

# Scrutineer policy

## NSW Local Government elections

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# 1. Abbreviations and definitions

## Abbreviations

**Act**                    *Local Government Act 1993 (NSW)*

**Regulation**        *Local Government (General) Regulation 2021 (NSW)*

## Definitions

**Ballot counting place** – A place appointed by the election manager for the counting of ballot papers.<sup>1</sup>

**Election manager** –

- in relation to an election, council poll or constitutional referendum administered by the Electoral Commissioner – the Electoral Commissioner.<sup>2</sup>

**Election official** –

- in relation to an election administered by the Electoral Commissioner, a returning officer or substitute returning officer appointed by the Electoral Commissioner, or
- an electoral official appointed by the returning officer.<sup>3</sup>

**General manager** – In relation to an election or enrolment, the general manager of the council of the area in which the election is being held or of the area to which the enrolment relates.

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## 2. Introduction

- 2.1. A scrutineer for a local government election or by-election represents a candidate or a group of candidates.<sup>4</sup>
- 2.2. For a constitutional referendum or council poll, a scrutineer may represent the council, a political party registered in the Local Government Register of Political Parties, or the Electoral Commissioner.<sup>5</sup>
- 2.3. A scrutineer may represent their appointer at any place where voting is carried out, ballot papers are scrutinised, or votes are counted.<sup>6</sup>
- 2.4. The role of a scrutineer is to observe election processes on behalf of their appointer to see it is carried out fairly, impartially, and with integrity. A scrutineer's presence provides an additional level of assurance to political participants and the public regarding the integrity of the election process.

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<sup>1</sup> Regulation, s 345A(1).

<sup>2</sup> Regulation, s 275 – definition of *election manager*.

<sup>3</sup> Regulation, s 275 – definition of *election official*.

<sup>4</sup> Regulation, s 337(1)-(2).

<sup>5</sup> Regulation, Sch 10, cl 3(c).

<sup>6</sup> Regulation, s 337(1).

### 3. Purpose

- 3.1. This Policy details the rights and obligations of scrutineers in NSW Local Government elections.
  - 3.2. While this Policy provides guidance, it is not a substitute for the laws which govern the conduct of an election and the participants in an election, nor does it provide legal advice. If there is doubt about any legal matters regarding an election, independent legal advice should be sought.
  - 3.3. This Policy contains the Electoral Commissioner's approval for the purposes of s. 333I of the Regulation regarding the elements of the technology assisted voting process that may be observed by scrutineers.
  - 3.4. This Policy applies to scrutineers at elections administered by the Electoral Commissioner for NSW. Councils in NSW may choose to enter into an arrangement with an electoral services provider other than the Electoral Commissioner to administer their elections. Scrutineers in elections run by other electoral services providers may have regard to the provisions of this Policy, particularly noting the description of the offence provisions, but should also confirm relevant practice and procedure with the electoral services provider.
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### 4. Who can appoint scrutineers for elections of Councillors and Mayors

- 4.1. For elections of councillors and mayors, a scrutineer may only be appointed by a candidate. In the case of candidates belonging to a group, the appointment of a scrutineer may be made by any or all candidates belonging to the group.<sup>7</sup>
  - 4.2. A candidate or group cannot be represented by more than one scrutineer at any one place at which polling is carried out, ballot-papers are scrutinised, or votes are counted. The separate tables or stations within any building, room or other location at which polling is carried out, ballot papers are scrutinised, or votes are counted are taken to be separate places in relation to the allocation of scrutineers.<sup>8</sup>
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### 5. Who can appoint scrutineers for referendums and polls

- 5.1. For constitutional referendums and council polls, scrutineers may only be appointed by:
    - the Returning Officer at the request of the General Manager or Mayor of the relevant council,
    - the Electoral Commissioner, or
    - the registered officer for a political party registered in the Local Government Register of Political Parties.<sup>9</sup>
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<sup>7</sup> Regulation, s 337(1)-(2).

<sup>8</sup> Regulation, s 337(6)-(7).

