These handbooks were prepared for Victorian local council by-elections in 2015. They do not reflect legislative or procedural changes that have been made since their publication and they are provided for reference purposes only. The Candidates’ Handbook for the Victorian local council elections in 2016 will be available by 1 June 2016.
# HANDBOOK FOR CANDIDATES AT COUNCIL BY-ELECTIONS
CONDUCTED ENTIRELY BY POST

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This handbook is intended to assist candidates in Victorian municipal council postal by-elections conducted by the Victorian Electoral Commission (VEC). It outlines those aspects of electoral law that relate directly to candidates. However, the handbook should not be seen as a substitute for the law, and should be read in conjunction with the Local Government Act 1989 and the Local Government (Electoral) Regulations 2005, copies of which may be downloaded from the State legislation website (legislation.vic.gov.au).

Candidates are encouraged to make an appointment with the Returning Officer early in the election period to discuss election arrangements, and to utilise the online Candidate Helper to prepare their nomination and candidate statement forms.

The Returning Officer will conduct an information session for prospective candidates and provide a kit containing handbooks and forms for candidates and scrutineers.

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

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

**Act**

"Act" means the *Local Government Act 1989* [LGA] and amending legislation.

**Authorised Person**

A person appointed by the Returning Officer to perform any duty delegated by the Returning Officer in connection with the election.

**Ballot Pack**

An envelope containing the ballot materials needed by the voter in an election conducted by postal ballot. It includes a ballot paper, instructions to the voter, candidates’ personal statements and indication of preferences, a ballot paper envelope, and a reply-paid return envelope.

**Ballot Paper**

The document on which voters record 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, address and date of birth of the voter. The voter is required to sign the flap and enclose the completed envelope in the reply-paid envelope addressed to the Returning Officer.

**By-election**

The holding of an election to fill an extraordinary vacancy when a countback does not apply.

**Candidate**

A person who nominates to contest an election for a council.

**Candidate Statement**

A statement of policies (of no more than 150 words) prepared by a candidate for inclusion in the postal ballot pack.

**Canvassing**

Soliciting of votes at an election for a candidate or group of candidates.

**Certified Voters Roll**

An alphabetical list of persons, certified by the Chief Executive Officer of the council, who are eligible to vote at the election or by-election. The council’s CEO’s list of non-resident ratepayers, representatives of corporations and other ratepayers (who have applied to be on the roll) is merged with the Electoral Commission list of State electors to create the voters roll. There is a separate roll for each ward.

**Chief Executive Officer (CEO)**

The person appointed by a council to be its Chief Executive Officer or any person acting in that position.

**Close of Voting**

Voting closes at 6.00pm on the last day for ballot material to be accepted in the count. For an election conducted by post, this is the Friday before election day.

**Computer Count**

The electronic counting of votes.

**Countback**

A method to fill an extraordinary vacancy where councillors were originally elected using the proportional representation method.
### Donation Period
The period commencing on whichever is the later of:
- 30 days after the last general election for the council; or
- 30 days after the last election for the council at which the person required to give the election campaign donation return was a candidate; and ending 30 days after election day in the current election for the council.

### Early Voting
A Returning Officer may issue a voter with a ballot paper prior to the general mail-out if satisfied with the reason for the request. 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 Management System (EMS)
The VEC's computerised Election Management System, used by Returning Officers to capture all election data.

### Election Office
The location from where the Returning Officer conducts the election. Details of the Election Office for each election will be available on the VEC website at vec.vic.gov.au.

### Election Period
In relation to an election, the election period means the 32 day period that:
- starts on nomination day (close of nominations); and
- ends at 6.00pm 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
Matter which is intended or likely to affect voting in an election. This includes matter which contains an express or implicit reference to, or comment on:
- the election;
- 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 Returning Officer for the purposes of conducting an election.

### Entitlement Date
The date 57 days before election day, which is the last date a person may apply to be enrolled on the municipal voters roll.

### Exhibition Roll
The exhibition roll is a merged roll consisting of the Electoral Commission list and the CEO list as at exhibition roll date (100 days before election day). This roll will be on public display for a period of five working days, ending on entitlement day (57 days before election day).

### Formal Vote
To be formal, a vote must indicate on the ballot paper a voter's first preference, i.e. the figure 1 opposite the name of one candidate and the numbers 2, 3, 4 (and so on as the case requires) opposite the names of either all other candidates, or all other candidates except the last preference.

### Indication of Preferences
A statement setting out the candidate's preferred order of voting for inclusion in the postal ballot pack.
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<td><strong>Information Campaign</strong></td>
<td>An integrated information campaign including printed media and social media.</td>
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<td><strong>Municipal District</strong></td>
<td>The area under the government of a council, sometimes referred to as a municipality.</td>
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<td><strong>Nomination Day</strong></td>
<td>The last day upon which a person may lodge a <em>Nomination Form</em> with the Returning Officer. <em>Nomination Forms</em> must be lodged by 12 noon on nomination day.</td>
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<td><strong>Nomination Form</strong></td>
<td>The prescribed form that a candidate for an election must complete and lodge with the Returning Officer, together with the nomination fee.</td>
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<td><strong>Notice of Election</strong></td>
<td>Not less than 40 days or more than 60 days before an election, the Returning Officer must give public notice of the election and call for nominations.</td>
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<tr>
<td><strong>Publish</strong></td>
<td>To publish by any means including by publication on the internet.</td>
</tr>
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<td><strong>Returning Officer</strong></td>
<td>The person charged with the responsibility for conducting an election. The primary duty of the Returning Officer is to ensure that the election is conducted according to the provisions of the <em>Local Government Act 1989</em> and the Local Government (Electoral) Regulations 2005.</td>
</tr>
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<td><strong>Scrutineer</strong></td>
<td>A person appointed by a candidate to observe certain procedures on the candidate’s behalf at an election.</td>
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<td><strong>Victorian Electoral Commission (VEC)</strong></td>
<td>The Victorian Electoral Commission (VEC) has been appointed by the council to conduct its elections and is responsible for the overall conduct of those elections (which are conducted by a Returning Officer appointed by the Electoral Commissioner).</td>
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<td><strong>Ward</strong></td>
<td>A sub-division of a municipal district. In subdivided councils, councillors are elected to represent a ward.</td>
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1. **ELIGIBILITY TO STAND FOR COUNCIL**

For your information a copy of sections 11 to 17 of the Local Government Act 1989 (Act) referring to enrolment is provided in Appendix 1.

**Qualifications**  
Refer to sections 28 & 70 LGA

Section 28 of the Act states that:

(1) A person is qualified to be a candidate for the office of Councillor if he or she has an entitlement referred to in section 11.

(1A) A person is qualified to become and continue to be a Councillor at a particular time if, were that particular time the entitlement date and a voters’ roll prepared, subsection (1) would apply to that person.

The Returning Officer must reject as being void a nomination from a person who is not enrolled on the voters’ roll for the Municipality, unless the nomination is accompanied by a statutory declaration stating that the person is entitled to be enrolled being an entitlement other than under section 12(1) or 12(2), that is, other than as a State elector.

It is an offence to nominate as a candidate for election if you are not qualified to do so. See Chapter 16 'Election Offences'.

**Disqualifications**  
Refer to sections 28A, 29, 30, 63, 70 & 85 LGA

A person is not capable of becoming or continuing to be a councillor or nominating as a candidate at an election if:

- he or she is a member of an Australian Parliament;
- he or she is a councillor of another council, including interstate councils;
- he or she is employed as a Ministerial officer, Parliamentary adviser or an electorate officer by a member of an Australian Parliament, unless he or she has taken leave from their employment and does not perform any of their duties during the election period and, if declared elected, resigns prior to taking the oath of office as a councillor;
- he or she is an undischarged bankrupt;
- his or her property is subject to control under the law relating to bankruptcy;
- he or she is of unsound mind;
- he or she is a member of council staff of the council for which he or she intends to be a councillor, unless he or she has taken leave to stand as a candidate and, if elected, resigns immediately upon the declaration of results;
- he or she has not taken the oath of office of councillor within three months after the day on which he or she was declared elected;
- he or she is not a person referred to in section 48(1)(a) of the Constitution Act 1975 [i.e. he or she is not an Australian citizen or a British subject who was on an Australian electoral roll at the start of 1984]; or
- he or she is otherwise incapable of becoming or continuing to be a councillor.

If a person who has been a councillor of a council ceased to be a councillor of that council because:

- the person failed to take the oath of office as required by section 63;
- the person was absent from four consecutive ordinary meetings of the council without leave obtained from the council; or
- the Minister has made an order under section 85(6) in respect of the person; the person cannot nominate as a candidate for an election for that council to be held during the period ending four years after the person ceased to be a councillor of that council.

