

Division of Local Government
Department of Premier and Cabinet

Guidelines for Council Administered
Elections 2012



September 2011

Director General's Guidelines issued pursuant to section 23A of
the *Local Government Act 1993*.

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1. PURPOSE

These Guidelines are issued under section 23A of the *Local Government Act 1993* (the Act) and must be taken into consideration by a council's governing body when determining whether to conduct its own elections, constitutional referendums and polls or to engage the New South Wales Electoral Commission (NSWEC).

The purpose of the Guidelines is to assist general purpose councils in understanding the level of service and accountability that will be required of them if they decide to conduct their own elections, constitutional referendums and polls in September 2012.

The Guidelines should be read in conjunction with the provisions of the Act and the Local Government (General) Regulation 2005 (the Regulation).

The Division of Local Government, Department of Premier and Cabinet (the Division) is available to assist councils with queries in relation to their obligations or responsibilities under the Act or the Regulation in regard to the conduct of elections, or on the content of these Guidelines. However it does not give specific legal advice. Advice on operational details regarding the actual conduct of elections is beyond the remit and expertise of the Division.

2. INTRODUCTION

On 1 June 2011, in an address to the Shires Association of NSW Annual Conference, the Minister for Local Government, the Hon Don Page, MP, announced that in keeping with a commitment made before the March state 2011 election, the Government was bringing in legislation to give councils the choice of conducting their own elections or engaging the NSWEC to undertake this activity.

This commitment was made in response to the election priorities listed by the Local Government and Shires Associations of New South Wales in the lead up to the election.

The *Local Government Amendment (Elections) Act 2011* was passed by the NSW Parliament and commenced on 27 June 2011. The amendments remove the mandate of the NSWEC to run local government elections, and instead return the responsibility to councils (section 296). Councils can now choose how their elections will be administered as they have 12 months after an ordinary election in which to resolve whether to engage the services of the NSWEC for the following ordinary election.

Transitional provisions in the Act enable councils to retain the services of the NSWEC to administer their elections, referendums and polls until the conclusion of the September 2012 ordinary elections, if they wish (Schedule 8, clause 102).

As the engagement of the NSWEC will be on a contractual basis from this time onwards, councils will be able to negotiate on commercial terms how their elections will be administered.

In relation to the ordinary elections in 2012, where a council chooses to use the NSWEC, the council must pass a resolution to this effect before 30 November 2011. This date was prescribed by the Local Government (General) Amendment (Electoral Commissioner) Regulation 2011.

To give the NSWEC certainty, councils must provide a definite commitment by this date. This means that councils need to make an unconditional resolution and cannot place caveats such as 'subject to cost' on their resolution.

Once this resolution has been made the council must, as soon as possible, notify the NSWEC and the Chief Executive of the Division.

It is important to note that this is a non-negotiable deadline. Once 30 November 2011 has passed, any council that has not resolved to engage the NSWEC will by default be responsible for the conduct of its own elections. There are no provisions in the legislation enabling an extension to be granted or to approach the NSWEC at a later date.

While it is understood that cost is likely to be a significant factor that influences a council as to whether it runs its own elections or engages the NSWEC, the NSWEC has advised that until it knows the actual number of councils that will be its clients, it is difficult to provide accurate cost estimates. As a guide, councils should look to the amount paid in 2008, and adjust for increases in public sector wage costs and the Consumer Price Index.

Councils should obtain an indicative budget from the NSWEC to enable a comparison with the cost of conducting it themselves to be made before using the services of the NSWEC is ruled out.

The NSWEC has advised the Division that it has made arrangements to visit all councils to discuss the services it will offer to those who choose to engage the NSWEC to run their elections. It is anticipated that these visits will be concluded by the end of September 2011.

3. BACKGROUND

Until the late 1980s Town and Shire Clerks were responsible for council elections. In 1987 the *Local Government (Elections) Amendment Act* was introduced which transferred this responsibility to the NSWEC. Town and Shire Clerks acted as the Returning Officer at the 1987 and 1991 elections but from 1995 onwards independent Returning Officers were appointed by the State Electoral Office (now the NSWEC).

