

Paper 1 – Process for Investigating Discrepancies in Senate and HoR Ballot Paper Numbers

Response to Request for Verification.

Based on available comparative reporting, WA is typical in terms of the various reconciliations which take place in order to assure the election process. Of the various anomalies which came to our attention as a result of both our internal checks and as a result of scrutinies of our data by external parties, I am satisfied that we are able to account for some but not all of them. I would therefore hold by a derived accuracy rate of over 99.97%. Across the number of votes taken according to the most current scrutiny in WA, this amounts to a possible error of 405 votes. (.03% of 1349635 rounded up to the nearest vote.) However, it should be noted that there is no way to relate this possibility of error to a likelihood of altered outcome.

The reasoning behind the above statement along with framework issues is outlined below.

Introduction

There are two issues to be considered in looking at election reconciliations. The first is the accuracy of the count itself, which can only be evaluated in the light of subsequent counts (Noting Antony Greens comments on 4 Oct that *"If you count 1.3 million ballot papers twice there is reasonable chance you will get a different result, but you can never know whether the error is in the first or the second count."*)

The second is the discrepancy margin which is effectively an accounting measure looking for a balance between ballot papers issued and ballot papers received and relate to internal measures, by vote type, for each category (House and Senate) and comparative measures between the two categories.

Differences between the number of votes recorded for HoR and Senate scrutinies at a 'count' level are not uncommon. Operations Managers (DROs and NO elections branch staff) evaluate the differences identified to ensure they are within an acceptable tolerance. Any difference outside the normal range must be investigated. (Operations Manager election systems guide). The RCOM report lists a comparison of House of Representatives scrutiny totals with Senate scrutiny totals.

Background for Discrepancies

Variations can occur as a result of mis-sorts and miscounting, partially admitted votes, discarded papers, spoilt papers or papers not found. A common problem with the ballot paper reconciliation may be that the wrong number of ballot papers have been issued or handed out in addition to the original ballot paper allocation. Ballot Paper Printers are asked to bundle ballot papers in packs of 100 for HoR and Senate. The House Ordinary Papers are stubbed and numbered. However in the case of the Senate there are variations. Small discrepancies (99, 101, 102) occur and can impact on Polling Place balances if OICs do not accurately attend to this aspect of their role.

Election night figures are overtyped with fresh scrutiny figures after the actual scrutiny has been performed. This is why the figures change with the latest figure always being the more accurate.

Variations can also occur because of voter behaviour, either deliberate or inadvertent, that is not able to be picked up by polling place staff. For example, discrepancies can occur when an elector deliberately fails to place a ballot paper in the correct ballot box or declaration envelope. Or an elector may place their Senate Ballot Paper outside of the envelope provided for postal vote or inadvertently substitute a how to vote card for a valid completed ballot paper and then deposit the vote. Supporting this, the closer the control of the deposit process (eg bed to bed voting in hospitals) the lower the discrepancy rate.

Some difference is explained by partially admitted votes. I.e. admitted for the Senate only, because the voter has claimed entitlement for the incorrect division but for the correct State or Territory. This can occur for a number of reasons including for example; if an elector attends a polling place and is not found on the roll at an ordinary issuing point they will be referred to the declaration vote issuing point. Here they will be provided with a ballot paper for the House of Representatives division in which they claim to be enrolled. However when the envelope is processed through preliminary scrutiny to ensure the voters entitlement, they are found not to be enrolled at their claimed address and are enrolled for another division. In these cases the House of Representatives vote is rejected and the Senate included, (Senate only are to be counted).

It is important to note that we are legislatively compelled to maximise the electors franchise by admitting the Senate ballot paper to scrutiny if the elector is entitled to vote in the state in which they are enrolled. This results in many variations where the difference between the House of Representatives and Senate ballot paper numbers are not the same by division, but are not a result of errors in counting or bundling.

In its efforts to obtain a verifiable and accurate outcome, the AEC also looks to resolve a range of anomalies which may not even lead to ballot paper discrepancies. For example, prior to commencing further scrutiny, all declaration votes must undergo a preliminary scrutiny and a balance of admitted and partial admitted certificates must be achieved. Occasionally a declaration certificate or postal vote application will be mis sorted and sent to the wrong division. Shortages of declaration envelopes in other divisions may have resulted in absent/provisional certificates being used for pre-poll voting and vice-versa. Shortages of declaration envelopes in other divisions may also have resulted in certificates being photocopied.

Investigating Discrepancies

The DRO must ensure that these variations are within acceptable tolerances or that there is an explanation for the variance. The stated level of acceptable tolerance within the AEC is +/- 10.

