

SCHEDULES

SCHEDULE 3

Rules for the conduct of PCC elections where poll not taken together with poll at another election

PART 3

Contested PCC elections

COUNTING OF VOTES

Verification of ballot paper accounts

Attendance at verification

48.—(1) The local returning officer must make arrangements for the verification of the ballot paper accounts in the presence of the counting agents as soon as practicable after the close of the poll.

(2) The local returning officer must give the counting agents notice in writing of the time and place at which the verification of the ballot paper accounts will begin.

(3) A person may be present at the verification of the ballot paper accounts only if—

- (a) the person is within paragraph (4), or
- (b) the person is permitted by the local returning officer to attend.

(4) The persons within this paragraph are—

- (a) the police area returning officer and the local returning officer;
- (b) the clerks of either officer;
- (c) the candidates and one other person chosen by each of them;
- (d) the election agents;
- (e) the counting agents;
- (f) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Act.

(5) The local returning officer may give a person permission under paragraph (3)(b) only if the local returning officer is satisfied that the person's attendance will not impede the efficient verification of the ballot paper accounts.

(6) The local returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the local returning officer can give them consistently with the orderly conduct of the proceedings and the discharge of the local returning officer's duties.

Procedure at verification of ballot paper accounts

49.—(1) The local returning officer must, in the presence of the counting agents—

- (a) open the ballot boxes from each polling station and count and record the number of ballot papers in each box;
 - (b) verify each ballot paper account;
 - (c) count such of the postal ballot papers as have been duly returned and record the number counted.
- (2) A postal ballot paper is not to be taken to be duly returned unless—
- (a) it is returned in the manner specified in paragraph 43(1) or (2) of Schedule 2 and, before the close of the poll, it reached the local returning officer or a polling station in the voting area for which the officer acts,
 - (b) the postal voting statement, duly signed, is also returned in the manner specified in paragraph 43(1) or (2) of Schedule 2 and, before the close of the poll, it reached the local returning officer or a polling station in the voting area for which the officer acts,
 - (c) the postal voting statement also states the date of birth of the elector or proxy (as the case may be), and
 - (d) in a case where an elector’s or proxy’s date of birth and signature are to be verified in accordance with paragraph 51 or 52 of Schedule 2, the local returning officer verifies the date of birth and signature of the elector or proxy (as the case may be).
- (3) The local returning officer, while counting and recording the number of ballot papers, must keep the ballot papers with their faces upwards and take all proper precautions for preventing anyone from seeing the numbers or other unique identifying marks printed on the back of the papers.
- (4) Unless otherwise directed by the police area returning officer, the local returning officer must determine the hours during which the procedure under this rule is to be carried out and must take proper precautions for the security of the ballot papers and documents.
- (5) The local returning officer must—
- (a) verify each ballot paper account by comparing it with the number of ballot papers recorded by the local returning officer, and the unused and spoilt ballot papers in the local returning officer’s possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list);
 - (b) draw up a statement as to the result of the verification.
- (6) Once the statement is drawn up the local returning officer must inform the police area returning officer of the contents of the statement.
- (7) Any counting agent present at the verification may copy the statement.

Additional steps: verification and count carried out at different places

50.—(1) This rule applies where the votes at a PCC election are to be counted at a place other than that at which the procedures for the verification of the ballot paper accounts are carried out.

- (2) The local returning officer must on completing the procedure under rule 49—
- (a) make up into packets the ballot papers and the postal ballot papers for the PCC election and seal them up into containers endorsing on each the description of the voting area and the police area to which those ballot papers relate; and
 - (b) deliver or cause to be delivered to the place at which the counting of the votes is to be carried out—
 - (i) those containers together with a list of them and of the contents of each, and
 - (ii) the ballot paper accounts together with a copy of the statement as to the result of their verification.

(3) If the packets are not delivered by the local returning officer personally, their delivery must be in accordance with arrangements approved by the police area returning officer.