A person may also be disqualified if they have been convicted of an offence listed in section 29(2) of the Act or found guilty of certain offences or misconduct by a Court or Tribunal (see section 29(1)(fa)). In addition, a person who has been convicted of an offence committed when he or she was over 18 years of age which is punishable upon first conviction for a term of imprisonment of five years or more under any State, Territory or Commonwealth law, is not capable of becoming a councillor for a period of seven years after the conviction.
2. Enrolment on Voters Roll

At a by-election, a person who has been a councillor of a council cannot nominate as a candidate if the person ceased to be a councillor of that Council since the last general election by resigning or becoming ineligible under section 70(2) of the Act.

A person must not nominate as a candidate for more than one election of councillors to be held on the same day. If a person makes nominations in contravention of this, all nominations are void.

2. ENROLMENT ON VOTERS ROLL

All intending candidates are advised to read Appendix 1, sections 11 to 17 of the Act. If interpretation is required it is important to seek legal advice. The following summary is taken from the Act.

**Persons Entitled to be Enrolled without Application**

The following are entitled to be enrolled without application:

- a person who on entitlement date would be an elector in respect of an address in a ward if a roll for the Legislative Assembly was prepared, is entitled without application to be enrolled on the voters’ roll in respect of that address [s.12]; and
- up to two owners, not a resident of the municipal district. [s.13]

Note: Multiple property owners who do not live within the municipality may nominate which property is used for voting purposes. If no written request is received, council must choose one and may use capital improved value. [s.13(6), s.13(7)]

**Only Two Ratepayer Entitlements for any Rateable Property**

There must be no more than two voting entitlements of any kind for any one rateable property on the CEO’s List. The owners may determine which two owners are to appear on the roll by submitting an application: by default, it is the first two named on council records. [ss. 13, 14, 15, & 16]

If it appears from the rate records of the council that there are more than two owners of any rateable land entitled to be enrolled under section 13(1), the CEO must enrol without application the two owners:

(a) whose names appear first on the rate records in relation to that rateable property when those names are read in the order in which they appear in those records; and
(b) who satisfy the requirements of paragraphs (b), (c) and (d) of section 13(1) in respect of that rateable property,

unless a written request has been received by 4.00pm on the entitlement date, requesting that the owner or two owners of the rateable property specified in the request be enrolled on the voters’ roll instead of the owner or two owners whose names(s) appear first.

**Persons Entitled to Apply to be Enrolled**

Applications may be made by:

- a resident owner of a property not automatically entitled to be enrolled (e.g.: non citizens) [s.14(1)];
- occupiers who are liable to pay the rates in respect of any rateable property may apply with the owner’s consent and replace the owner’s voting entitlement. An occupier is typically someone who operates a business in rented premises within the municipality [s.15]; or
- a corporation that owns or occupies rateable property, whether solely or jointly with other persons, and is liable to pay rates in respect of the rateable property may apply to appoint a person to vote on its behalf. [s.16]
Note: Corporation appointees must be a director or company secretary (however styled), over 18 with no other entitlement or appointment within the municipality and must have consented in writing to their appointment. [s.16(9)]

Note: Enrolments by application are only valid for one election cycle; from one entitlement day until the day before the next entitlement day. The Chief Executive Officer of the council must mail renewal forms to all applicants each election cycle. [s.11(7) & 23A(1)]

Applications for Enrolment
Section 11(6) - An application must—
(a) be in writing;
(b) contain the details required by the regulations;
(c) be delivered to the council office by 4.00pm on the entitlement date.

Penalties
Chapter 16 provides a penalty for false written declaration information in relation to enrolment and candidate statements.

Limitations on Right of Entitlement
A person or corporation is not entitled to elect which right of entitlement conferred by section 12(1), 13(1) 14(1) or 15(1) to exercise. [s.11(4)] These categories are hierarchical and a person must be in the first category in which an entitlement is held.

Exhibition Roll
The exhibition roll is a merged roll consisting of the Electoral Commission list and the CEO list as at exhibition roll date (100 days before election day). This roll will be on public display for five working days, ending at 4.00pm on entitlement day (57 days before election day).

The exhibition roll will be updated with additions and deletions that occur between the exhibition roll date and the entitlement date to create the certified roll for the election.

Candidates who nominate for an election must be enrolled on the certified roll for the nomination to be eligible, or provide a statutory declaration stating that they are entitled to be enrolled as a ratepayer (Schedule 2, Clause 6(3A)).

It is vital for intending candidates to check the exhibition roll and to ensure that they will still be correctly enrolled when the changes between the exhibition roll date and the entitlement date are applied. People who need to renew their application to vote will be included on the exhibition roll, but will only be included on the certified roll if a valid application renewal form is received by the council on or before entitlement day.

3. NOMINATION PROCEDURES

Complete a Nomination Form Online
The VEC encourages candidates to complete their Nomination Form and statement online at vec.vic.gov.au

The online Candidate Helper will guide intending candidates through each part of the Nomination Form. This is an easy process and will allow candidates to check and change details before final submission. It is especially important that contact details are correct, as once they are displayed on the web, changes may not be possible. Once the candidate is satisfied that the details are correct, the information should be saved and the online form printed. This printout will include a barcode which will be used to load information into the nominations system when lodging at the Election Office.
The signature required on the front of the *Nomination Form* relates to the correctness of the contact details. The signature required on the back of the form relates to the nomination declaration and must be signed in the presence of the Returning Officer.

**Important Note:** Candidates have not nominated at this stage. They must deliver the barcoded *Nomination Form* and the nomination fee to the Returning Officer for processing.

At the Election Office, the Returning Officer will check the form and, if all details are complete and in accordance with legislation, it will be accepted. The barcoded *Nomination Form* is scanned and all information is loaded into the VEC’s nomination application. If a hand-completed *Nomination Form* M300 is submitted, candidates must be prepared to wait while the details are entered manually into the nomination application. Depending on the number of candidates nominating, especially on nomination day, there could be considerable waiting time.

A report is printed for the candidate to compare against the *Nomination Form*. Once details are confirmed, the candidate signs the report. All nomination details confirmed with the Returning Officer are the responsibility of the candidate.

**Where and How to Nominate**

Intending candidates must:
- complete an online or handwritten *Nomination Form*;
- ensure that their name and their current address for which they are entitled to be enrolled appears on the *Nomination Form*; and
- **deliver in person** the completed *Nomination Form* and nomination fee of $250 to the Election Office. Candidates must sign the declaration on their *Nomination Form* in the presence of the Returning Officer.

*Nomination Forms* will not be accepted before the voters roll has been signed and certified by the CEO or after **12 noon** on nomination day.

A faxed *Nomination Form* will not be accepted. Faxed or photocopied signatures will not be accepted.

*Nomination Forms* are available for completion online at vec.vic.gov.au, in the Candidate Kit, or from the Returning Officer.

It is requested that candidates who wish to submit a photograph (see Chapter 5) do so at the same time as they lodge their *Nomination Form*.

**Candidate Unable to Deliver Nomination Form**

A candidate who is unable to deliver and sign their *Nomination Form* in the presence of the Returning Officer must provide, with their *Nomination Form* signed on both sides, a statutory declaration specifying that he or she is:
- nominating;
- has personally signed the declaration; and
- is unable to sign the declaration in the presence of the Returning Officer and the reason or reasons he or she is unable to do so.

Appendix 2 contains a list of people able to witness statutory declarations.

**Candidate Not on Voters Roll**

The Returning Officer must reject a nomination from a person who is not enrolled on the voters roll for the municipality unless the nomination is accompanied by a statutory declaration stating that:
- the person is entitled to be enrolled being an entitlement other than under section 12(1) or 12(2) of the Act, that is, other than as a State elector;
- the grounds on which he or she claims to be entitled; and
- what steps he or she has taken to be enrolled.
3. Nomination Procedures

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

Cheques should be made payable to the “Victorian Electoral Commission”.

Nomination Form
A candidate must specify his or her name and the address under which the candidate is enrolled on the voters roll.

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. If a person makes nominations in contravention of this, all nominations for that person are void.

If a candidate wishes for their contact details to be published by the VEC, whether their own or their representative’s, this information must be written in the contact details section. No other sections of the Nomination Form will be published.

Name on Ballot Paper
A candidate’s name will appear on the ballot paper in the form specified in the Nomination Form. The surname must be as on the voters roll. Given names may be specified by:

- initial/s standing for that name;
- a commonly accepted variation of that name, including an abbreviation or an alternative form of that name; or
- 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 Returning Officer that it is a name by which the candidate is usually identified. This includes a middle name used as the first name.

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

- print their SURNAME and INITIALS in capitals (e.g. SMITH, T. E.):
  - if the surname normally has any lower case letters or accents please specify clearly on the form (e.g. MacALISTER, van LEW or GLASÉ); and
  - 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 given name or names in title case (e.g. MacALISTER, John P. or de FRIES, Joan Anne).

No affiliations or allegiances (e.g. ALP, Liberal, Australian Greens) or titles (e.g. Dr, Prof.) may appear on a ballot paper beside the name of any candidate.