<sup>9</sup> Regulation, Sch 10, cl 3(c).

## 6. Who can and cannot be appointed a scrutineer

- 6.1. A candidate in an election **cannot** be a scrutineer in relation to the same election or in relation to simultaneously held elections within the same council.<sup>10</sup>
  - 6.2. As such, a candidate for mayor or councillor for a council:
    - **cannot** act as a scrutineer for any election, constitutional referendums or council polls in that area including in an election for a different ward in the same area; but
    - **can** act as a scrutineer in an election held for a different council.
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## 7. How scrutineers are appointed

- 7.1. An election manager may approve a form that provides for:
  - the appointment of a scrutineer by a candidate, and
  - a declaration to be made and signed by the scrutineer.<sup>11</sup>
- 7.2. The form **LG.213 Appointment of scrutineer** published by the NSW Electoral Commission has been approved for this purpose and will be available on the NSW Electoral Commission's website at [elections.nsw.gov.au](http://elections.nsw.gov.au)
- 7.3. The appointment form comprises two sections, being:
  - the appointment of a scrutineer by the candidate, and
  - the declaration to be made by the scrutineer.<sup>12</sup>
- 7.4. A person appointed as a scrutineer cannot act as a scrutineer on any day unless he or she presents the completed form on that day to an election official,<sup>13</sup> and makes and signs the declaration before an election official at the place at which the scrutineer intends to act as a scrutineer.<sup>14</sup>
- 7.5. The one form may be used at multiple places and times, as there are five spaces on the form for the declaration to be made. Additionally, copies of the form (i.e., with the appointment section completed) may be used, provided the declaration section is made and signed on each occasion of scrutineering.<sup>15</sup>
- 7.6. Election officials may retain the **LG.213 Appointment of scrutineer** form. However, if the election official has not retained the form, a scrutineer **should** produce their scrutineer appointment form for inspection if asked by an election official.<sup>16</sup>
- 7.7. Part 4 of the *Oaths Act 1900* applies to the making of such a declaration, including the offences regarding false declarations and false declarations for material benefit.<sup>17</sup>

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<sup>10</sup> Regulation, s 337(5).

<sup>11</sup> Regulation, s 337(3).

<sup>12</sup> Regulation, s 337(4A).

<sup>13</sup> Regulation, s 337(4B).

<sup>14</sup> Regulation, s 337(4C).

<sup>15</sup> Regulation, s 337(4D).

<sup>16</sup> Regulation, s 337(4D).

<sup>17</sup> Regulation, s 337(4E).

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## 8. Scrutineer rights and obligations

- 8.1. All scrutineers are to be always treated equally by election officials. Information made available to one scrutineer must be made available to all scrutineers present.

### Requirements and expectations of scrutineers

- 8.2. A scrutineer **may** attend each place at which polling is carried out, ballot papers are scrutinised, or votes are counted.<sup>18</sup>
- 8.3. A scrutineer **must** obey the lawful directions of an election official.<sup>19</sup>
- 8.4. At elections administered by the Electoral Commissioner, scrutineers are **required** to:
- behave in a professional manner, take responsibility for their own conduct, and be respectful to all participants in the electoral process; and
  - wear scrutineer identification while at a location at which polling is carried out, ballot papers are scrutinised, or votes are counted.
- 8.5. At elections administered by the Electoral Commissioner, it is **recommended** that scrutineers:
- attend any staff briefing (at an election location) for an activity they will be a scrutineer for at that location
  - observe all procedures so as to monitor compliance with legislative requirements.
- 8.6. At elections administered by the Electoral Commissioner, a scrutineer **can**:
- enter and leave an election location and be replaced by another appointed scrutineer
  - communicate with any person at an election location in regards to scrutineer duties
  - sign election forms as a witness when a witness is required
  - use devices to talk to, or text, another person, as long as the noise level does not interfere with the electoral process being undertaken and those devices are not used to film or record election processes.
- 8.7. At elections administered by the Electoral Commissioner a scrutineer **may not**:
- touch ballot papers or declaration vote envelopes, nor any other election material
  - film or record election processes
  - be alone in any room where there are ballot papers
  - assist electors to vote
  - bring food or drink near ballot papers.