(4) The police area returning officer may give a local returning officer for any voting area wholly or partly comprised in the police area directions which, once the packets have been delivered to the place where the votes at the PCC election are to be counted, require the local returning officer to take specified steps for the carrying out of further specified verification procedures in relation to the ballot papers and other documents relating to the PCC election.

(5) In paragraph (4), “specified” means specified by the police area returning officer in directions given under that paragraph.

The first count

Attendance at the first count

51.—(1) The local returning officer must make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll.

(2) The local returning officer must give the counting agents notice in writing of the time and place at which the counting of votes will begin.

(3) A person may be present at the counting of the votes given in a voting area only if—

- (a) the person is within paragraph (4), or
- (b) the person is permitted by the local returning officer to attend,

but, where the votes given in two or more voting areas are to be counted at the same place, the persons who may be present at that place are those who would be entitled to be present at the count for each voting area.

(4) The persons within this paragraph are—

- (a) the police area returning officer and the local returning officer;
- (b) the clerks of either officer;
- (c) the candidates and one other person chosen by each of them;
- (d) the election agents;
- (e) the counting agents;
- (f) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Act.

(5) The local returning officer may give a person permission under paragraph (3)(b) only if the local returning officer—

- (a) is satisfied that the person’s attendance will not impede the efficient counting of the votes, and
- (b) has consulted the election agents or thought it impracticable to do so.

(6) The local returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the local returning officer can give them consistently with the orderly conduct of the proceedings and the discharge of the local returning officer’s duties.

(7) In particular where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents must be allowed to satisfy themselves that the ballot papers are correctly sorted.

The first count

52.—(1) Where the containers referred to in rule 50 are delivered to the place where the counting of votes is to be carried out, the local returning officer must open in the presence of the counting agents all the packets of ballot papers other than those containing unused, spoilt or tendered ballot papers.

- (2) The local returning officer must not count the votes given on any ballot papers until—
 - (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box;
 - (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.
- (3) The local returning officer must then—
 - (a) where the election is contested by three or more candidates, count the number of first preference votes given for each candidate;
 - (b) where the election is contested by only two candidates, count the votes given for each candidate.
- (4) The local returning officer must not count any tendered ballot paper.
- (5) The local returning officer, while counting the votes, must keep the ballot papers with their faces upwards and take all proper precautions for preventing anyone from seeing the numbers or other unique identifying marks printed on the back of the papers.
- (6) The local returning officer must so far as practicable proceed continuously with the counting of votes, allowing only time for refreshment, except that the local returning officer may exclude the whole or any part of the period between 7 pm and 9 am on the next day.
- (7) During the time so excluded the local returning officer must—
 - (a) place the ballot papers and other documents relating to the PCC election under the local returning officer's seal and the seals of any of the counting agents who want to affix their seals, and
 - (b) otherwise take proper precautions for the security of the papers and documents.

Rejected ballot papers

- 53.**—(1) Any ballot paper—
- (a) which does not bear the official mark;
 - (b) on which more than one first preference vote is given;
 - (c) on which anything is written or marked by which the voter can be identified (except the printed number and other unique identifying mark on the back);
 - (d) which is unmarked;
 - (e) which is void for uncertainty as to the first preference vote,

is, subject to paragraph (2), void and not to be counted.

- (2) A ballot paper on which the vote is marked—
 - (a) elsewhere than in the proper place, or
 - (b) otherwise than by means of a cross, or
 - (c) by more than one mark,

is not for that reason void if condition A or condition B is met.