While the State Electoral Office invoiced the councils for certain costs such as the salary of the Returning Officer, other costs were absorbed by both parties: councils often made premises available for the Returning Officer and provided resources such as equipment and staff to assist the Returning Officer with election-related tasks. And the State Electoral Office tended to attach a cost only to actual goods supplied rather than to those costs associated with the full range of services it provided.

4. WHAT DO THE NEW PROVISIONS MEAN?

The new provisions will apply to elections for councillors (whether in an area or a ward), the popular election of the Mayor, and constitutional referendums and polls. Unless a council resolves to engage the NSWEC by the prescribed deadline (30 November 2011 for the 2012 ordinary elections, and within 12 months after the 2012 ordinary elections for the 2016 ordinary elections and so on), the default position is that all elections, referendums and polls will be administered by the General Manager (section 296).

In this case the General Manager broadly assumes the same responsibilities as the NSWEC in elections conducted by it as specified in the Act and the Regulation. Further detail on the scope of the General Manager's responsibilities is provided in Section 5 below.

The Act also enables regulations to be made to achieve compliance with the Director General's Guidelines relating to the administration of elections (Schedule 6, Clause 14).

If a council engages the NSWEC to administer its elections until the end of the 2012 ordinary election, expenses incurred by the NSWEC are to be met by the council (Schedule 8, clause 102(4)).

In introducing the amending legislation the Minister for Local Government noted that:

It is also important that any savings and efficiencies in the conduct of elections and referendums by councils do not come at the expense of the principles of openness, transparency and accountability.

To ensure that accountability is suitably addressed, the Act now provides for allegations of maladministration to be reviewed by the Division and, if warranted, a formal investigation under section 430 conducted. If this occurs, the expenses associated with the preparation of a report arising out of the administration of elections, referendums and polls by a council can be recovered by the Division from the council (section 434B).

5. RESPONSIBILITIES OF THE GENERAL MANAGER

It is important that councils thoroughly consider all aspects involved in conducting their own elections, particularly as staff will need to gain detailed knowledge of current elections legislative requirements.

The impact of the recent amendments is that the General Manager will now be responsible for:

5.1 Conducting the election

In addition to the explicit obligations contained in the Act, the General Manager will need to be aware of all the relevant legislative provisions and ensure that

mechanisms and strategies are in place to ensure full compliance. Failure to do so could call into question the validity of the elections.

5.2 Appointing the Returning Officer and substitute Returning Officer

The Minister stated in the Parliament when introducing the amending legislation that the Returning Officer (and substitute Returning Officer, who exercises the functions of the Returning Officer in that person's absence) needs to be 'suitably qualified and independent'.

What is meant by 'suitably qualified'?

The Returning Officer is the front-line manager for the conduct of elections for a particular council area. The role involves:

- managing the Returning Officer's office
- appointing and training staff including Polling Place Managers on how to conduct a count and how to determine formality of ballot papers
- developing procedures to be followed by electoral officials issuing pre-poll, declared institution, postal and election day votes
- preparing all necessary printed election materials such as forms, declaration envelopes, signs etc
- obtaining all necessary election material for use in pre-poll and election day venues such as voting screens, ballot boxes, pencils etc
- determining the quantity of ballot papers required and arranging for their printing, delivery and secure storage
- making Braille ballot papers available, if requested
- dealing with political parties, candidates and the public
- processing candidates' nominations including acceptance of the deposit and conducting the draw for position of candidates on the ballot paper
- registering how to vote material
- putting in place all necessary arrangements to enable pre-poll, declared institution, postal and election day voting
- ensuring delivery and collection of election materials to and from pre-poll and election day polling venues
- conducting the 'check count' of the votes and the distribution of preferences
- declaring the election
- arranging storage (and ultimate destruction) of ballot papers and voting-related materials for the statutory period of 6 months.

General Managers need to appoint a person who is capable of undertaking all these requirements proficiently. It is suggested that key skills and competencies include:

- demonstrated leadership and management experience
- excellent communication skills
- excellent interpersonal skills including an ability to deal with people from all backgrounds
- excellent organisation and time management skills
- ability to work under pressure and meet deadlines as required
- ability to deal with challenging situations and determine appropriate solutions
- ability to work in a methodical manner and with attention to detail

Additionally, to be employed as an electoral official, including as a Returning Officer, a person must be on an electoral roll and eligible to vote at either New South Wales state or federal elections.