Candidates taking advantage of the online Candidate Helper will be assisted in this process.

Short Notice Contact
The Nomination Form requests that candidates stipulate how they may be contacted at short notice. Candidates may nominate phone, fax or email. This form of contact may be required urgently during the period of lodgement of nominations, candidate statements, and preferences when rigid timelines are in place.

It is essential that candidates can be contacted during these key times.

Providing email address details is encouraged for normal communications, such as bulletins from your Returning Officer about any important updates.
3. Nomination Procedures

Voters Roll

A copy of the voters roll for the nominated ward or unsubdivided municipality will be provided on request as candidates nominate. The roll is provided by the Returning Officer on behalf of the Chief Executive Officer.

The roll will be provided on CD with separate files, giving the candidate the ability to print a hardcopy roll, data sort addresses or use the preformatted label files to print resident or non-resident labels. Instructions will be included in a Word document on the CD and a summary handed out with the CD.

The Read_Me summary is to help candidates understand what is on the CD. There are more detailed instructions with some examples to help access the files on the CD itself, but this is not a complete do-it-yourself manual covering all possible uses of the roll. If you are not computer literate, you may need to take it to a printer, who will be able to produce a hardcopy roll for you.

Candidates must complete the declaration on the Nomination Form. The CD will not be provided without the signed declaration, which states that candidates will only use the roll for election purposes and will destroy or return the roll to the Chief Executive Officer of the council following the election.

Inspection of Nomination Forms

Any person may inspect an accepted Nomination Form at the Election Office during normal office hours. If a silent elector nominates, their address and any other specified contact details are not disclosed.

A summary of nominations, including the contact person’s details for each candidate, will be updated at the end of each business day and displayed at the Election Office. Contact details will also be displayed on the VEC website as soon as practicable at the end of each business day.

Ballot Draw

Candidates’ names will appear on the ballot paper in the form specified on the Nomination Form. The order of names on the ballot paper is determined by a computerised single random draw or, in some cases for a by-election, a manual draw will be conducted.

The computerised draw is conducted using the VEC’s ballot draw application. The software has been independently certified, determining that the draw is completely random. Electronic ballot draws have been used at State elections in Victoria since 1999 and guarantee fast and accurate transfer of data to the ballot paper printers.

The Returning Officer will conduct the draw at the Election Office after nominations close. Candidates will be advised of the time for the draw for position on the ballot paper. Candidates and any other persons may attend the draw.

Following the draw, the online Candidate Helper is available for candidates who wish to complete their preferences online. This form will be issued with a barcode. It must be printed and then submitted at the Election Office. Alternatively, the Returning Officer will provide candidates with a template listing candidate names in ballot paper order. Candidates may use this template to submit their indication of preferences.

Refund of Fees

Nomination fees are refunded to candidates in the following circumstances:

- if the candidate is declared elected; or
- if the total number of formal votes received by the candidate is not less than four percent (4%) of the total number of formal votes received by all candidates at the election for the electorate the candidate was contesting.

Refunds will be provided as soon as practicable after all elections have been completed.
4. Uncontested Elections

Withdrawal of a Candidate

A candidate may withdraw a Nomination Form at any time prior to 12 noon on nomination day. A notice of withdrawal must contain the details required by the regulations and must be signed by the candidate. A form for this purpose is available from the Returning Officer. The notice of withdrawal must be received by the Returning Officer prior to 12 noon on nomination day.

Should more than one by-election for a council be held on the same day, a candidate who withdraws from the election for one ward and wishes to nominate for another ward must produce a fresh Nomination Form and a fresh nomination fee of $250 in cash or cheque drawn on a bank, building society or credit union before 12 noon on nomination day. Personal cheques or money orders cannot be accepted.

In both situations the original nomination fee will not be refunded.

Retirement of a Candidate

After nomination day, a candidate is permitted to retire from the election if the retirement will result in an uncontested election.

To retire in other circumstances, a candidate must obtain an order from the Magistrates' Court to the effect that he or she is:

- not qualified under section 28(1) of the Act to be a candidate; or
- disqualified by section 29(1) or 29(2) of the Act.

The candidate must give the Returning Officer a notice of retirement signed by the candidate and, if applicable, a copy of the court order. The nomination fee will not be refunded.

Death of a Candidate

If a candidate dies the election continues. If the candidate dies before 12 noon on nomination day, the nomination is void. If the candidate dies after 12 noon on nomination day but before election day, the VEC will make every effort to have ballot papers reprinted or the name of the deceased candidate removed from the ballot paper.

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.

4. UNCONTESTED ELECTIONS

If, at the close of nominations or on the retirement of a candidate, there are only enough nominations to fill the number of vacancies advertised, the Returning Officer must declare the nominated candidates elected and give public notice of their election.

In the case of a general election, the Returning Officer’s declaration must be made at the declaration of results as soon as practicable on or after election day.

In a by-election, the declaration is made immediately following the close of nominations.

If the number of candidates is less than the number of vacancies to be filled, the Returning Officer must declare those candidates elected. The remaining vacancy will be treated as an extraordinary vacancy.

If there are no candidates for an election, the election fails and the Returning Officer must give public notice that the election has failed.
5. CANDIDATES’ STATEMENTS AND PHOTOGRAPHS

A candidate may lodge a statement and photograph with the Returning Officer for inclusion in the postal ballot material sent to voters. The statement and photograph must be lodged in person by the candidate, or by a person authorised in writing by the candidate, no later than by 12 noon on the day following the close of nominations.

If a person authorised by the candidate lodges the candidate statement, the signed and dated authorisation must be lodged together with the statement.

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

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

The online Candidate Helper (at vec.vic.gov.au) is available to assist candidates comply with the requirements of a candidate statement as set out below.

A Candidate Statement Lodgement Form M304P (a hardcopy completed by hand or completed online and printed), which includes the above declaration, is to be used for the lodgement of the statement. The form is available at vec.vic.gov.au, in the Candidate Kit, or from the Returning Officer.

To assist in the smooth processing of your statement, refer to the checklist on the form. If a candidate does not lodge a statement, the Returning Officer must include such advice in the ballot pack being mailed to voters.

It is strongly recommended that candidates make an appointment with the Returning Officer to go through their statement to ensure that the requirements of the regulations have been met and that their statement will not be rejected.

Complete your Statement Online

The VEC encourages candidates to complete their statement online.

The online Candidate Helper will guide prospective candidates through each step when typing their statement. This is an easy process for candidates and ensures that candidates only use the allowed formatting. The Candidate Helper provides the candidate with the opportunity to check and change details before final submission. Once the candidate is satisfied that the details are correct, the information should be saved and the online form printed. This printout will include a barcode which will be used to load information into the system at the Election Office.

Note: Candidates or their authorised person must deliver the barcoded statement to the Returning Officer.

Submitting the Statement

At the Election Office the Returning Officer will check the statement and, if all details are complete and in accordance with legislation, it will be accepted. The barcoded statement is scanned and all information is loaded into the candidate statement application. If a hand-completed statement or a statement on a USB memory key is submitted, candidates must be prepared to wait while the details are entered into the candidate statement application.

A final statement is printed for the candidate or authorised person to compare against the original statement. Once details are confirmed the candidate or authorised person signs the form.
The Returning Officer will arrange for statements to be printed exactly as signed off by the candidate or their authorised person. The responsibility for the accuracy of the statement rests with the candidate so it should be checked carefully.

The candidate statement may only include:

- A written statement of no more than 150 words. If a candidate’s statement exceeds 150 words, only the first 150 words will be printed; and
- A recent passport-style photograph (for more information refer to heading ‘Photograph’).

It is important that candidates take particular note of the following when writing their statement as the Returning Officer will reject a candidate statement if:

- there is a reference to another candidate standing for an election in the municipal district without the written consent of that other candidate. Note: A reference to “another candidate” includes a reference to a particular candidate or class of candidate by name or description;
- there is claim of endorsement or support from a party, organisation or person, and at the time of lodging the statement the candidate has not included a document containing the written consent of the party, organisation or person to include the claim of endorsement or support in the candidate statement;
- there is material that in the Returning Officer’s opinion is offensive or obscene;
- there is material that in the opinion of the Returning Officer is likely to mislead or deceive a voter in the casting of their vote; or
- the declaration on the Candidate Statement Lodgement Form M304P is not signed.

With regard to a candidate’s statement:

- formatting limitations apply to the publication of statements. Statements submitted online using the Candidate Helper will have the correct formatting required by the VEC;
- it is preferred that the candidate statement is lodged with the online version rather than on a USB memory key or in handwritten format;
- if you are not using the online Candidate Helper and your statement does not comply with the following format requirements, the Returning Officer will have to alter the format of submitted statements. The candidate, or their authorised person, must remain at the Election Office until the final statement is printed and then compare it against the original statement; and
- once details are confirmed, the candidate or authorised person signs the final statement.