### Offences by scrutineers and other prohibitions

- 8.8. The Regulation describes certain offences that apply specifically to scrutineers. A scrutineer **must not**:

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<sup>18</sup> Regulation, s 337(1), 346.

<sup>19</sup> Regulation, s 369(2).

- interfere with, influence, or attempt to influence an elector or an election official;<sup>20</sup>
- communicate with a person except as necessary to carry out the scrutineer's functions;<sup>21</sup>
- ignore lawful directions of election officials;<sup>22</sup> or
- disclose how a particular elector has voted.<sup>23</sup>

8.9. Scrutineers, party workers and other supporters of candidates should also be aware of other offences that are described in the Regulation. Under those provisions people **must not**:

- obstruct access to:<sup>24</sup>
  - a polling place, a pre-polling voting office or a place being used as a mobile pre-poll booth, or
  - a space set aside for voting at a polling place, a pre-poll voting office, or a place being used as a mobile pre-poll booth
- hinder or obstruct an election official or scrutineer in the performance of their duties<sup>25</sup>
- for the purpose of voting before election day, or when a person is voting at a declared facility (such as a hospital, nursing home, retirement village or similar facility, also known as declared institution):
  - communicate with the elector in relation to the vote,
  - assist the elector or in any manner interfere with the elector in relation to the vote, or
  - look at the elector's vote or do anything to find out how the elector voted,<sup>26</sup> unless they have been appointed by an elector to provide assistance under s 388 of the Regulation. **Note:** Scrutineers may not assist electors to vote.
- make a statement that the person knows is false in a paper relating to an election or poll under the Act, or in information supplied to the Electoral Commissioner or General Manager for the purposes of the preparation, maintenance, or revision of an electoral roll under the Act must not induce another person to make such a statement<sup>27</sup>
- mark or purport to mark a vote on a postal or pre-poll ballot paper or a ballot paper handed to an elector at a declared facility unless the person in doing so is providing assistance in accordance with the legislation<sup>28</sup> **Note:** Scrutineers may not assist electors to vote.
- remove a ballot paper from a polling place or pre-poll voting centre.<sup>29</sup>
- enter a space set aside for voting in a polling place while another person is in that space<sup>30</sup>
- remain in a space set aside for voting in a polling place or at a pre-poll voting office for a longer period than is necessary for the purpose of marking his or her ballot-paper<sup>31</sup>

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<sup>20</sup> Regulation, s 369(1)(a).

<sup>21</sup> Regulation, s 369(1)(b).

<sup>22</sup> Regulation, s 369(2).

<sup>23</sup> Regulation, s 364.

<sup>24</sup> Regulation, s 367.

<sup>25</sup> Regulation, s 365.

<sup>26</sup> Regulation, s 362.

<sup>27</sup> Regulation, s 359.

<sup>28</sup> Regulation, s 363.

<sup>29</sup> Regulation, s 370(a).

<sup>30</sup> Regulation, s 370(b).

<sup>31</sup> Regulation, s 370(c).

- obstruct or unnecessarily delay the proceedings at a polling place or pre-polling office<sup>32</sup>
  - forge an electoral paper<sup>33</sup>
  - place in a ballot box a ballot paper that the person knows has not been lawfully issued to an elector or any paper other than the ballot paper issued to him or her<sup>34</sup>
  - commit the offences of electoral bribery, treating, selling of votes, or interfering with the right to vote, as set out in sections 209 and 210 of the *Electoral Act 2017*.<sup>35</sup>
- 8.10. There are also further offences relating to non-complying electoral material, and the display and distribution of electoral material with which scrutineers should be familiar.<sup>36</sup>
- 8.11. An election official may direct a scrutineer to leave an election location if the election official believes on reasonable grounds that:
- the scrutineer's presence is contrary to the legislation,
  - the scrutineer is contravening or has contravened any provision of the legislation, or
  - the scrutineer has committed any other offence at the location.<sup>37</sup>