What is meant by ‘independent’?

To ensure the conduct of an election is seen to be at arms length from the council, an employee of a particular council cannot be appointed as a Returning Officer or substitute Returning Officer for a particular area (section 296A(4)).

For this reason and to avoid any perception of bias, friends or relatives of the Mayor, councillors, General Manager or candidates for election should not be appointed as the Returning Officer or substitute Returning Officer.

It is also important that electoral officials, including the Returning Officer, do not have current or recent affiliation with any political party.

A General Manager of any council is ineligible for appointment as a Returning Officer, substitute Returning Officer or an electoral official (section 296A(5)).

Is it possible to use the services of a Returning Officer previously engaged by the NSWEC?

Unlike the Australian Electoral Commission, the NSWEC does not retain a pool of permanent Returning Officers but a General Manager is permitted to approach a person who has had prior experience as a Returning Officer for the NSWEC.

Is it possible for the Returning Officer appointed by the council to be trained by the NSWEC?

The NSWEC has advised that its Returning Officer training program is customised specifically to complement the NSWEC’s own business processes, procedures and IT systems. It combines on-line and face to face training and is centred around training the Returning Officers in using the NSWEC’s computer

applications. As such, this training program is not transferable to the differing operating environments of individual councils. The training of Returning Officers, appointed by General Managers administering their council's elections, will necessarily be informed by that council's own procedures and systems.

Similar constraints apply to any Manuals or Handbooks prepared by the NSWEC.

Can the services of a commercial election provider be used?

There are a number of private sector companies who provide election services for company board of directors, sporting clubs and associations and the like. Similarly some Electoral Commissions, such as the Australian Electoral Commission, may conduct fee for service elections.

While the Act permits the use of such commercial election providers the General Manager will still retain overall responsibility for the administration of the elections.

In considering the use of such providers it is important to clarify that they can deliver the elections for the council. For example, although the Australian Electoral Commission is not involved in local government elections, its overall election experience may lead a General Manager to believe a suitably qualified officer from the Australian Electoral Commission could be engaged as the Returning Officer for the council's elections.

The General Manager would also need to be satisfied that if the provider claims to be able to obtain all the electoral material, or hire the necessary venues, or arrange the printing of the ballot papers, or conduct the count, that they can demonstrate their successful completion of these tasks in similar circumstances.

It is also a requirement that the method proposed to be used by the provider to conduct the count of the ballot papers (whether manual or the use of scanning equipment) can comply with the formality, scrutiny and record keeping provisions contained in the Act and Regulation.

If the services of a commercial election provider are to be used the contract must specify a 'natural person' as the Returning Officer, not simply name the particular company. It is also necessary to ensure that the person engaged as either the Returning Officer or substitute Returning Officer is indemnified by the council or has sufficient professional indemnity insurance in the event that an election is challenged or declared void due to any irregularity in the way it was run.

Councils are not restricted to relying on the services of one service provider to deliver all election-related items. For example, while a commercial election provider may be engaged to conduct the count, the council may decide to make its own arrangements in relation to the appointment of a Returning Officer, the purchase of cardboard material or the printing of the ballot papers.

If councils decide to use a commercial election provider is it necessary to go to tender?

Section 55 of the Act was amended to exempt councils from tendering if they were entering into a contract or arrangement for the NSWEC to administer the council's elections, referendums and polls. This exemption does not apply to contracts or arrangements with any other service provider.

As the amount involved in conducting council elections can be significant it is important to ensure that any commercial organisation is providing value for money. It is also important to ensure that as public funds are being expended principles of openness, transparency and accountability are not compromised.

Unless the cost of administering the elections is under \$150,000 or any of the other exemptions provided for in section 55 apply, the council will be required to go to tender or to conduct a selective tender.

Is it possible for councils to share a Returning Officer to conduct several elections concurrently?

The legislation permits councils to share a Returning Officer.

In 2008 the NSWEC introduced the option of small councils in rural and remote locations combining to form regions for which a Regional Returning Officer was responsible. In this way costs (wages of the Returning Officer, office staff, and office accommodation) could be apportioned to participating councils.

