



Conduct of local government elections

2019 Local Government Elections - Fact Sheet 7

Types of local government elections

There are three principal types of elections under the *Local Government Act 1995*.

Ordinary local government elections

Local government elections are held every two years. Councillors, and mayors or presidents elected by electors, are elected for four-year terms. One half of the councillors retire from each district or ward at each election.

Extraordinary local government elections

In cases where a councillor (or a mayor or president elected by electors) dies, resigns or is disqualified during his or her period of office, an extraordinary election may be held to fill the vacancy. In such cases, a person is elected for the remainder of the term of the former councillor, mayor or president.

Inaugural local government elections

When a local government is newly established, an inaugural election must be held to elect the first council.

Who conducts local government elections?

A returning officer runs each local government election. By default, this is the CEO of the local government, but the council may (with the approval of the Western Australian Electoral Commissioner) appoint another person. An alternative returning officer could be another staff member, a CEO from another local government, the Electoral Commissioner or any other person approved by the Electoral Commissioner. If the

election is to be a postal election, then the Electoral Commissioner will conduct the election and appoint a returning officer.

Who can vote in local government elections?

An elector will come from one of three groups of people who are eligible for enrolment:

- Residents who are on the Legislative Assembly roll for a residence within the district or ward (the electorate);
- Non-resident owners or non-resident occupiers of rateable property within an electorate who are on a State or Commonwealth Government electoral roll for a residence outside the electorate;
- Non-resident owners or non-resident occupiers of rateable property within an electorate who are not on a State or Commonwealth Government electoral roll (not Australian Citizens) but who:
 - were enrolled on the last completed owners and occupiers roll of the local government before the introduction of the *Local Government Act 1995*; and
 - have owned or occupied rateable property within the district continuously since that roll was prepared.

Residents

Residents on a State or Commonwealth Government roll for the district are automatically enrolled, while owners and occupiers of rateable property must apply for enrolment.

Owners of rateable property

Once owners of rateable property have made a successful application for enrolment, their enrolment will continue for as long as they own the relevant property.

Occupiers of rateable property

For non-resident occupiers of rateable property, a successful application for enrolment will only operate for two ordinary elections before a new application needs to be made. Occupants will have six months after the second ordinary election to re-apply.

To be a non-resident occupier, a person must have a right of continuous occupation under a lease, tenancy agreement or other legal instrument. The right of continuous occupation must extend for a period of at least three months from the time the person claims enrolment.

Co-owners and co-occupiers

Where rateable property is owned or occupied by two persons, both are eligible to be enrolled. If property is owned or occupied by more than two owners or occupiers or the owner or occupier is a company, only two people can be nominated to enrol. The same two people must be nominated for all the properties within the district that are owned or occupied by the company or people concerned. This ensures that in any election, a company or multiple owners or occupiers have no greater voting rights than a couple who own or occupy rateable property.

Properties in more than one local government district

If an elector's property is divided by local government district boundaries, a person can go on to the roll for each district. If property is divided by ward boundaries, a person is entitled to be enrolled only for the ward they nominate. If they fail to nominate a ward, the CEO will do so.

If there are separate occupancies within a building or property, up to two people can be enrolled for each occupancy.

Important to note: Electoral rolls close at 5.00pm on the 50th day before polling day. For a full election timetable, refer to the DLGSC's website at www.dlgsc.wa.gov.au.

Method of voting in local government elections

Each local government can choose to conduct an election as either a voting 'in person' election or as a postal voting election.

Voting 'in person' elections

The principal method of casting votes is by the elector personally voting at a polling place in the local government district on election day. However, votes can also be cast in person before election day at a polling place in the local government district (early vote), in person at another local government district up to 4.00pm on the fourth day before election day (absent vote) or by post (postal vote).

Voting on election day

Voting in person at an appointed polling place on election day is between the hours of 8.00am and 6.00pm.

Casting an early vote

An early vote can be cast as soon as the election notice is published state-wide. The notice will be published as soon as the preparations for the election have been made.

This could be any time after nomination day (36 days before the election) and not later than 19 days before election day.

The latest an early vote can be cast is by 4.00pm on the day before election day. The places and times for early voting will be published in the election notice.

Casting an absent vote

As with an early vote, an elector will be able to cast an absent vote as soon as the election notice is published. An absent vote can be cast at any local government office other than the office of the local government for which the elector wishes to vote.