### Communication of venue information

- 8.12. The following information will be available on the NSW Electoral Commission website at [elections.nsw.gov.au](https://elections.nsw.gov.au) and when requested by a scrutineer:
- the times and locations of all election activities a scrutineer may attend
  - the address of all election locations at which a scrutineer may perform their role
  - contact information for issues, or for election queries that aren't specific to a location.
- 8.13. Note that the times and locations of voting at declared facilities, however, will not be published on the website. Scrutineers must contact the Returning Officer in each area for information about the day and time that arrangements have been made to visit a declared facility.

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## 9. Scrutineers at locations at which they may be present

- 9.1. The Electoral Commissioner may, at their discretion, provide information sheets to scrutineers at each location containing information specific to that location and the election activities to be undertaken at that location. That information should be considered in addition to the following.
- 9.2. For constitutional referendum and council poll elections, references in this section to *candidate* are to be read as the *scrutineer's appointer*.

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<sup>32</sup> Regulation, s 370(d).

<sup>33</sup> Regulation, s 372.

<sup>34</sup> Regulation, s 373.

<sup>35</sup> Regulation, s 375, 377.

<sup>36</sup> Regulation, Pt 11, Div 9A, Subdiv 3, 4, 5.

<sup>37</sup> Regulation, s 369(1A).



## Scrutineers at a voting location

- 9.3. A voting location is where electors are issued ballot papers and cast votes. These include polling places, pre-poll voting offices, declared facilities and mobile booths. A voting location may contain multiple places where polling is carried out, ballot papers are scrutinised, or votes are counted.
- 9.4. Each ungrouped candidate and each group may have a maximum of one scrutineer at each voting location, while voting is taking place, ballot papers are scrutinised, or votes are counted. The separate tables or stations within any building, room or other location at which polling is carried out, ballot papers are scrutinised, or votes are counted, are taken to be separate place.<sup>38</sup>
- 9.5. At a voting location a scrutineer **may**:
- wear the badge or emblem of a candidate or political party<sup>39</sup>
  - require an election official to require that a person who is claiming to vote at a polling place is asked questions in the following form:
    - Are you the person whose name appears as [name] on the roll for [ward of area or area]?
    - Are you of or above the age of 18 years?
    - Have you already voted, either here or elsewhere, at this election?
    - Are you disqualified from voting at this election?
    - Do you live in [ward of area or area]?<sup>40</sup>
  - be present when an elector, who requires assistance to vote, has their ballot paper marked by an election official or other appointed person.<sup>41</sup> **Note:** Scrutineers may not assist electors to vote.
  - be present when a polling place manager (or authorised electoral official) receives a provisional vote, encloses it in an envelope, seals the envelope and puts it in the ballot box<sup>42</sup>
  - at a mobile booth for pre-poll, be present at the sealing of the ballot box by the pre-poll voting officer.<sup>43</sup>
- 9.6. At elections administered by the Electoral Commissioner a scrutineer **may** also:
- inspect ballot boxes before the commencement of voting
  - witness the sealing and unsealing of ballot boxes
  - witness the opening and/or closing of a voting location
  - observe the issue of ballot papers to ensure that certain required questions are asked and answered
- 9.7. A scrutineer at a voting location while polling is in progress **must not** do anything that would constitute an offence against the Regulation as set out in the “Offences by scrutineers and other prohibitions” section above.

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<sup>38</sup> Regulation, s 337(6)-(7).

<sup>39</sup> Regulation, s 369(3).

<sup>40</sup> Regulation, s 339(3); see also ss 320A, 323(4), 330(5).

<sup>41</sup> Regulation, s 388(4).

<sup>42</sup> Regulation, s 320E(3).

<sup>43</sup> Regulation, s 332A(6).

- 9.8. A scrutineer **may not** record the name of a person, or any information provided by a person, to an election official during the issue of a ballot paper.