If the decision is taken by councils to engage a single Returning Officer to conduct a number of concurrent elections, the General Manager of each participating council will nonetheless retain ultimate responsibility for the conduct of their council elections.

As many election-related tasks and activities have legislative timetables that are non-negotiable, strategies will need to be put in place to address the challenges of having only one Returning Officer, and detailed project plans will be required to ensure the delivery of the individual elections satisfies the legislation and these Guidelines.

Each General Manager in the combined group must issue an instrument of appointment nominating the same person as the Returning Officer for the group. The allocation of tasks (for example, one council may nominate a staff member to source the cardboard material, another council may nominate someone to work with Vision Australia on the arrangements for Braille ballot papers) and the costs to be apportioned to each council in the group also need to be documented.

5.3 Appointing the polling places

The appropriate number of polling places for any one council will depend on its individual characteristics and factors such as the number of electors, geographic area it covers, available transport options, and suitable venues, will all have a bearing on the final number appointed.

While the cost of hiring venues will be a consideration, General Managers should also have regard to the following when determining the number and type of venues to be used:

- how many voters are there in total in the area, and how many voters can each particular venue comfortably handle?
- what venues have been used in the past by either the Australian Electoral Commission for federal elections or the NSWEC for either state or local government elections? What was the previous attendance pattern at these venues?
- is the venue conveniently located, particularly in light of transport options?
- is it suitable for the purpose of conducting an election? For example, is there sufficient space for the various tables, voting screens, ballot boxes, throughput of voters? Is there appropriate furniture for electoral officials? For example, if small tables and chairs are used in a primary school these are not appropriate for adults involved in election-related activities.
- is it easily accessible for all voters and in particular those with a disability, mobility issues, the elderly or frail, parents with prams?
- are there venues located close to ward boundaries that are able to issue ballot papers for both the ward in which they are located as well as votes for adjoining ward/s? Or in the case of an undivided council, venues located close to the boundary of another council or councils?
- is appropriate public liability insurance in place?

It is likely that the more electors a council has the more polling places it will need.

5.4 Determining the fees payable to the Returning Officer, the substitute Returning Officer and electoral officials

At the March 2011 state election the NSWEC paid Returning Officers between \$15,000 (base rate) and \$18,000 for approximately 10 weeks fulltime work (eight weeks before the election and two weeks after). In the case of councils conducting their own elections it may be necessary to hire a Returning Officer for a longer period as many of the tasks that were taken care of centrally by NSWEC staff will have to be addressed.

Determining the appropriate number of staff required for any particular council area depends on the estimated number of votes likely to be taken and the volume for each particular voting option (pre-poll, declared institution, postal and election day) as this will have an impact on the categories of staff recruited. For example, if it is anticipated that there will be a high demand for pre-poll voting it may be necessary to have more office assistants available in the Returning Officer's office than in an area where it is likely that more votes will be taken on election day at polling places.

Under the legislation all polling places must have a minimum of two staff, one of whom is the Polling Place Manager.

The NSWEC polling place staffing formula is based on 600 votes per issuing table (at one election official per table) and the overall projected number of votes for the polling place determines the number of issuing tables. The number of issuing tables determines whether a particular polling place requires a Deputy Polling Place Manager, a ballot box guard and/or an enquiry officer.

The amount of projected votes to be taken and the number of staff to be supervised will determine the level, and therefore the salary, of the Polling Place Manager. For example, a Polling Place Manager responsible for 10 staff will receive more than a Polling Place Manager responsible for three.

The following information has been taken from the NSWEC website and gives an indication of rates paid at previous state and local government elections. The NSWEC has advised that these rates are under review so it is recommended that councils consult the NSWEC website (www.elections.nsw.gov.au) to obtain the most up to date information.