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

Please note the following:

- all statements must be submitted in continuous text with no paragraph breaks;
- do not include any dot points, underlining, italics, bolding or CAPITALS (with the exception of common acronyms);
- align words to the left;
- all statements will be of the same font size (refer to sample in Candidate Kit);
- the Returning Officer is not responsible for correcting any errors in grammar, punctuation or spelling in statements. Candidates are therefore advised to check their statements thoroughly before submitting them to the Returning Officer;
• the statement must be in English;
• do not submit a typed or handwritten statement all in upper case as it could then be difficult for staff to determine which words should begin with a capital letter;
• punctuation, dashes, brackets, etc. are not counted in the 150 words; and
• the following rules will be applied to the counting of words and only words that are normally hyphenated will be accepted as one word:
  17 January 1980 = 3 words
  17/1/80 = 1 word
  UNESCO = 1 word
  DipEd = 1 word
  re-election = 1 word
  48 = 1 word
  a = 1 word
  I = 1 word
  Telephone number = 1 word
  Email address = 1 word
  Web address = 1 word

Rejection of Statement
If the Returning Officer rejects a candidate statement, the Returning Officer must notify the candidate no later than 12 noon on the second day following the close of nominations on the phone number the candidate specified on their Nomination Form. This is the number provided for short notice contact.

You will receive notification:
• that the statement has been rejected and the reasons for the rejection;
• of the section or sections of the statement that would need to be amended for it to be accepted; and
• that you may amend the specified section or sections of the candidate statement and resubmit the statement.

The candidate has until 12 noon on the third day after the close of nominations to resubmit their statement to the Returning Officer. If the amended statement is not returned within the timeframe, the ballot material sent to voters will contain advice that the candidate did not lodge a statement.

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

Photograph
Candidates who wish to have a photograph included with their statement are asked to provide two identical hardcopy photographs or (recommended) an electronic version on a USB memory key. It is requested that the photographs be supplied to the Returning Officer at the time of nomination.

Hardcopy photographs need to be submitted in the envelope provided with the Nomination Form M300. Digital files are to be no more than 2 MB. If files are submitted larger than 2 MB, they will be compressed at the Election Office to the correct size. This may cause a reduction in print quality.

Candidate photographs will only be accepted on the following media:
• hardcopy (instant passport photographs are available from most pharmacies and photography stores); and
• USB memory key, in JPG or BMP format.

Photographs must be:
• recent;
• passport-style (38×32mm for hardcopy);
• head and shoulders only, with light background for better printing; and
6. Indication of Preferences

- endorsed by:
  - writing on the reverse “<Council>, <Ward> and <Last name, First name>” of hardcopy photographs, and signing. Use a pen with quick-drying ink that will not smudge; or
  - naming electronic photographs “<Council>, <Ward> and <Last name, First name>.jpg OR bmp”. This format is a requirement.

Photocopies, scans, draft quality print-outs or pictures cut from group photographs or printed documents are unsuitable for reproduction. The VEC cannot accept any responsibility for reproduction of photographs that are provided in such condition.

If a candidate does not lodge a photograph the ballot pack mailed to voters will contain a statement that a photograph was not provided.

6. INDICATION OF PREFERENCES

A candidate may lodge with the Returning Officer an indication of preferences for inclusion in the postal ballot material sent to voters. The preferences must be lodged in person by the candidate, or by a person authorised in writing by the candidate, no later than 12 noon on the third day after the close of nominations.

The indication of preferences identifies every candidate in the form and order in which they appear on the ballot paper. Candidates must place once only the figures 1, 2, 3, 4 (and so on as the case requires) in the squares opposite the names of the candidates to indicate the candidate’s preferred order of voting for all candidates.

The Returning Officer must reject a candidate’s indication of preferences if it does not comply with the above requirements.

If a candidate does not lodge an indication of preferences, the ballot pack mailed to voters will indicate that preferences were not submitted.

Entering and Submitting Preferences

Following the draw for position on the ballot paper, the Returning Officer will provide candidates with a report listing candidate names in ballot paper order. Candidates may use this report to submit their indication of preferences.

Alternatively, candidates may enter preferences online using the Candidate Helper at vec.vic.gov.au A report will print out with a barcode issued by the program. Note: Candidates or their authorised person must deliver the barcoded preferences report to the Returning Officer.

There is provision on the report for candidates to sign and if necessary to authorise a person to deliver the preferences on their behalf.

Viewing Statements and Preferences

Candidate statements and indication of preferences are not available until they have been printed.

Once statements are printed, (this is usually the Monday after the close of candidate statements), they are available on request at the Election Office.

Candidates’ statements and preferences will also be available on the VEC’s website vec.vic.gov.au as soon as possible during the week following the close of candidates’ statements.
7. PRINTING AND PUBLICATION OF ELECTORAL MATERIAL

A candidate may publish electoral material in support of their campaign. Such material does not have the same restrictions that apply to candidate statements distributed with the ballot packs. However, all published electoral material must be authorised and must comply with the following requirements within the Act. See also Chapter 16 ‘Election Offences’ and Chapter 18 ‘Complaints’.

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 at its end.

*Note:* The address must be a physical address. PO Boxes are not acceptable.

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

Candidates should be aware that not authorising election material may work against them if voters perceive it as an attempt to circumnavigate the law. Accusations have been made in the past.

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 simply have to 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.

Social Media

Websites, individual web pages, blogs and other forms of social media, such as Twitter and Facebook postings, containing electoral matter or content must be authorised. Advertisements, including sponsored links, published online must also carry or directly link to an authorisation message.

Candidates should also be careful how they respond to other people's social media comments. If a candidate responds to or dis/likes an item, there may be problems from other candidates. Avoid inflammatory comments, and if in doubt, seek your own legal advice.

Misleading or Deceptive Matter

During an election period it is illegal to print, publish, distribute, permit or authorise:

- anything that is likely to mislead or deceive a voter in relation to the casting of their vote. (See Chapter 18 ‘Complaints’ for the legal interpretation of “misleading” in regard to election material.); or

- an electoral advertisement containing a representation of a ballot paper that is likely to induce a voter to vote otherwise than in accordance with the directions on the ballot paper.

Matter Broadcast or Televised

The broadcast on radio or television of all political and election matter (including election advertisements), must comply with the requirements set out in Schedule 2 of the *Broadcasting Services Act 1992* (Commonwealth).

The VEC is not in a position to offer any advice regarding the operation of Commonwealth legislation. Any enquiries concerning the operation of the above Commonwealth Act should be directed to:

The Australian Communications and Media Authority  
PO Box 13112 Law Courts, Melbourne Vic 8010  
Tel: 03 9963 6800  Fax: 03 9963 6899
Local Laws

Candidates should check with their local council to see if there are any local laws that may apply to the distribution and display of advertising material within the municipality.

8. ISSUE OF POSTAL BALLOT PACKS

At least 15 days before the last day of voting, a postal ballot pack will be posted to all voters on the voters roll containing:

- a ballot paper envelope;
- a ballot paper;
- candidates’ statements and indications of preferences;
- instructions to the voter; and
- a reply-paid return envelope.

Note: Where councils have requested a multi-language leaflet, this will also be included in the ballot pack.

The postal ballot envelopes will be posted to voters on a random basis with not more than 35% of the voters to be sent their ballot material on any one day.

Voters who will not be at their enrolled address during the voting period can arrange for the ballot material to be sent to another address. A request in writing must be made by each voter to the Returning Officer by the date of roll certification.

Regardless of the number of properties a voter owns in a municipality they will only be entitled to one vote in the municipality.

Early Votes

Regulation 86 provides that an election official may issue a voter with a ballot paper prior to the general mail-out if the election official considers that the reason for the request is reasonable. Such a circumstance might, for example, be where the voter is about to go overseas prior to the general mail-out and will not be returning prior to the close of voting.

Any ballot papers issued before the printed ballot papers are available must be initialed by the election official.

Voters requiring early votes may view the copies of the candidates’ statements in the Election Office, after the time of printing.

Replacement and Unenrolled Ballot Papers

In an election conducted entirely by post, replacement and unenrolled ballot papers can be issued under Regulations 88 and 89 as follows:

**Unenrolled Vote, Regulation 88**

Voter whose name cannot be found on the certified voters roll.

**Replacement Vote, Regulation 89**

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

- claims that he or she has not received a postal ballot envelope at the address to which the postal ballot envelope was sent;
- claims that he or she is not at the address to which the postal ballot envelope was sent and has not received a postal ballot envelope;
- claims that he or she has lost or destroyed the declaration envelope or ballot paper or both; or
- satisfies an election official that he or she has spoilt the declaration envelope or ballot paper or both and returns the spoilt declaration envelope or the spoilt ballot paper or both.
9. RETURN OF BALLOT PAPER ENVELOPES

Voters must post or deliver the reply-paid envelope containing the ballot paper envelope and ballot paper to reach the Returning Officer not later than 6.00pm on the last day of voting.