If the total number of ballot papers for a polling place differs from the total at the previous count (including informal figures), the ballot papers are counted again, in order to establish a balance with the fresh scrutiny figures. If a balance still cannot be obtained (after rechecking the figures), the DRO will accept the fresh scrutiny figure and record details in the election diary, and the new figures in ELMS-Election Processing system. (EPM DO Pt 13 sub part 4)

Senate results are entered using an entry / verification process conducted by two staff from senate fresh scrutiny result slip. This data is then amalgamated with BTL data (which is also

double entered) to appear on the VTR. For batches of papers transferred to CSS for BTL input, the CSS manager is the only officer who can adjust the batches. (ie: The DRO cannot).

Where a parcel of Declaration & Postal votes despatched in the declaration vote exchange was not received, the DRO undertook follow-up action. If the declaration certificates and/or applications could not be located after investigations, the details were recorded in the Election Diary. The total number of declaration certificates received must be able to be reconciled with the total number of declaration certificates (admitted, partly admitted and rejected) although; in rare cases parcels were not received or received too late.

WA RCOM Report

In the case of the WA RCOM report, 11049 was the publicly visible website difference between HoR and Senate ballot papers. The actual reconciled difference was 454. This represents a discrepancy margin of 0.03% or a reliability of 99.97%.

In the Canning Oakford polling place for example, there were 1022 and 1036 HoR votes, resulting in 14 more Senate than HoR votes. In the Division of Swan Pre Poll Count Five, there were 961 HoR votes and 1 missing against 974 Senate accounted for, with 4 missing resulting in a difference of 16 more Senate than HoR accounted for.

There have also been instances of where the HoR vote is higher than the Senate vote. Pearce Yanchep is an example of this where 2072 HoR votes were counted against 2058 Senate (a 14 difference). However the VTR is not transparent in that it only shows formal and informal votes, not spoilt (5 & 3) and discarded (17 & 19). This discrepancy is not explained to the viewer, but a difference of 14 is visible.

At a polling place level the average discrepancy margin of 0.03% or a reliability of 99.97% ranges from 0 votes to 51 votes (setting aside the 2 matched dual PPVC mix ups in Greenfields and Joondalup). The 51 votes is at O'Connor (Kambalda West) and was a difference between the OIC return and fresh scrutiny results. As previously noted, if a balance still cannot be obtained (after rechecking the figures), the DRO will accept the fresh scrutiny figure and record details in the election diary, and the new figures in ELMS - Election Processing system. The most likely explanation for this particular discrepancy (Kambalda West) is that on polling night, the numbers called in by the Polling Place were incorrectly attributed. Whilst this does not affect the number of votes attributed to each candidate/party, it will show as an anomaly in the VTR. This was diarised by the DRO.

Of the 1806 counts undertaken, 24 were outside the acceptable tolerance, representing 1.41%. That is 98.59% of counts were within the acceptable tolerance level. Those 24 counts identified (of 45498 ballot papers) a reconciled difference of 93 ballot papers, or 0.2% of the (45498) count, but 0.01% of the total count. The VTR website difference was 59 ballot papers. In this case the VTR may appear incorrectly.

In summary, we are somewhere between 99.97% and 99.99% accurate. In terms of reconciling House and Senate ballot papers, WA were comparatively successful in 2013 with 62% of polling places having 99.9% concordance. However, as explained above it is not possible to warrant a precise measure of accuracy as the remaining .03% may be due to voter behaviour or a range of other factors.

Paper 2 – Analysis of issues raised by Senator Ludlam in supplementary letter to the Electoral Commissioner on 4 October

Introduction

Attached are results of feedback and analysis of the Issues raised by Mr Ludlam in his supplementary letter dated 4 October to the Electoral Commissioner seeking a recount of the WA Senate Election results.

By way of general comment, we are unable to provide meaningful analysis where the points being raised are credibly the result of voter behaviour or demographics. We are also unable to replicate the situations noted by Senator Ludlam where the Senators staff have taken time specific snapshots of the VTR throughout the election process as we do not have sufficient information to duplicate these snapshots.

Issue

Pre Poll Discrepancy on 16 September

Analysis

Unfortunately from the information provided by Mr Ludlam AEC WA is unable to replicate the counts data as indicated in his correspondence. Mr Ludlam indicated that one pre poll voting centres had 0.61% of the count allocated to the Australian Christians. Mr Ludlam then also indicated that there appeared to be a second pre poll count also conducted on that day with a the Australian Christians receiving 0.64% of the vote. The two counts totalled 3,222 votes.

Using these three pieces of data WA AEC were able to identify potentially that the Perth PPVC which took 1,471 senate votes had an allocation of 0.61% of the vote allocated to the Australian Christians.