Election Day						
Position	Election Day	Total Training Fee	Meal Allowance	Total Fee (Excluding Superannuation, Phone, Mileage)	Phone Allowance	Mileage
Polling Place Manager #	\$452.01 - \$554.13	\$136.86	\$24.95	\$613.82 - \$715.94	\$20.00	Y
Deputy Polling Place Manager	\$399.83	\$136.86	\$24.95	\$561.64		
Declaration Vote Issuing Officer *	\$296.52	\$22.81	\$24.95	\$344.28		
Election Official (this covers ordinary vote issuing officers, ballot box guards, and enquiry officers)*	\$296.52		\$24.95	\$321.47		
Part-Day Election Official *	\$148.26			\$148.26		
Legislative Council Count Manager/Council Count Manager *	\$160.39	\$11.40		\$171.79		
Polling Place Assistant *	\$88.13			\$88.13		

Polling Place Manager fee is dependent upon the size of the polling place

* A taxable cash allowance is payable in lieu of the superannuation guarantee contribution.

The total fee includes election day work, election night tasks, material collection and return, polling place setup, meal allowance and satisfactory completion of training requirements. A mobile phone allowance is also paid to Polling Place Managers as they are required to ring through results of the count at three different stages of the count.

Before or After Election Day

Position	Monday to Friday (hourly)	Saturday (hourly)	Sunday (hourly)
Senior Office Assistant	\$26.00	\$38.00	\$44.00
Office Assistant	\$20.67	\$30.20	\$34.97

The rates shown above are the hourly rates for work up to nine hours on any day, without the payment of overtime. Hourly rates are inclusive of loadings which are not payable on overtime.

Overtime rates are paid for work over nine hours (breaks excluded) on any day. Meal allowances may be payable for overtime hours worked beyond 6pm. Superannuation choice is offered, where applicable.

Mileage

Engine size	Cents per km
Under 1600cc	63
From 1600cc to 2600cc	74
Over 2600cc	75

A Returning Officer can approve mileage for:

- Polling Place Managers and Deputy Polling Place Managers for attendance at training, travel to and from the polling place and the Returning Officer's office on polling day, where their vehicle is used for work.
- Office Assistants for use of their own vehicle for work-related purposes eg visiting Declared Institutions.

Conditions for use of own vehicle:

- Most efficient, practical and less expensive than travel by other means
- The officer has their own Third Party and Comprehensive Insurance coverage
- Any damage to the vehicle will not be met by the NSWEC

5.5 Confirming the roll of non-resident owners of rateable land and the roll of occupiers and rate-paying lessees

Although General Managers will confirm the roll of non-resident owners of rateable land (section 299(3)) and the roll of occupiers and rate-paying lessees (section 300(3)), the recent amendments to the Act confirm that the NSWEC retains responsibility for enforcing the residential non-voter provisions. In light of this the NSWEC will continue to look after all aspects related to the production of the composite rolls and the availability of enrolment information.

5.6 Preparing a list of names of those on the residential roll, who appeared to have not voted at the election, and forwarding this list to the Electoral Commissioner within 14 days (or within a longer period if provided for in the Regulation) of the election

To obtain the names of those who appeared to have not voted, the NSWEC supplies rolls to each polling place to be marked off in a particular way so that following the completion of polling the rolls can be scanned to separate those names marked off as having voted, from those who have not. General Managers must forward the rolls for scanning as soon as possible after the election but they are to be received by the NSWEC no later than the Thursday after election day.

How will councils conducting their own elections discharge the responsibility under section 313 of the Act to return the list of non-voters to the NSWEC if the rolls have already been returned for scanning?

The NSWEC will manage this aspect by providing to those councils conducting their own elections with the list of names of those who appear to have not voted once the rolls have been scanned by the NSWEC. This list is to be certified by the General Manager and returned to the NSWEC within the stipulated timeframe.

Will the NSWEC provide composite rolls to those councils that decide to conduct their own elections? If so, will there be a cost?

The NSWEC will continue to make the composite rolls available to councils conducting their own elections at minimal cost (basically the cost involved in printing the rolls). This figure will vary depending on the number of electors in each area.

Councils must give an undertaking to the NSWEC that any enrolment information provided by the NSWEC will only be used for the purpose for which it was provided to ensure privacy protections are in place.

Any candidate wishing to obtain a copy of the electoral roll to which they are entitled will only be able to do this through the NSWEC.

When will the NSWEC make the composite rolls available?

The composite rolls will be provided to councils conducting their own elections at the same time as those being delivered to councils that have engaged the services of the NSWEC.