The Returning Officer may on receipt of the reply-paid return envelopes:
- remove the ballot paper envelopes from the reply-paid envelopes;
- record the return of the ballot paper envelopes on the voters roll;
- separate the signed ballot paper envelopes from the unsigned ballot paper envelopes;
- disallow the unsigned ballot paper envelopes;
- place the ballot paper envelopes in properly sealed security boxes until after the close of voting; and
- ensure that only one ballot paper envelope received from each enrolled voter is included in the count.

10. OBTAINING THE RESULT

For single-vacancy wards, a preference distribution is conducted to determine the result of a council election. For multi-vacancy wards and unsubdivided councils, a proportional representation count is conducted to determine the result. These methods of counting votes are described in Parts 3 and 4A of Schedule 3 of the Act and are re-printed in Chapters 22 and 23 of this handbook for your information. Further information is available on the VEC at website vec.vic.gov.au/Vote/vote-about-prefcount.html under 'Preferential counting slideshow' and 'The proportional counting system'.

The Returning Officer will advise candidates of counting arrangements and will conduct an information session for candidates and scrutineers to explain the process in detail. Candidates are not entitled to be present at the counting of votes, but scrutineers may observe all aspects of the count. See Chapter 14 'Scrutineers'.

**Computer Count**

For elections involving multiple vacancies the counting method is proportional representation, conducted by computer.

For computer counts, ballot papers are batched and the preferences shown on each ballot paper entered into the computer system by experienced data entry operators. The computer application checks each ballot paper for formality.

Only formal ballot papers are saved to the database. When the entry of all ballot papers has been accounted for, the results will be calculated.

**Manual Count**

For elections involving single vacancies the counting method is full preferential and counts are usually conducted manually.

**Adjournment**

The Returning Officer may from time to time adjourn the count of votes. If the count is adjourned, the Returning Officer will advise the scrutineers and authorised persons of the adjournment.
11. FORMALITY OF VOTES

Each ballot paper must have a number 1 in, or adjacent to, or level with 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, e.g. with six candidates, the number 6 may be omitted.

More than one box left blank makes the vote informal. Any duplication or omission of a number from the sequence makes the vote informal. Numbers next to, or on the other side of the names, are acceptable providing the voter’s intention is clear. 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.

More information regarding formality can be found in the Scrutineer Handbook (Postal) Council By-election 2013 (Scrutineer Handbook).

12. COUNTING TIMETABLE

The VEC has established a counting timetable to ensure that reconciliations can be completed before the commencement of each stage in the count process. In establishing the timetable, the VEC has allowed for events that cannot be predicted prior to election weekend. For example, mis-sorted postal material may need to be delivered to Election Offices from the VEC’s Melbourne office or Returning Officers may find that there is a last minute rush for replacement votes at the close of voting.

In situations where the count is close, the greater attention by scrutineers may slow down the count and the conduct of a recount can delay the final declaration.

It is clear that it is in everyone’s interests to have a clear starting figure of ballot paper envelopes to be included in the count. Adjustments may still be required, for example, where ballot paper envelopes are found to be empty.

The VEC has also been concerned with occupational health and safety issues in relation to staff working very long hours to meet pre-determined declaration times, and has included these considerations into the development of the count timetable. Simply increasing the number of election officials does not guarantee a better or quicker outcome.

Every effort will be made to complete the count as quickly as is reasonably possible. Further details of the count timetable will be available once nominations have closed and the number of candidates is known.
13. RECOUNT OF VOTES

At any time before a candidate has been declared elected, the Returning Officer may:
- if he or she thinks 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 Returning Officer;
- the Returning Officer may conduct one or more recounts; and
- the Returning Officer must make reasonable efforts to notify candidates or their representatives before a recount is conducted.

In respect of each candidate only one scrutineer for each authorised person involved in the recounting of ballot papers can be present at any one time. A candidate is not entitled to be present at the recount.

14. SCRUTINEERS

Role of Scrutineers

A scrutineer may be appointed by a candidate to scrutinise the following electoral activities only:
- (a) the posting of postal ballot envelopes;
- (b) the opening and emptying of a post office box;
- (c) the opening and emptying of a postal ballot receptacle;
- (d) the receipt and processing of declaration envelopes; and
- (e) the counting and recounting of ballot papers.

In respect of each candidate, only one scrutineer for each authorised person involved in any of the electoral activities outlined in (a) to (d) can be present at each electoral activity at any one time.

For the purposes of (e), in respect of each candidate only one scrutineer for each authorised person involved in the counting or recounting of ballot papers, or, if a computerised system of counting or recounting ballot papers is used, for each data entry person involved in the counting or recounting of ballot papers, can be present at any one time.

A scrutineer may be removed by an election official or a member of the police force if:
- more than one scrutineer for each authorised person is present as provided for in the electoral activities described above;
- the scrutineer commits any breach of the Act or Regulations;
- the scrutineer disrupts or hinders electoral activities; or
- the scrutineer fails to obey a lawful direction from an election official.

Appointment and Declaration of Scrutineer

Before a scrutineer acts as such, he or she must make a written declaration containing the details required by the Regulations. The declaration is contained on the appointment form available from the Returning Officer.

The completed appointment form must be signed by the candidate the scrutineer is representing and be submitted to the appropriate election official at the venue. Returning Officers will advise candidates of the proposed time for counting to commence.
A person cannot be appointed as a scrutineer if he or she is:

- a councillor of the council;
- a candidate in the election;
- a candidate in any other election for that council conducted simultaneously with that election; or
- if the council has appointed the VEC, the Australian Electoral Commission (AEC) or any other council to conduct the election, a person appointed by those bodies to be involved in the conduct of the election.

**Note:** Sitting councillors who are not recontesting the election will be eligible to be appointed as scrutineers for activities taking place after 6.00am on election day as this is the time they go out of office.

### Computer count information sessions

Candidates are encouraged to ensure their scrutineers attend computer count information sessions to ensure they are aware of the processes involved before the day.

### Ballot Paper Extraction for Computer Counts

Scrutineers may find it more helpful to attend extraction of ballot papers as well as the computer count itself. Ballot papers are processed very quickly at the count, and extraction may afford a better look at ballot papers and preferences.

### During the Count

Scrutineers are entitled to observe all proceedings during the processing of ballot papers to obtain the results of the election. The Returning Officer must inform scrutineers of any adjournment and advise the location and time when the proceedings will continue.

Scrutineers may challenge the admission or rejection of voter’s ballot paper envelopes and the formality of ballot papers. These must be referred to the Returning Officer for decision. The Returning Officer’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 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 Returning Officer will provide scrutineers with reports on:

- the total first preference votes for each candidate; and
- details of the preference distribution. This 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 reports during data entry; and
- batch details reports. On request, scrutineers may ask that a batch 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.

More information about scrutineers can be found in the *Scrutineer Handbook*.
15. Declaration of the Result

The Returning Officer will publicly declare the result of the election at a suitable time following the completion of counting. Candidates will be advised of the declaration time and venue. The Returning Officer will also give public notice of the persons elected and will advise the Minister for Local Government of the result.

16. Election Offences

The following list of offences is NOT all-inclusive. Please refer to the Act and Regulations.

**Interference with Rights**
A person must not hinder or interfere with the free exercise or performance of any other person's political right or duty relevant to an election. [LGA, s.54(1)]

PENALTY: 120 penalty units or imprisonment for 1 year

**False Written Declaration**
A person who is required to make a written declaration by or under this Act or the regulations as a candidate, scrutineer or voter or as a person submitting a how-to-vote card must not knowingly make a declaration which is false. [LGA, s.238A]

PENALTY: 120 penalty units

**Misleading or Deceptive Material**
A person must not print, publish or distribute or cause to be printed, published or distributed any electoral material that is likely to mislead or deceive a voter in relation to the casting of the vote of the voter. [LGA, s.55A(1)]

PENALTY: 60 penalty units or imprisonment for 6 months if the offender is a natural person or 300 penalty units if the offender is a corporation

**Defamatory Statements**
Defamatory statements are no longer referred to within the Act, but are discussed in the *Defamation Act 2005*.

