no candidate achieves an absolute majority, a preference distribution is required.

Activity
Preference distributions for single-councillor vacancies A preference distribution is required in a single-councillor ward when no candidate has achieved an absolute majority of first preference votes (i.e. more than 50% of the total formal ballot papers). The preference distribution involves excluding the lowest polling candidate and transferring each of their ballot papers to the remaining candidates in the order of the preferences marked on the ballot papers. This process is repeated until one of the remaining candidates reaches an absolute majority of the vote (i.e. more than 50% of the total formal ballot papers).
Recounts At any time after the provisional results have been calculated (computer count) or the preference distribution has been completed (manual count) but before the declaration of the result, a recount may be conducted. Candidates may request a recount, or it may be initiated by the Election Manager. A recount will be required if the Election Manager is satisfied that the reasons provided by the candidate may have affected the election result. In some cases, the Election Manager may require a partial recount, where only part of the total number of ballot papers are recounted. A partial recount usually involves reviewing the informal ballot papers and considering whether they may be counted as formal. Any previously informal ballot papers that are found to be formal can be returned to the count. The result of the recount (or partial recount) supersedes the original count.
Declaration of results The Election Manager will publicly declare the result of the election at a designated time and place after the completion of all counting. A minimum period of two hours will be provided between the provisional results and the final declaration. Candidates will be notified of the declaration date, time and venue.

Glossary

Electoral Personnel

Candidate	A person who nominates to contest an election for a council.
Chief Executive Officer	The person appointed by a council to be its Chief Executive Officer or any person acting in that position.
Councillor	A person who holds the office of member of a council.
Electoral Commissioner	The person responsible for the administration of electoral law in Victoria. This responsibility includes the maintenance of the electoral roll, the conduct of all parliamentary elections and the conduct of council elections
Election Manager	The person appointed by the Electoral Commissioner to be responsible for the administration of a council election.
Scrutineer	A person appointed by a candidate to observe certain procedures on the candidate's behalf at an election.

Electoral Terms

Act	The *Local Government Act 2020* (the Act) and amending legislation.
Ballot pack	For an election conducted by post, the VEC mails out to each voter an envelope containing the ballot materials needed by the voter. It includes: • a ballot paper attached to candidates' statements, photos and voting instructions • a multi-language leaflet for relevant elections • a ballot paper envelope with a flap for the voter's declaration • a Reply-Paid envelope in which to return the completed ballot material to the Election Manager.

Ballot paper	The paper listing the names of all the candidates contesting the election on which the voter records their preferences for each candidate in the election
Ballot paper envelope	An envelope used by the voter to enclose their completed ballot paper. The envelope includes a detachable flap containing the name and address of the voter. The voter is required to sign the flap.
Body corporate	A person, association or group of persons legally incorporated in a corporation.
By-election	The holding of an election to fill an extraordinary vacancy, where a countback does not apply.
Candidate questionnaire	A standardised, non-compulsory questionnaire to be completed by a candidate which is made available to voters on the VEC website.
Candidate statement	A personal statement and photo provided by a candidate for inclusion in the postal ballot pack.
Close of roll	The last date a person can apply to be enrolled on the voters' roll. The close of roll occurs 57 days before Election Day.
Computer count	The electronic counting of votes.
Council	A local government authority as defined and set out in the Act.
Countback	A method to fill an extraordinary vacancy where councillors were originally elected using the proportional representation method.
Early voting	An Election Manager may issue a voter with a ballot paper prior to the general mail-out if satisfied that special circumstances exist, e.g. where a voter is about to go overseas prior to the general mail-out and will not be returning prior to the close of voting.
Election Day	Means the day of an election fixed under section 257 or 260 of the *Local Government Act 2020*.
Election Management System	The VEC's computerised election management system, used by Election Managers to capture election data.

Election office	The location from where the Election Manager conducts the election. Location details of the election office for each council will be available on the VEC website at vec.vic.gov.au and in advertisements.
Election period	The 32-day period that starts on Nomination Day and ends at 6.00 pm on Election Day.
Electoral handbill, advertisement, pamphlet or notice	Any handbill, advertisement, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.
Electoral matter	Refers to anything intended to (or likely to) affect voting in an election including express or implicit references to, or comment on: • the election or • a candidate in the election or • an issue submitted to, or otherwise before, the voters in connection with the election. It does not include any electoral material produced by or on behalf of the Election Manager for the purposes of conducting an election.
Electoral offences	Electoral offences include, but are not limited to: • bribery in its various forms • multiple voting in a single election • intimidation of a voter or interference with a voter's political liberty • unlawful opening of election material • violation of secrecy by an authorised person.
Municipality	An area defined under legislation which is administered exclusively by a single council for the purposes of the Act.
Natural person	A legal term for an individual human being.
Nomination	The process by which a person becomes a candidate at an election.

Nomination Day	The last day upon which a person may lodge a *Nomination Form* with the Election Manager. Nomination forms must be lodged by 12 noon on Nomination Day.
Nomination period	The period during which a person can lodge a *Nomination Form*, beginning on the day that the voters' roll is certified and ending at 12.00 noon on Nomination Day (32 days before the last day of voting).
Notice of election	Not less than 40 days or more than 60 days before an election, the Election Manager must give public notice of the election and call for nominations
Publish	To publish by any means including print, audiovisual or electronic.
Regulations	The Local Government (Electoral) Regulations 2020 (Regulations).
Scrutineer	A person appointed by a candidate to observe certain procedures on the candidate's behalf at an election.
Victorian Civil and Administrative Tribunal (VCAT)	A body empowered to hear appeals against administrative decisions made by certain agencies. The Tribunal's main location is at 55 King Street, Melbourne.
Victorian Electoral Commission (VEC)	The Victorian Electoral Commission (VEC) is responsible for the conduct of State Parliamentary and local council elections in Victoria. The Electoral Commissioner is the statutory head of the VEC.
Voter	A person entitled to vote at an election
Voters' roll	The certified voters' roll is a merger of the CEO List provided by council with the Electoral Commissioner's list of State electors in that council. A separate roll is created for each individual election.
Ward	A subdivision of a council. In subdivided councils, councillors are elected to represent a ward.

Victorian Electoral Commission