No other pre poll voting centre has allocated 0.64% to the Australian Christians however 4 other static polling places have 0.64% allocated to the Australian Christian. These are South Perth North, Perth (Curtin), Melville (Tangney), Guilderton and Hamilton Hill South. Regrettably no combination of these static polling places and Perth PPVC then meet the 3,222 vote statement in Mr Ludham's letter.

It is also unclear whether Mr Ludlam has also then compared pre poll voting trend based on envelop/declaration votes to pre poll voting based on ordinary votes. In the first instance pre poll declaration votes are conducted in early voting centres located outside of the home division before polling day whilst the ordinary pre poll vote is undertaken in an early voting centre located within the division on polling day.

If the key volume of data is based on the Perth PPVC, Perth division as a whole has less percentage of the total Australian Christians votes (1.27%) as compared to the state (1.5%).

Without more specific data we are unable to evaluate the issues raised by the Senator.

Issue

Analysis of the AEC time series data

Analysis

Divisional Returning Officers are required to review data management reports which compare House of Representative count ballot papers to Senate ballot paper counts. Where discrepancies exist they are required to investigate and rectify them. This activity is undertaken prior to the Senate count of votes being finalised.

These investigations include checking OIC returns, data input scrutiny sheets and ballot papers (counted, unused, spoilt and discarded) to determine whether the data entry reflects the count data.

A number of accounting corrections were made with regard to the Division of O'Connor on 1/10/13. The DRO identified that the data entry for a number of polling places did not physically match the OIC returns or data scrutiny input sheets to the actual physical number of votes counted through the scrutiny process.

As a result the Divisional Returning Officer made a number of data entry adjustments to correct obvious data entry errors. These may have changed the percentage quantum of votes as the errors were corrected. However the actual quantum of votes was the same. Depending on timing, the adjustments may have appeared on the VTR as a reduction in the total quantum of votes for some of the parties and then as an additional increase as the VTR was updated.

These adjustments were recorded in the election diary by the Divisional Returning Officer and were a result of the completion of validation exercises in the data entry aspect of the election.

Issue

Analysis of the Durack Geraldton Waggrakine Booth

Analysis

The Geraldton – Waggrakine booth in the Division of Durack has identified on the VTR that only 1 BTL vote was attributed to it. The polling place took 1,929 votes.

It would appear that during the fresh scrutiny at the divisional off site premises 79 ballot papers were identified to be sent to the CSS for processing. This was recorded in the relevant ELMS screens and CSS then confirmed receipt of the ballot papers for processing.

When the CSS processed these ballot papers one was a non- standard BTL ballot paper and the remainder were blank informal ballot papers. This data was uplifted to the relevant screens in ELMS and everything was considered to have been processed correctly.

A further review of ELMS data indicates that there were also 32 informal votes retained by the division and 13 spoilt and discarded ballot papers for the polling place. With a net ballot paper discrepancy of 4 senate papers over for ballot paper reconciliation purposes and in comparison to House volumes 5 under. (Acceptable ranges).

There are a number of possibilities here. The informal votes may have inadvertently been bundled incorrectly in that they should have been referred to CSS as BTL papers and the materials sent to CSS should have been retained in Durack as informal. ie: there are potentially 32 votes in question here. Without a further examination of the ballot papers it is difficult to conclusively resolve this issue.

In passing, it is worth noting that if assuming that the % trend for the division was constant in this polling place then there would be no more than 1 vote granted to the Shooters and Fishers and zero votes to the Australian Christians (0.71 vote: 0.36 vote).

Issue

Identification of unusual booth trends

- Division of Perth – Bassendean Shooters and Fishers Vote was almost double then the rest of the division.
- Division of Swan – Cannington East Shooters and Fishers vote was more than double than other booths in Swan.
- Division of Tangney – Canning Vale North was also double than other booths in the division of Tangney.

Analysis

Without counting ballot papers there is nothing to indicate anything amiss with any of these results. The voting trends in each booth are quite credibly a result of localized demographic data. For example, in Ashfield Polling Place there are double the percentage of and quantum of voters who are more supportive of the HEMP party than the Shooters and Fishers Party.

Additionally, in some cases the numbers being referred to are small. For example, 'statistically double the percentage vote for the Canning Vale North vote' equates to 3 voters.

Issue

Unusual total vote count for booths in Durack and Brand

Analysis

Senator Ludlam indicates that there are unusual high proportions of the polling places counts that end with a 10 and are therefore a bundling error.

For the Division of Brand there are 3 polling places out of 41 and the Division of Durack 12 out of 123 polling places. This is respectively 7.32% and 9.76%. In comparison the Division of Canning has 5 out of 54 polling places and the Division of O'Connor 13 out of 133 polling places. Respectively these are 9.26% and 9.78%. The distribution of counts ending in 10 is not abnormal.