**Offences Relating to Ballot Papers**
A person must not:
(a) forge or fraudulently mark, deface or destroy a ballot paper;
(b) without authority supply a ballot paper to any person;
(c) fraudulently put any unauthorised ballot paper into a ballot box;
(d) be in possession of an unauthorised ballot paper; or
(e) without authority destroy, take, open or otherwise interfere with any ballot box or parcel of ballot papers. [LGA, s.58(2)]

PENALTY: Fine not exceeding 240 penalty units or imprisonment for up to 2 years

A person must not vote or attempt to vote more than once at an election, or fraudulently remove a ballot paper from a ballot box, or impersonate any voter. [LGA, s.58(3)]

PENALTY: Fine not exceeding 240 penalty units or imprisonment for up to 2 years

**Bribery**
Provisions and penalties relating to bribery are set out in the Act. [LGA, s.59]
Infringement of Secrecy
Except as authorised by law, the Returning Officer and any authorised person, interpreter, scrutineer and member of the police force must not communicate to any person any information likely to defeat the secrecy of voting. \([\text{LGA, s.60(2)}]\)
PENALTY: 120 penalty units or imprisonment for 1 year

Unlawful Nomination
If a person who is not qualified to be a candidate or is not capable of becoming a councillor submits a nomination the person is guilty of an offence. \([\text{LGA, s.52}]\)
PENALTY: Fine not exceeding 240 penalty units or imprisonment for up to 2 years

Interfering with Postal Ballot Materials
A person must not interfere with any material being, or to be, sent or delivered to a voter under section 41A(2)(b). This does not apply to a person who is acting with the authority of the Returning Officer. \([\text{LGA, s.58A (1&2)}]\)
PENALTY: 240 penalty units or imprisonment for 2 years

Prohibition on Council
A council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process. \([\text{LGA, s.55D}]\)

17. COMPULSORY VOTING

Voting is compulsory at council elections for all residents who are enrolled on the State electoral roll for an address in the ward or municipal district where the election is being held. However, voters aged 70 years or over or those with a sufficient excuse for not voting are not fined for failure to vote. Voting is not compulsory for voters on the CEO’s voters lists, except for City of Melbourne.

18. COMPLAINTS

Responding to Complaints
Before lodging a complaint with the Returning Officer, candidates are encouraged to carefully consider the following information. Many candidates lose considerable time during an election campaign by becoming involved in the complaints process when there has been no breach of the law.

Elections in Australia allow for robust debate and expression of opinion. Candidates are able to rebut the opinions expressed by others in the public domain during the campaign as long as they do not breach the law.

At the time of voting, electors can then consider all material before them and who authorised it when considering for whom to vote.

It is important that election participants understand the different responsibilities that apply in regard to the conduct of local government elections in Victoria.

The Local Government Investigations and Compliance Inspectorate is responsible for investigating and prosecuting alleged breaches of the LGA; for example, authorisation of election material [s.55] and misleading electoral material. \([s.55A]\) Further examples are included in Chapter 16, ‘Election Offences’.
The Returning Officer is responsible for the administration of the election and has some specific responsibilities under the Act. The application of legislative timelines and the production of ballot materials are examples of activities that are the responsibility of the Returning Officer.

The Electoral Commissioner is responsible for appointing the Returning Officer and for preparing the voters roll. The Electoral Commissioner supports the Returning Officer by providing infrastructure, resources and advice relating to the conduct of the election.

The Council is responsible for the enforcement of Council local laws and Codes of Conduct where they apply. For example, placement of campaign posters/signs and use of Council resources for campaigning purposes.

All complaints should be addressed in the first instance to the Returning Officer and must be in writing. Complainants in most cases are alleging that there has been a breach of the law and as such there must be an evidentiary trail.

If the complaint relates to:

**The administration of the election** the Electoral Commissioner will respond on behalf of the Returning Officer.

**A possible breach of the LGA** the Electoral Commissioner will refer the complaint to the Inspectorate for their consideration and response. The Electoral Commissioner will also advise the complainant in writing that the complaint has been forwarded to the Inspectorate and that any further communication regarding the complaint should be directed to the Inspectorate.

Contact details are as follows:

Local Government Investigations and Compliance Inspectorate  
GPO Box 2392  
Melbourne 3001  
Tel (03) 9665 9555

**A possible breach of council local laws or council codes of conduct** the Electoral Commissioner will refer the matter to the CEO for its consideration and response. The Electoral Commissioner will also advise the complainant in writing that the complaint has been forwarded to the CEO and that any further communication regarding the complaint should be directed to them.

**A criminal matter** the Electoral Commissioner will advise the complainant to refer the matter directly to the police. Examples include assault and vandalism.

In all cases, the Electoral Commissioner will write to the person who is the subject of the complaint advising them that a complaint has been received and the nature of the complaint. This will allow the person who is the subject of the complaint to rectify the matter if necessary. The Electoral Commissioner may divulge who has made the complaint in some circumstances.

**Misleading or deceptive matter (section 55A)**

A high proportion of the complaints received by the VEC during council elections allege the distribution of misleading electoral material. Section 55A of the LGA provides that electoral material must not mislead or deceive voters in relation to the casting of their vote.

The Courts have interpreted this phrase narrowly. Courts are particularly concerned with material that is likely to mislead or deceive voters in relation to how they mark their ballot paper.

For example, the following statement might fall within the narrow definition of misleading for an election with more than two candidates:

*The way to vote for candidate A is to place a number 1 beside the candidate's name and to leave all other boxes unnumbered.*
This statement might be misleading because if the voter had decided to vote for candidate A, following these instructions would lead voters to cast an informal vote because all boxes except one would not be completed. It would not result in a valid vote for candidate A.

In this situation, where there appears to have been a breach of the Act, the Electoral Commissioner would refer the matter to the Inspectorate for its consideration and response.

**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 55 or 55A, 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. [LGA, s.57A]

**19. MUNICIPAL ELECTORAL TRIBUNALS**

**What is a Municipal Electoral Tribunal?**

A Municipal Electoral Tribunal may be established to consider disputes as to the validity of local government elections. Tribunals are constituted under the Act, and are intended to provide a forum for the settling of such disputes. A Tribunal consists of a magistrate or acting magistrate appointed by the Attorney-General.

**Who can Apply for a Hearing?**

A candidate or any 10 voters at the election who dispute the validity of the election may apply for a hearing. The application must include the grounds on which the inquiry into the validity of the election is sought. The application must be made within 14 days of the declaration of the result of the election.

**How to Apply**

Applications must be in writing and contain the following details as set out in Regulation 120:

- the name of the council and the ward (if applicable);
- the full names and addresses of the candidate, or the 10 voters making the application for the inquiry;
- the home and business telephone numbers of the candidate, or in the case of an application by 10 voters, the home and business telephone numbers of a contact person for the purposes of the application;
- the signatures of the candidate or the 10 voters and the date on which the candidate or the voters signed the application; and
- the grounds on which the inquiry into the validity of the election or by-election is sought.

Applications must be accompanied by a fee of 20 fee units that, at the discretion of the Tribunal, may be refunded in whole or in part. Applications, together with any supporting documentation, are available for inspection by any interested party.

Applications together with the fee must be lodged with:

- Principal Registrar’s Office
- Magistrates’ Court
- 2nd Floor, 233 William St, Melbourne Vic 3000
What are the Powers of a Tribunal?

A Tribunal may:
- declare that any person declared elected was not duly elected;
- declare any candidate duly elected who was not declared elected;
- declare an election void;
- dismiss or uphold an application in whole or in part;
- amend or permit the amendment of an application;
- order the inspection of, and permit copying of, documents used in connection with an election, subject to such terms and conditions as it considers appropriate;
- undertake a preliminary review of an application;
- require any further information relating to an application; and/or
- impose a financial penalty.

Can a Tribunal Award Costs?

A Tribunal may award costs to the applicant or respondent if it considers such an action just. Costs can be substantial.

Withdrawal of an Application

Applicants that withdraw an application before the date of a hearing may be liable for costs incurred by other parties arising from the preparation for the hearing.

Circumstances Where an Election May be Voided

In determining as to whether an election can be voided or not Courts refer to section 51 of the LGA which says:

1. The validity of an election or poll is not affected by any defect in the appointment of any person for the purpose of holding the election or poll.

2. The validity of an election or poll is not affected by—
   (a) any irregularity in any of the proceedings preliminary to voting;
   (b) any failure to hold the election or poll at any place appointed;
   (c) any failure to comply with any directions as to the holding of the election or poll or the counting of the votes; or
   (d) any mistake in the use of any forms—
   if the election or poll was conducted in accordance with the principles in this Act and the irregularity, failure or mistake did not affect the result of the election or poll.

Further Information

Information on Municipal Electoral Tribunals is available from the Principal Registrar’s Office and Local Government Victoria.

20. EXTRAORDINARY VACANCIES, BY-ELECTIONS AND COUNTBACKS

An extraordinary vacancy occurs if a councillor vacates their position before the next general election.

If a councillor has been elected through full preferential voting, a by-election is necessary to fill the vacancy.

Where councillors have been elected by proportional representation, extraordinary vacancies will be filled by countback rather than through a by-election. All of the candidates who were not elected at the general election and who are still eligible to be a councillor participate in the countback. A by-election will only be held if none of the remaining candidates from the previous election is eligible to be a councillor.
A countback is conducted using the ballot papers from the last election. All of the ballot papers allocated to the vacating councillor at the time when he or she was elected are looked at again, and are distributed to the remaining candidates according to the next preference on the ballot papers.