For tasks that require the electoral roll to be checked prior to this the NSWEC will enable councils conducting their own elections to search on a secure roll facility on the NSWEC website. For example, a Returning Officer will need to check whether the electors supporting the nomination of a prospective candidate reside in the area that the person intends to contest.

In regard to 'silent' electors, that is, those electors whose name appears on the roll but not their residential address, confirmation of their enrolment status will be

undertaken by the NSWEC as it requires logging into a database maintained by the Australian Electoral Commission. There will be no charge for this service.

Similarly the list of those people who are registered to automatically receive postal votes at an election is maintained by the Australian Electoral Commission and will be provided to councils conducting their own election by the NSWEC.

What if a person contacts a council conducting its own election, stating that they are unable to vote on election day and want to be 'excused' to ensure they do not receive a fine?

At the March 2011 state election the NSWEC adopted a strict policy regarding the excusing of people prior to the election to ensure it only occurred in very limited circumstances. These were: if the NSWEC was advised an elector had died or had moved interstate or overseas. Councils conducting their own elections should apply the same approach.

After the closing date for receipt of postal ballot papers has passed, the Returning Officer must prepare a list of all such people 'excused' and provide it to the General Manager, who will then send the information to the NSWEC to ensure penalty notices are not sent to those on the list.

As voting is compulsory, there is an obligation on each person to attempt to comply with the law. Even though they may not be able to attend on election day there are other options such as pre-poll and postal voting available. Electors are to be encouraged to vote using whichever means is most suitable to their circumstances, and excused only in the instances listed above.

If an elector states they are unable to vote by any of the voting options, they are to be advised to wait until they receive their penalty notice from the NSWEC and to then provide details of why they were unable to vote. If their reason is 'sufficient' as provided for under the legislation, they will not incur a fine.

Will councils conducting their own elections have to place the enrolment advertisement as required by clause 280 of the Regulation?

One of the required statutory advertisements is that advising electors that an election is to be held and that they need to be on the electoral roll to be able to vote. The NSWEC will place this advertisement state-wide to cover all NSW electors. This will mean that councils conducting their own elections do not have to place this advertisement, and there will be no charge by the NSWEC for this service.

Councils will remain responsible for placing all other statutory advertisements.

5.7 Managing the relevant election costs

The General Manager is to prepare the budget for all facets of the council's elections, and record and monitor expenditure to ensure a shortfall does not

occur. Activity based costing will need to be applied to ensure that all costs and expenses are identified.

Areas to be covered include:

- Wages of all electoral officials and any council staff engaged in election-related work
- Recruitment and training
- Advertising including the placement of statutory advertisements
- Candidate and elector information
- Hire of venues, furniture and equipment
- Production of all election-related material, including forms, envelopes and cardboard material
- Printing of ballot papers including in Braille, if requested
- Transportation of election-related materials
- IT software and hardware
- Administration expenses such as telephone, postage, courier services, photocopiers and printers
- Insurance.

A number of key variables will not be known until the close of nominations, namely whether an election will be uncontested, whether there will need to be a by-election due to insufficient nominations, whether candidates will form groups and request Group Voting Squares, and whether as a result, ballot papers will need to be printed to allow 'above the line' and 'below the line' voting.

These factors will have an impact on costs. However given the lead time required to ensure voting can go ahead at the prescribed times, provision for all likely costs has to be made.

Is it possible for councils conducting their own elections to become part of any arrangements the NSWEC makes regarding the supply of ballot boxes, voting screens etc to benefit from any economies of scale?

The NSWEC has advised that as the templates provided to the cardboard manufacturers contain NSWEC logos, if they were made available to councils conducting their own elections, separate arrangements would need to be made by councils with the manufacturer to remove these logos. The suppliers used by the NSWEC at the March 2011 state election were Visy and Amcor. Similarly arrangements regarding volume, costs, and delivery would also be a matter for discussion between councils and the supplier.

If the NSWEC establishes a candidate help desk would a candidate in an area where the council is conducting its own elections, be able to call for information?

While some questions a candidate may ask may be generic regardless of who is conducting the election, the majority of questions are likely to relate to specifics regarding their nomination, their how to vote material and so on. In this case it would not be appropriate for someone not involved in the particular election they are contesting to provide information or advice.