### Scrutineers at a declaration vote processing location

- 9.9. A declaration vote processing location is any place where provisional votes cast by an elector who has been required to make a written declaration (including postal declaration votes) are processed, including being received, sorted, scrutinised, opened, and ballot papers extracted.
- 9.10. Each ungrouped candidate and each group may have a maximum of one scrutineer at each scrutiny point at a declaration vote processing location at any given time. A scrutiny point is where one or more election officials (if there's more than one, they're working as a team) are handling a maximum of one declaration vote at a time.<sup>44</sup>
- 9.11. A scrutineer at a declaration vote processing location **may**:
- observe the opening and emptying of a ballot box
  - observe the receipt and scrutiny (acceptance or rejection) of returned declaration vote envelopes
  - observe the opening and extraction of ballot papers from declaration vote envelopes.
- 9.12. A scrutineer at a declaration vote processing location **may not** interrupt election officials undertaking declaration vote processes. Instead, scrutineers should direct queries to the election official in charge.

### Scrutineers at a counting location

- 9.13. A counting location is any place where the preferences on ballot papers are being counted.
- 9.14. Each ungrouped candidate and each group may have a maximum of one scrutineer at each counting point at a counting location at any given time. A counting point is where one or more election officials (if there's more than one, they're working as a team) are handling a maximum of one ballot paper at a time.<sup>45</sup>
- 9.15. A scrutineer at a counting location at which a ballot-box is located **may**:
- be present when a counting place manager, with the assistance of election officials:
    - opens the ballot box
    - scrutinises ballot papers
    - rejects informal ballot papers
    - places the envelopes containing postal votes and provisional votes to one side as they are taken from the ballot box
    - undertakes the initial count of ballot papers and the number of envelopes containing postal vote certificates or other declarations<sup>46</sup>
  - sign the return stating the details of the count.<sup>47</sup>

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<sup>44</sup> Regulation, s 337(6), (7).

<sup>45</sup> Regulation, s 337(6), (7).

<sup>46</sup> Regulation, s 348A(3).

<sup>47</sup> Regulation, s 348A(4).

- be present when a Polling Place Manager packages and secures the ballot papers and other materials used and provided for use at the polling place for dispatch to the Returning Officer.<sup>48</sup> A scrutineer can also require the Returning Officer to have the packages containing the ballot papers scrutinised and counted in the presence of election officials, scrutineers and police officers then present and on duty.<sup>49</sup>

9.16. A scrutineer at an election administered by the Electoral Commissioner **may**:

- object to the formality of a ballot paper or the determination of preferences of a ballot paper but is to accept the consequent decision by the election official in charge. If the scrutineer is not satisfied with a decision, they may note the details and should be informed that:
  - if it is an Initial Count, a final determination will be made in the Check Count, or
  - if it is a Check Count, pursue the matter in the NSW Civil and Administrative Tribunal or the Supreme Court of NSW.
- request a count of a parcel of counted ballot papers that are sorted to a candidate
- witness the sealing of counted ballot papers, and may apply their own seal, endorse, and/or sign each parcel of counted ballot papers
- communicate count results
- sign result sheets.

9.17. A scrutineer at a counting location **may not** impede election officials undertaking a count.

9.18. Ballot paper formality guidelines will be set out on the NSW Electoral Commission website at [elections.nsw.gov.au](http://elections.nsw.gov.au). It is important that scrutineers have an understanding of those guidelines and the system of voting that applies to the elections.

### Scrutineers at a data entry location

9.19. A data entry location is any place where the preferences on ballot papers are entered into counting software (including by manual data entry or by Optical Character Recognition (OCR) scanning).

9.20. Each ungrouped candidate and each group may have a maximum of one scrutineer at each data entry point at a data entry location at any given time. A data entry point is where one or more election officials (if there's more than one, they're working as a team) are handling a maximum of one ballot paper at a time.<sup>50</sup>

9.21. A scrutineer at a data entry location **may** observe all batching and data entry processes.

9.22. While data entry is being undertaken for a contest a scrutineer **may** make a request to the election official in charge at the location for a data entry audit of enough (as determined by the election official in charge at the location) ballot papers in that contest to provide a high level of confidence that the result will not be affected by data entry error. A data entry audit consists of election officials confirming that the preferences captured in the counting software match those on the physical ballot papers.