An absolute majority (more than 50% of the votes being distributed) is required for a participating candidate to be elected. If no candidate has an absolute majority, the candidate with the fewest votes is excluded and that candidate’s ballot papers are distributed to the remaining candidates. The process continues until one candidate has achieved an absolute majority of the votes from the vacating councillor.

### 21. DISCLOSURE OF ELECTION DONATIONS

Within 40 days after election day, candidates are required to submit an election campaign donation return to the CEO of the council [s.62]. A form for this purpose is provided in the Candidate Kit.

The return must contain details of any gifts, goods or services of the amount or value of $500 or more, received during the donation period, by the candidate or on behalf of the candidate, to be used for or in connection with their election campaign.

The “donation period” means the period commencing on whichever is the later of:
- 30 days after the last general election for the council; or
- 30 days after the last election for the Council at which the person required to give the election campaign donation return was a candidate; and ending 30 days after election day in the current election for the Council.

If a candidate receives no gifts of $500 or more, a return must still be lodged that includes a statement that no gifts of a kind required to be disclosed were received.

An election campaign donation return must be in writing and include the following details:
- the name of the relevant council;
- the name of the relevant ward if the municipal district is subdivided;
- the full name and address of the candidate;
- a declaration signed and dated by the candidate which attests that:
  - the campaign donation return includes a complete record of all gifts required to be disclosed; and
  - that the details provided in the campaign donation return are a true and accurate record.

The election campaign donation return must include the following details in respect of each gift required to be disclosed:
- the full name and address of each person making the gift or gifts to the candidate;
- the date each gift was given to the candidate;
- in respect of each gift in the form of money:
  - the exact value of the gift; and
  - the form in which the gift was given;
- in respect of each gift in the form of goods or services:
  - a description of the gift; and
  - the estimated market value of the gift.
A summary of all election campaign donation returns, including each candidate’s name, the donor’s name and the value of the gift, must be published by the CEO of the council on the council’s website within 14 days of the deadline for election campaign donation returns. Any late returns must also be published online by the CEO of the council. The summary will remain available on the council’s website until the entitlement date for the next general election of the council.

Note:
It is unlawful for a councillor/candidate or a person acting on behalf of a councillor/candidate to receive a gift of the amount or value of $500 or more unless:
(a) the name and address of the person making the gift are known to the person receiving the gift; or
(b) at the time when the gift is made—
   (i) the person making the gift gives to the person receiving the gift the person’s name and address; and
   (ii) the person receiving the gift has no grounds to believe that the name and address given are not the true name and address of the person making the gift.

Gifts which must be disclosed under the Act include those made by an individual or organisation, including a corporation, incorporated or unincorporated association, trust fund or foundation.

Two or more gifts made by the same person are to be taken to be one donation.

If a person receives a gift unlawfully, twice the amount or value of that gift is forfeited to the State. This amount may be recovered from the councillor or candidate.

A candidate who fails to submit a campaign donation return as required or submits a return that to the knowledge of that person is false or misleading, is guilty of an offence.

PENALTY: Fine not exceeding 60 penalty units

22. RESULT WHERE ONLY ONE CANDIDATE IS TO BE ELECTED

The following extracts from Schedule 3 of the LGA are provided for your information:

Procedure for Determining a Result

PART 3—RESULT WHERE ONLY ONE COUNCILLOR IS TO BE ELECTED

9. Only two candidates
If only 1 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 returning officer;
(b) if the 2 candidates have received an equal number of votes the result is to be determined by lot by the returning officer.

10. More than two candidates
If only 1 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 returning officer;
(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 returning officer 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 1 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 returning officer;

(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 1 candidate has received an absolute majority of votes and is declared elected by the returning officer;

(f) if on any count 2 or more candidates have an equal number of votes and 1 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 returning officer;

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

23. RESULT WHERE TWO OR MORE COUNCILLORS ARE TO BE ELECTED

The following extracts from Schedule 3 of the LGA are provided for your information:

Procedure for Determining a Result

PART 4A—RESULT WHERE TWO OR MORE COUNCILLORS ARE TO BE ELECTED

11B. 2 or more Councillors to be elected

(1) The result is to be determined as set out in this clause.

(2) In this clause—

“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 1 more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1;

“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 returning officer 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 1 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
23. Result Where Two or More Councillors are to be Elected

(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 returning officer.

(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 subclause (7) is to be declared duly elected by the returning officer.

(9) Unless all the vacancies have been filled, the surplus votes, if any, of any candidate elected under subclause (8) or elected subsequently under this subclause are to be transferred to the continuing candidates in accordance with subclause (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 returning officer.

(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 subclause (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 subclause (7) in relation to a transfer of the surplus votes of an elected candidate under subclause (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 1 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; and
      (ii) the number so obtained (disregarding any fraction) is to be added to the number of votes of the continuing candidate; and
   (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 subclause (12) or (16) is to be declared duly elected by the returning officer.

(14) Subject to subclause (15), unless all the vacancies have been filled, the surplus votes, if any, of a candidate elected under subclause (13) are to be transferred in accordance with subclause (7).
(15) If a candidate elected under subclause (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 subclause (12) to continuing candidates.

(16) Subject to subclause (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 subclause (12).

(17) If a candidate is elected as a result of a transfer of ballot-papers under subclauses 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 clause, 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 returning officer.

(20) Subject to subclauses (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 subclause (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 subclause (21), if there has been no count or transfer the returning officer 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 returning officer.

(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 returning officer.

(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 clause each of the following constitutes a separate transfer—
(a) a transfer under subclause (7), (9) or (14) of all the surplus votes of an elected candidate;
(b) a transfer in accordance with subclause (12)(a) of all first preference votes of an excluded candidate;
(c) a transfer in accordance with subclause (12)(b) of all the votes of an excluded candidate or candidates, as the case may be, at a particular transfer value.
APPENDIX 1: LOCAL GOVERNMENT ACT EXTRACT

Local Government Act 1989 - Act No. 11/1989

PART 3—ELECTIONS
Division 1- Voters

11. Entitlements relating to enrolment

(1) A person can only be enrolled on the voters' roll of a Council if the person is a resident in the municipal district of the Council or a ratepayer to the Council exercising an entitlement under and in accordance with this Division.

(2) Despite anything to the contrary in this Division, a person can only be enrolled on the voters' roll for one ward in a municipal district.

(3) Despite anything to the contrary in this Part, a person is only entitled to vote once at any election in respect of a Council, regardless of how many different entitlements the person may have to vote in respect of any ward.

(4) A person is not entitled to elect which right of entitlement conferred by section 12(1), 13(1), 14(1) or 15(1) to exercise.

(5) A person can only be enrolled on the voters' roll if—
   (a) the person has an entitlement as a resident or ratepayer to be enrolled without application as at the entitlement date; or
   (b) the person is entitled as a ratepayer to apply to be enrolled and the application—
      (i) complies with subsection (6); and
      (ii) is accepted in accordance with this Division; or
   (c) the person is appointed to vote on behalf of a corporation under section 16 and the application for appointment—
      (i) complies with subsection (6); and
      (ii) is accepted in accordance with this Division.

(6) An application must—
   (a) be in writing;
   (b) contain the details required by the regulations;
   (c) be delivered to the Council office by 4 p.m. on the entitlement date.

(7) Enrolment under an application referred to in subsection (5)(b) or (5)(c) has effect from the next entitlement date after it is accepted and continues in force until the day before the subsequent entitlement date for a general election.

12. Residents entitled to be enrolled without application

(1) A person who on the entitlement date would be an elector in respect of an address in a ward if a roll of electors for the Legislative Assembly was compiled from the register of electors, is entitled as a resident without application to be enrolled on the voters' roll in respect of that address.

(2) Despite subsection (1), a person who—
   (a) will attain 18 years of age on or before election day; and
   (b) had the person been not less than 18 years of age on the entitlement date would be an elector in respect of an address in a ward if a roll of electors for the Legislative Assembly was compiled from the register of electors—
    is entitled as a resident without application to be enrolled on the voters' roll in respect of that address.
13. Owner ratepayers entitled to be enrolled without application

(1) Subject to subsections (2) and (3), a person who on the entitlement date—
   (a) is not a person referred to in section 12; and
   (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of
       18 years on or before election day; and
   (c) is the owner of any rateable property in the municipal district whether solely or jointly
       with any other person or persons; and
   (d) is not a resident of the municipal district—
       is entitled as a ratepayer without application to be enrolled on the voters' roll in respect of
       that rateable property.

(2) For the purposes of subsection (1), only 2 joint owners are entitled to be enrolled in respect
    of each rateable property.

(3) A person is not entitled to be enrolled under subsection (1) if an occupier is enrolled as a
    ratepayer under section 15 in respect of that rateable property.

(4) For the purposes of subsection (1), if it appears from the rate records of the Council that
    there are more than 2 owners of any rateable property, the Chief Executive Officer must
    enrol without application the 2 owners—
    (a) whose names appear first on the rate records in relation to that rateable property when
        those names are read in the order in which they appear in those records; and
    (b) who satisfy the requirements of paragraphs (b), (c) and (d) of subsection (1) in respect
        of that rateable property.