The Returning Officer is to deal with all candidate enquiries in those council areas conducting their own elections, and the General Manager is to appoint the 'public officer' as the contact for enquiries from the community.

Will the Election Funding Authority continue to make information available to candidates running in elections conducted by councils?

All local government candidates and groups have obligations under the *Election Funding, Expenditure and Disclosures Act 1981* and should consult the Election Funding Authority website (www.efa.nsw.gov.au) for further information.

A representative from the Election Funding Authority will be available to attend any candidate information seminars arranged by councils conducting their own elections to explain these requirements in detail. There will be no cost associated with this service. General Managers will need to liaise with the Election Funding Authority to ensure such attendances are properly co-ordinated.

To ensure those nominated are registered as deemed candidates for the purposes of the *Election Funding, Expenditures and Disclosures Act 1981*, this nomination information collected by councils conducting their own elections is to be forwarded to the Election Funding Authority within five days after the close of nominations.

Is it possible to count the votes manually?

In 2000 the Act was amended to introduce 'above the line' voting, to allow the voter to determine the preferences he or she wanted, by showing one or more preferences for groups or parties in the Group Voting Squares above the line.

This change has meant that specially designed software with a front end data entry module is required to count and distribute preferences as individual preference streams need to be tracked separately through the count and exhausted at the appropriate time.

Any councils conducting their own elections will know whether 'above the line' voting is in operation after the close of nominations, which is also the deadline for submitting claims for a Group Voting Square.

The more preferences 'above the line', the more complex and time consuming the counts become. For example, a ballot paper with only three Group Voting Squares has the potential of 15 combinations of preference markings. At the 2008

local government elections, many councils had between five and 12 Group Voting Squares, which mean there was the potential for thousands of 'above the line' voting combinations in a single election.

Such counts cannot be reliably conducted without appropriate software.

Are councils conducting their own elections able to use the counting software developed by the NSWEC?

The NSWEC has advised that its counting software is customised specifically to complement the NSWEC's own business processes, procedures and IT systems. This software is not transferable to the differing operating environments of individual councils.

The reason for this is that the counting module is only one part of the NSWEC's integrated Election Management Application system and it relies on data from other modules, such as the names of the candidates and polling place venues in each area, that have been entered prior to election day.

The NSWEC can provide the functional requirements specification for local government proportional representation vote counts, if requested.

Any council conducting its own election will need to have counting software in place to ensure that if 'above the line' voting is used it is in a position to count the votes according to Schedule 5 to the Regulation. Although a council will not know until the close of nominations whether 'above the line' voting will be used, (candidates have until this time to lodge a request to form a group and to have a Group Voting Square), development of counting software will have to have commenced many months prior.

The council must obtain certification from the developer of the software that the functional specification meets the legislative requirements and that end to end testing demonstrates that the system has integrity.

The robustness of the counting software is vital as any deficiencies could lead the election to fail.

5.8 Preparing a report for the Minister for Local Government on the conduct of each election that must disclose, among other things, full and transparent costings for that election.

Within six months of the elections the General Manager must prepare a report for the Minister for Local Government on the conduct of each election. Full and transparent costings for each election must be disclosed in this report.

What is meant by 'full and transparent costings'?

As was noted earlier, prior to the introduction of activity based costing by the NSWEC for the 2008 elections, many costs were hidden or absorbed.

It needs to be acknowledged that although council staff may be used to undertake administrative tasks related to the conduct of elections, this comes at a cost. Notably any time spent on election-related work is time not spent on other council duties. Similarly use of council office space or office equipment or resources for election-related work is at the expense of other day to day council activities.

The following list is not exhaustive but contains a number of items that should be reported on:

- Proportion of General Manager's time spent on election-related activities (such as training of Returning Officer, ensuring all aspects of the election have been identified, scoped and are on track, preparing and managing the budget) as proportion of salary.
- Proportion of other council staff time spent on election-related activities (such as processing payroll and payables, sourcing suppliers of election material, providing IT support, and legal advice) as proportion of salary.
- Wages of council staff hired specifically to assist with election-related activities.
- Wages of the Returning Officer, substitute Returning Officer, and all electoral officials (polling place managers, officers issuing votes, others who may be required in larger polling places, such as queue controller and ballot box guard, as well as office assistants in the Returning Officer's office).
- Cost of recruiting all electoral officials.
- Cost of training all electoral officials including the production of any Manuals or Guides.
- Cost of conducting Candidate Information Seminars.
- Cost of office for Returning Officer.
- Cost of hiring venues or using council venues for any additional pre-poll locations and election day voting.
- Cost of hiring furniture or equipment or using council furniture and equipment.
- Cost of electoral material including forms, envelopes, production of Candidate Information Sheets, stationery and cardboard material required for polling places.
- Cost of obtaining (ie putting together a Request for Tender), delivering and collecting election-related material and furniture.
- Cost of courier services and postage, particularly in relation to dispatch of postal votes.
- Cost of advertising and any elector information produced including cost of translations.
- Cost of printing ballot papers including any Braille ballot papers.
- IT - related costs particularly the development of counting software.
- Cost involved in producing report to Minister on conduct of elections.

Such identification of activity based costs and expenses will also enable a comparison with the fees charged by the NSWEC, to see whether one option is better value than the other for ratepayers.

Even in the case of an uncontested election or where there are insufficient nominations to enable the election to proceed on election day, there will be costs associated with having reached that stage, which also need to be reported.

What other aspects of the administration of the elections need to be included in the report to the Minister?

The NSWEC provides a report to the NSW Parliamentary Joint Standing Committee on Electoral Matters following state and local government elections. The broad areas addressed in these reports should be covered in the report to the Minister by the General Manager. These are:

- Electoral services provided to electors – this includes aspects such as information made available to the community about the election and dealing with enquiries from the public, providing accessible and convenient pre-poll and polling day venues
- Electoral services provided to candidates, groups and political parties – this covers aspects such as information made available to prospective candidates, taking nominations, registering how to vote material,
- Operational details – this covers aspects such as the placement of advertisements, the recruitment and training of staff, the number of polling place venues hired, the number of votes taken and in which categories, the number of candidates, the number and types of ballot papers printed, details of any incidents and complaints.
- Evaluation of the overall conduct of the election including feedback from the community, candidates, groups and political parties, and those involved as electoral officials.

To enable a comprehensive and useful report to be produced, both General Managers and Returning Officers will need to keep thorough records and documentation. This report must be provided to the Minister within 6 months of the election.

6. CONCLUSION

In addition to determining how the requirements specified under the Act and Regulation will be met, consideration should also be given to questions such as:

- What mechanisms will be used to facilitate voting by Aboriginal and Torres Strait Islanders, those from culturally and linguistically diverse backgrounds, or those with a physical disability or mobility issues?
- How will any request for a Braille ballot paper be managed?
- Is a strategy required for dealing with the media?

- Are there adequate procedures in place to log and deal with complaints?
- Is appropriate insurance or indemnification available if the conduct of an election fails?

The full range of procedural requirements related to the conduct of local government elections, can be found in Part 11 of the Local Government (General) Regulation 2005, and Schedules 4, 5, 7, and 10.

It is intended that closer to the election date, the Division will provide further advice to those councils that have resolved to conduct their own elections, outlining good practice suggestions on how to meet these requirements.

7. APPENDIX

Summary of services the NSWEC can provide

- Enrolment advertising

The NSWEC will place the statewide advertisement advising that the election will be held and that people need to be on the roll to vote.

- Composite rolls

The NSWEC will supply all councils with composite rolls. There will be a minimal cost to recover the cost of printing.

- Copy of roll to candidates

The NSWEC will continue to provide any candidate wishing to obtain a copy of the relevant electoral roll.

- Other enrolment-related matters

The NSWEC will make a secure roll facility available on its website to enable Returning Officers to check enrolment details prior to the hard copy rolls being provided, and it will provide confirmation of 'silent' elector details.

- Registered general postal voters

The NSWEC will provide the list of electors who have applied to receive postal votes automatically.

- List of non-voters

The NSWEC will scan the rolls and prepare a list of non-voters for the General Manager to certify.

- Vote-counting software specifications

The NSWEC can provide the functional requirements specifications for local government proportional representation vote counts, if requested.

- Funding, expenditure and disclosure obligations

The Election Funding Authority will send a representative to any candidate information seminars arranged by council to provide further details on these obligations.