The latest they will be able to do so will be 4.00pm on the fourth day before election day.

Casting a postal vote in a “voting in person” election

Electors can make an application for a postal vote at any time, but the latest they will be able to apply will be 4.00pm on the fourth day before election day.

Postal voting papers will be sent to all electors who have applied for a postal vote after the election notice is published.

Completed papers can be returned to the local government or one of its polling places at any time up to 6.00pm on election day but some post offices will be closed on election day (Saturday).

A postal vote can be cast as soon as the election package is received (this could be any day after the 37th day before election day).

Important to note: An election candidate who applies undue influence on an elector to apply for a postal vote, interferes with an elector while they are applying for a postal vote, or takes custody of an envelope in which there is a postal vote commits an offence.

Postal elections

Each local government can choose to conduct an election as a postal election in preference to a voting ‘in person’ election. All postal elections must be conducted by the Western Australian Electoral Commission (WAEC). Postal voting is more expensive but removes a lot of the administrative requirements usually performed by the local government.

Candidates participating in a postal voting election should also obtain the candidate pack including *Information for Candidates*, which is available from your returning officer or the WAEC. The candidate pack may also be downloaded from the WAEC website at www.elections.wa.gov.au/elections/local-government-elections/local-government-forms-and-guides.

A postal voting election package is sent to all electors on the local government's roll automatically. The package can be sent as soon as practicable after the close of nominations.

The postal voting package contains:

- voting instructions;
- candidate profiles (reproduced in such form as the returning officer determines);
- a ballot paper;
- a ballot paper envelope;
- an elector's certificate; and
- a pre-paid envelope for return of the papers to the returning officer.

Completed postal voting papers can be checked by the returning officer at any time prior to the close of polling, and candidates may be present.

Important to note: An election candidate who communicates with, assists or interferes with an elector while the elector is marking a ballot paper from a postal voting package, commits an offence.

A candidate or a person assisting a candidate should ensure that they do not take possession of a postal voting envelope containing postal votes.

System of voting in local government elections

'First past the post' system

Local government elections are conducted using the 'first past the post' system, in which electors indicate the candidate, or candidates, of their choice by placing a tick in the box opposite the names of the chosen persons, up to the number of vacancies to be filled.

If an elector ticks fewer boxes than the number of vacancies the vote is still valid. However, if the elector ticks more boxes than vacancies the vote will be invalid as the voter's intention will be unclear.

The result of an election is determined by counting the number of votes received by each candidate in the count.

In cases where there is a single vacancy, the candidate with the most votes is elected, while in cases where there is more than one vacancy, candidates are elected in order according to the number of votes received by each, until all vacancies are filled.

Where a person is a candidate for a mayoral or presidential vacancy and a councillor vacancy, the mayoral or presidential election is decided first. If the candidate is successful in the mayoral or presidential election, the candidate's votes are not counted for the councillor election.

Declaration of result

After the result of an election is determined, the returning officer is to declare the name of each candidate, the votes received by each candidate and the terms of office of those declared elected. The returning officer must then give local public notice of the result.

Issues that may follow local government elections

Courts of disputed returns

Any person can make a complaint to a Court of Disputed Returns (Magistrates Court) within 28 days after notice is given of an election result. The 28 days is calculated from the publication of the notice in a local newspaper.

The Court has the power to declare that:

- an election is invalid;
- a candidate should be declared elected in place of another candidate;
- the term of office of a candidate should be longer or shorter than the term determined by the returning officer;
- the result is tied, and lots need to be drawn to determine the result; or
- the invalidity complaint is rejected.

Complaints to the returning officer or Electoral Commission

Rather than make a complaint to a Court of Disputed Returns, a person may complain to the returning officer or the Electoral Commission. The returning officer or the Electoral Commission can investigate any complaint of electoral misconduct, malpractice or maladministration. An investigation could also be carried out regardless of whether there has been a complaint. Any person may prosecute for an offence against the electoral provisions.

Candidates' deposits

After the time that a Court of Disputed Returns can deal with a complaint, the returning officer should ensure that nomination deposits are returned to eligible candidates.

Where can I get more information?

For more information visit the Department of Local Government, Sport and Cultural Industries website at: www.dlgsc.wa.gov.au or contact your local government.

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