(5) Despite subsection (4), if a written request containing the details required by the regulations
    is delivered to the Council office by 4 p.m. on the entitlement date requesting that the owner
    or 2 owners of the rateable property specified in the request be enrolled on the voters' roll
    instead of the owner or 2 owners that would otherwise be enrolled by virtue of subsection
    (4), the Chief Executive Officer must give effect to the request.

(6) If a person is the owner of more than one rateable property in a municipal district, the
    person may by a written request containing the details required by the regulations delivered
    to the Council office by 4 p.m. on the entitlement date specify the location of the rateable
    property in respect of which the entitlement under this section is to be exercised.

(7) If a person is the owner of more than one rateable property in a municipal district and the
    Council does not receive a written request under subsection (6), the Chief Executive Officer—
    (a) must choose one rateable property in respect of which the entitlement under this section
        is to be exercised; and
    (b) may for the purposes of paragraph (a) choose the rateable property which has the
        highest capital improved value in the council valuation records at the entitlement date.

14. Owner ratepayers may apply for enrolment

(1) Subject to subsections (2) and (3), a person who on the entitlement date—
   (a) is not a person referred to in section 12 or 13; and
   (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of
       18 years on or before election day; and
   (c) is an owner of any rateable property in the municipal district—
       is entitled as a ratepayer to apply to be enrolled on the voters' roll in respect of that rateable
       property.

(2) For the purposes of section 13(1) and subsection (1), only 2 joint owners can be enrolled in
    respect of each rateable property.

(3) A person is not entitled to apply to be enrolled under subsection (1) if an occupier is enrolled
    as a ratepayer under section 15 in respect of that rateable property.

(4) A person who is enrolled on the voters' roll as an owner under this section may renew the
    enrolment by an application containing the details required by the regulations delivered to
    the Council office by 4 p.m. on the entitlement date before the next general election.
15. Occupier ratepayers may apply to be enrolled

(1) A person who on the entitlement date—
   (a) is not a person referred to in section 12, 13 or 14; and
   (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of
       18 years on or before the election day; and
   (c) is the occupier of any rateable property in the municipal district, whether solely or jointly
       with any other person or persons and is liable to pay the rates in respect of that rateable
       property—

       is entitled as a ratepayer to apply to be enrolled on the voters' roll in respect of that rateable
       property.

(2) For the purposes of subsection (1), only 2 joint occupiers can be enrolled in respect of each
    rateable property.

(3) For the purposes of subsection (1), an occupier is liable to pay the rates in respect of that
    rateable property if—
    (a) the occupier is paying the rates to the Council; or
    (b) the lease under which the occupier occupies the rateable property specifies that the
        occupier is liable to pay the rates.

(4) Subject to subsection (5), an application under subsection (1) must be accompanied by the
    written consent of the owner, or if there are joint owners, of at least 2 of the joint owners, of
    the rateable property.

(5) Subsection (4) does not apply if it appears from the Council records that the occupier is, or
    the joint occupiers are, receiving the rate notice.

(6) If the Council receives an application under subsection (1), the Chief Executive Officer must
    notify the owner or joint owners that the Council has received the application.

(7) If an application is in force under subsection (1), an enrolment cannot be made in respect of
    the same rateable property under section 13 or 14.

(8) A person who is enrolled on the voters' roll as an occupier under subsection (1) may renew
    the enrolment by an application containing the details required by the regulations delivered
    to the Council office by 4 p.m. on the entitlement date before the next general election.

(9) Subsection (4) does not apply to an application under subsection (8).

(10) A person who is enrolled on the voters' roll as an occupier under subsection (1) may resign
     the enrolment by an application containing the details required by the regulations delivered
     to the Council.

(11) The owner or any 2 of the joint owners may withdraw a written consent under subsection (4)
     by an application containing the details required by the regulations delivered to the Council
     before 4 p.m. on the entitlement date.

16. Provisions relating to corporations

(1) Subject to subsection (3), if on the entitlement date a corporation is the sole owner of any
    rateable property in the municipal district, the corporation may apply to appoint a person to
    represent it at Council elections to vote on its behalf.

(2) Subject to subsection (3), if on the entitlement date a corporation is a joint owner of any
    rateable property in the municipal district, the corporation may apply to appoint a person to
    represent it at Council elections to vote on its behalf.

(3) If an application is in force under section 15, an enrolment cannot be made in respect of the
    same rateable property under subsection (1) or (2).

(4) Section 14(2) applies in respect of an application under subsection (2).

(5) If on the entitlement date a corporation is the occupier of any rateable property in the
    municipal district whether solely or jointly and is liable to pay the rates in respect of that
    rateable property, the corporation may apply to appoint a person to represent it at Council
    elections to vote on its behalf.

    application under subsection (5).
(7) A corporation may only exercise the right of entitlement conferred by subsections (1), (2) and (5) once, regardless of how many rateable properties it owns or occupies or jointly owns or occupies in the municipal district.

(8) A corporation may only be represented by one person under this section at a Council election in respect of the municipal district, regardless of anything to the contrary in subsections (1), (2) and (5).

(9) An application for a person to be appointed under this section is void if at the time the appointment is made the person appointed—
   (a) is not a director or company secretary (however styled) of the corporation; or
   (b) has not reached 18 years of age and will not attain the age of 18 years on or before election day; or
   (c) has not consented in writing to be appointed; or
   (d) is for any other reason entitled to be enrolled on the voters' roll in respect of the municipal district for which the appointment is made; or
   (e) is as a result of another appointment for the purposes of subsection (1), (2) or (5) which is still in force, already enrolled on the voters' roll in respect of the municipal district for which the appointment is made.

(10) An appointment for the purposes of subsection (1), (2) or (5) is revoked if—
   (a) the person appointed—
      (i) ceases to be a director or company secretary (however styled) of the corporation; or
      (ii) dies; or
      (iii) delivers a notice of resignation containing the details required by the regulations to the Council office; or
      (iv) for any other reason becomes entitled in his or her own right to be enrolled on the voters' roll in respect of the municipal district for which the appointment was made; or
   (b) notice of revocation containing the details required by the regulations is delivered to the Council office; or
   (c) the entitlement under subsection (1), (2) or (5) ceases to exist.

17. Provisions relating to appointments and enrolments

(1) On receiving notice of an appointment under section 13(5), 13(6) or 16 or an application for enrolment under section 14 or 15, the Chief Executive Officer must enrol the person unless the Chief Executive Officer believes that the person is not entitled to be enrolled.

(2) If the Chief Executive Officer believes the person is not entitled to be enrolled, the Chief Executive Officer must—
   (a) refuse to enrol the person; and
   (b) advise the person who submitted the notice of appointment or application for enrolment of the refusal in writing and give the person the reason for the refusal.

(3) The Chief Executive Officer may either orally or in writing, request any person or corporation to provide information to enable the Chief Executive Officer to determine the eligibility of a person to be enrolled.

(4) If a request under subsection (3) is made in writing, the Chief Executive Officer may require the information to be given in writing and signed by the person giving the information.
APPENDIX 2: WITNESS FOR STATUTORY DECLARATIONS

Under the *Evidence (miscellaneous provisions) Act 1958*, there are many people who may witness the signing of a statutory declaration in Victoria:

- a justice of the peace or a bail justice
- a public notary
- an Australian lawyer (within the meaning of the *Legal Profession Act 2004*)
- a clerk to an Australian lawyer
- the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or the deputy registrar of the County Court, the principal registrar of the Magistrates' Court or the registrar or the deputy registrar of the Magistrates' Court
- the registrar of probates and the assistant registrar of probates
- the associate to a judge of the Supreme Court or of the County Court
- the secretary of a master of the Supreme Court or of the County Court
- a person registered as a patent attorney under Chapter 20 of the *Patents Act 1990* of the Commonwealth
- a member of the police force
- the sheriff or deputy sheriff
- a member or a former member of either House of the Parliament of Victoria
- a member or a former member of either House of the Parliament of the Commonwealth
- a councillor of a municipality
- a senior officer of a council as defined in the *Local Government Act 1989*
- a registered medical practitioner within the meaning of the *Medical Practice Act 1994*
- a registered dentist within the meaning of the *Dental Practice Act 1999*
- a veterinary practitioner
- a pharmacist
- a principal in the (State) teaching service
- the manager of a bank
- a member of the Institute of Chartered Accountants in Australia or CPA or the National Institute of Accountants
- the secretary of a building society
- a minister of religion authorised to celebrate marriages (not a civil celebrant)
- a person employed under Part 3 of the *Public Administration Act 2004* with a classification that is prescribed as a classification for statutory declarations, or who holds office in a statutory authority with such a classification
- a fellow of the Institute of Legal Executives (Victoria)