9.23. The scrutineer **may** request, and observe, the audit of any specific batches of ballot papers for any venue/vote type, and:

- a ballot paper markings report will be printed for those batches from the counting software (showing all preferences that have been data entered for each ballot paper in that batch)

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<sup>48</sup> Regulation, s 349(1).

<sup>49</sup> Regulation, s 349(3).

<sup>50</sup> Regulation, s 337(6), (7).

- the physical ballot papers will be retrieved
- in view of the scrutineer, one election official will read out each group/candidate's name and the marking for the group/candidate, and the second election official must check that the markings on the ballot paper match the markings being called from the ballot paper markings report.
- any ballot papers found to have markings incorrectly entered will have their markings re-entered into the counting software, and this audit process will be repeated for those ballot papers.

9.24. A scrutineer at a data entry location **may not** interrupt or impede data entry operators.

#### Scrutineers at a Returning Officer's office

9.25. A scrutineer at a Returning Officer's office **may** witness the announcement of nominations by the Returning Officer.<sup>51</sup>

9.26. After the election has been declared, the scrutineer **may** seal, endorse and sign each package of ballot papers and other materials used and provided for use at the election. This endorsement is to specify the contents of each package and the name of the ward and area, as well as the date of polling, to which the contents relate.<sup>52</sup>

#### Scrutineering of technology assisted voting

9.27. A scrutineer appointed by a candidate or registered party **may** attend the NSW Electoral Commission location published on the NSWEC website at [elections.nsw.gov.au](http://elections.nsw.gov.au) to observe:

- any production of the printed ballot papers and bundling and sealing of those ballot papers in accordance with the approved procedures, and
- any other element of the technology assisted voting process that is approved for the purposes of the Regulation.<sup>53</sup>

9.28. The Electoral Commissioner has approved that scrutineers may observe the following elements of the technology assisted voting process occurring in the telephone voting call centre only, including:

- prior to the start of voting, the process of sealing the ballot box;
- during voting, the process by which election officials record the preferences of an eligible elector on a ballot paper before placing the ballot paper in a ballot box in accordance with the approved procedures. For clarity, this means being present to observe the actions carried out by election officials but does not extend to monitoring the voting telephone line;
- after the close of voting, the process of unsealing the ballot box and transmission of the ballot papers for scrutiny and counting.

9.29. Scrutineers may not observe the process for the registration of eligible electors to use telephone voting.

#### Scrutineers at a recount of ballot papers

9.30. A recount of Councillor or Mayor ballot papers may be initiated by one of two means:

- a recount request from a candidate setting out the reasons for the request, accepted by the Electoral Commissioner; or

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<sup>51</sup> Regulation, s 295(1).

<sup>52</sup> Regulation, s 391(1)-(2).

<sup>53</sup> Regulation, s 333l.

- on the Electoral Commissioner's own motion.
- 9.31. A scrutineer **may not** request a recount of a mayor or councillor election for which the scrutineer was appointed. This request must be made by the candidate.
- 9.32. In relation to constitutional referendums and council polls, a scrutineer **may** request a recount of a referendum or poll for which the scrutineer was appointed, noting that the Returning Officer may not grant the request (as assessed on merit), with such request to:
- be in writing
  - be signed by the scrutineer
  - set out the reasons for the request
  - be lodged with the Returning Officer within 24 hours after the persons present are informed of the result of the count.<sup>54</sup>
- 9.33. A scrutineer at a recount may request that the Returning Officer or the appointed election official conducting the recount reserve any ballot paper for the Electoral Commissioner to decide how any preference or mark on the ballot paper is to be data entered into the computer count system or, in the case of a manual count, whether a ballot paper is formal or informal.
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## 10. Countback elections

### Conduct of a countback election

- 10.1. A countback election is held if the Council has resolved to use countback to fill a vacancy after the local government ordinary election and other relevant criteria are valid.