Issue

Significant discrepancies between Australian Christians HOR and Senate at particular booths and in comparison to total votes overall.

The following booths show large differences between Australian Christians HOR and Senate vote (while most booths are fairly consistent within 2- 3 votes) and also have significant discrepancies between HOR and Senate votes cast (greater than 10):

- Canning - Oakford - HOR 49, Senate 40
- Moore - Heathridge - HOR 46, Senate 32
- Pearce - Yanchep - HOR 38, Senate 19
- Perth - Inglewood North - HOR 44, Senate 25
- Swan - Langford - HOR 59, Senate 44
- Tangney - Bull Creek East - HOR 48, Senate 37
- Tangney - Canning Vale Central - HOR 93, Senate 67

Analysis

There is not a compelling argument that voters will as a matter of course align house and senate votes. Discrepancies such as these are arguably equally likely to be the result of voter decisions. In addition there are order and layout issues on the ballot paper that tempt electors to vote differently for house to senate.

Issue

Demonstrated problems in vote counting in previous elections

Analysis

There is no relevance to these statements as they allegedly relate to the 2007 election. However there is no documentation of these concerns within this office. I would note that attention is paid to the correct counting of ballot papers in staff training materials. For example, an exercise specifically designed to reinforce correct counting of Senate ballot papers was included in the 2012 'simulated election' exercise. Issues arising from that exercise were raised with all offices.

Issue

A prior Senate Recount in 1980, produced a different total count of ballot papers and this is argued to be indicative.

Analysis

Firstly it should be noted that the result did not change. However, more importantly this recount occurred prior to 1984 when group voting tickets and ATL voting was introduced. These changes together with the introduction of the easycount system and larger ballot papers substantially changed processes and assurance processes.

Excerpt from AEO WA response to Senator Ludlam's Recount Request of 2nd Oct including Additional Information provided on October 3rd

The difference of only 14 votes at Count 138

During numerous counts candidates are excluded by small differences. The point worth noting is that where the AEC does have a numerical trigger as part of its recount policy, in the House of Representatives, differences of less than 100 are measured at the end of the distribution of preferences not in the middle of this process (as outlined in p60 of the Candidates Handbook). By way of reference, there were a number of points throughout the 2013 WA Senate count where exclusions occurred based on small differences and Senate Counts have a history of small vote margins at various exclusion points which then impacts on complex transfer values as defined in the Act.

Variations in the vote on the Virtual Tally Room on the AEC website and particularly that of the Shooters And Fishers Party in O'Connor

Variations in progressive results updated through the VTR on the AEC Website are not unusual and reflect the stages of fresh and further scrutiny of ordinary and declaration votes. Scrutiny is further subject to a final validation exercise to reconcile ballot papers counted. The checks conducted to validate and confirm the accuracy of the vote include verification of formality and checking correct attribution to a candidate. The VTR figures on the AEC Website are indicative only and are not final. They are displayed in the interests of transparency.

The closeness of the margin of the vote in comparison to the Division Fairfax in the House of Representatives

With regard to the closeness of the count in comparison to Fairfax in the House of Representatives, the Electoral Act does not specifically reference closeness other than to give instructions regarding the management of ties in the Senate Count process. However, it is worth noting that the Recount policy refers to a margin of less than 100 votes **at the end of the distribution of preferences** for the House of Representatives. At the end of the distribution of preferences in the Senate count, the difference in votes between yourself and the sixth elected candidate, Louise Pratt, is considerable.

Examination of bundles of votes of a number of parties (Australian Christians, Shooters and Fishers, No Carbon Tax Climate Sceptics, Australian Fishing & Lifestyle, Australian Independents and Australian Voice).

In regards to the examination of a number of bundles of votes of specified parties, I do not see any clear issue being raised here with regard to processes or events which may otherwise have led to a different result. Group Voting Tickets of all Parties are publicly available for perusal and is a transparent element of our electoral process.

Non standard ballots

Referencing the additional information you provided today, firstly with reference to the nonstandard ballot papers with multiple duplicate numberings, the examples you provided all fall within the scope of Section 270 (1) (a)(b)(i)(ii) which describes formality savings measures and are not irregularities

Variation in votes between the Senate and the House of Representatives.

With reference to the variation in the number of votes cast in the House of Representatives and the Senate, the difference is largely accounted for by what we call partially admitted votes; ie: cases where the elector is issued with a declaration vote which is then found to be for the wrong division as they are enrolled for an address other than the one claimed, but is still in the right state. These can, for example be provisional or absent votes. This results in many variations where the difference between the House of Representatives and Senate Ballot paper numbers are not the same by division but are also not a result of errors in counting or bundling.