### Appointment of scrutineers at countback elections

- 10.2. The notice issued by a Returning Officer regarding a countback election must advise that an eligible candidate is entitled to appoint scrutineers for the countback election.<sup>55</sup>
- 10.3. The form for appointment of scrutineer published by the NSW Electoral Commission is also to be used for countback elections. Even if a candidate previously appointed a scrutineer for the original election, a separate appointment is required for the countback election.

### Rights and obligations of scrutineers at a countback election

- 10.4. The legislation provides that the general provisions relating to scrutineers<sup>56</sup> and misconduct by scrutineers<sup>57</sup> at attendance elections apply to a countback election with all necessary modifications.<sup>58</sup>
- 10.5. Accordingly, the section of this Policy which addresses the rights and obligations of scrutineers applies to all scrutineers who are appointed to scrutinise a countback election. In the context of countback elections, any references to places where voting is carried out and places where votes are counted should be understood to apply to the place at which the countback election is conducted.

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<sup>54</sup> Regulation, Sch 10, item 3.

<sup>55</sup> Regulation, Sch 9A, cl 2(4)(e).

<sup>56</sup> Regulation, s 337.

<sup>57</sup> Regulation, s 369.

<sup>58</sup> Regulation, Sch 9A, cl 10(1)(a), (d).

## Scrutineering at a countback election

- 10.6. Each candidate or group can be represented by only one scrutineer at the countback election location at any one time.<sup>59</sup>
- 10.7. At a countback election administered by the Electoral Commission, a scrutineer must wear the identification provided by the Returning Officer, at all times while they are in attendance at the countback election.
- 10.8. A scrutineer at a countback election administered by the Electoral Commissioner **may**:
  - observe the conduct of the countback election
  - countersign forms as requested by the Returning Officer or other election officials
  - leave at any time and be replaced by another properly appointed scrutineer
  - make phone calls or text using mobile phones, as long as this use does not interfere with the conduct of the countback election
  - wear the badge or emblem of a candidate or political party
  - communicate with election officials as is necessary to discharge their duties.
- 10.9. A scrutineer at a countback administered by the Electoral Commissioner **may not**:
  - communicate with any person in a countback election other than to execute their official duties
  - ignore lawful directions from the Returning Officer or other election officials
  - obstruct the Returning Officer or election official in the exercise or performance of their duties
  - interfere or cause disruption in the conduct of the countback election
  - touch any equipment used in the conduct of the countback election
  - use mobile phones or other electronic equipment to film or record the countback election.

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## 11. Document source

- 11.1. This Policy can be downloaded from the NSW Electoral Commission website at [elections.nsw.gov.au](https://elections.nsw.gov.au).
- 11.2. The information in this Policy is based on legislation at the date of publication. If the legislation changes, an updated version of this Policy will be made available from the NSW Electoral Commission website.
- 11.3. For further information, the following websites are also available:
  - [NSW Legislation \(www.legislation.nsw.gov.au\)](https://www.legislation.nsw.gov.au) to view or download the relevant provisions of the Act and Regulation.
  - [Office of Local Government \(http://www.olg.nsw.gov.au\)](http://www.olg.nsw.gov.au)

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<sup>59</sup> Regulation, s 337(6).

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## 12. Relevant legislation

- *Local Government (General) Regulation 2021* (NSW)
  - *Local Government Act 1993* (NSW)
  - *Electoral Act 2017* (NSW)
  - *Oaths Act 1900* (NSW)
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## 13. Document control

### Document management

<b>Approved by:</b>	<b>Signature:</b>	<b>Date approved:</b>
John Schmidt Electoral Commissioner	Approved electronically	8 December 2023
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### Revision record

Date	Version	Revision description
November 2021	1.0	Initial version for LGE21
December 2023	2.0	Updated version for LGE24