- (3) Condition A is that—

- (a) three or more candidates remain validly nominated,
 - (b) an intention that a first preference vote be given for not more than one of the candidates clearly appears, and
 - (c) the way the paper is marked does not itself identify the voter and it is not shown that the voter can be identified from it.
- (4) Condition B is that—
- (a) paragraph (3)(a) does not apply,
 - (b) an intention that a vote is for one only of the candidates clearly appears, and
 - (c) the way the paper is marked does not itself identify the voter and it is not shown that the voter can be identified from it.
- (5) A ballot paper—
- (a) which is not otherwise void, and
 - (b) on which not more than one first preference vote is marked (whether or not a second preference vote is marked),

is valid as respects that first preference vote and must be counted accordingly.

(6) The local returning officer must endorse the word “rejected” on any ballot paper which under this rule is not to be counted and must add to the endorsement the words “rejection objected to” if any objection is made to the officer’s decision by a counting agent.

(7) The local returning officer must draw up a statement showing the number of rejected ballot papers under the several heads of—

- (a) want of an official mark;
- (b) voting for more than one candidate as to the first preference vote;
- (c) writing or mark by which the voter could be identified;
- (d) unmarked as to the first preference vote;
- (e) void for uncertainty.

(8) In the case of an election where only two candidates remain validly nominated, this rule is to have effect as if—

- (a) in paragraph (1)(b), for “first preference vote” there were substituted “vote”;
- (b) in paragraphs (1)(e) and (7)(b) and (d), the words “as to the first preference vote” were omitted;
- (c) paragraph (5) were omitted.

Re-count

54.—(1) A person within paragraph (3) who is present on completion of the counting (or any re-count) of the votes in a voting area may require that the votes be re-counted or again re-counted.

(2) The local returning officer may refuse to have the votes re-counted if in the local returning officer’s opinion the requirement is unreasonable.

(3) The persons within this paragraph are—

- (a) the candidates;
- (b) the election agents;
- (c) the counting agents who, in relation to the count or re-count, are authorised under rule 31(2).

(4) No step is to be taken on the completion of the counting (or any re-count) of votes until the persons within paragraph (3) who are present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

Direction to conduct a re-count

55.—(1) The police area returning officer may direct a local returning officer to have the votes re-counted.

(2) The police area returning officer may give a direction under paragraph (1) only if the police area returning officer has reason to doubt the accuracy of the counting of the votes in the voting area for which the local returning officer acts.

(3) A local returning officer who is given a direction under paragraph (1) must—

- (a) begin the re-count as soon as practicable, and
- (b) if the officer does not begin the re-count immediately, notify the counting agents of the time and place at which it will take place.

Decisions on ballot papers

56. The decision on any question arising in respect of a ballot paper which is made by the local returning officer is final, but may be subject to review on a PCC election petition.

Procedure at conclusion of the first count

57.—(1) As soon as practicable after the conclusion of the count (including any re-count), the local returning officer must draw up a statement showing—

- (a) the total number of ballot papers used,
- (b) the total number of rejected ballot papers,
- (c) at an election contested by three or more candidates—
 - (i) the total number of first preference votes given, and
 - (ii) the number of first preference votes given for each candidate;
- (d) at an election contested by only two candidates, the number of votes given for each candidate.

(2) As soon as practicable after the statement is drawn up under paragraph (1), the local returning officer must inform the police area returning officer of its contents.

(3) As soon as practicable after being authorised to do so by the police area returning officer, the local returning officer must—

- (a) inform such of the candidates and their election agents as are then present of the contents of—
 - (i) the statement prepared in accordance with paragraph (1), and
 - (ii) the statement prepared in accordance with rule 53(7), and
- (b) give public notice of the contents of those statements.

The central calculation

Attendance at the central calculation

58.—(1) The police area returning officer—

- (a) must make arrangements for the making of the calculation under rule 59 in the presence of the election agents, and
 - (b) must give to those agents notice in writing of the time and place at which the calculation will begin.
- (2) No person other than—
- (a) the police area returning officer and the officer’s clerks;
 - (b) the local returning officers and a clerk chosen by each of them;
 - (c) the candidates and one person chosen by each of them;
 - (d) the election agents;
 - (e) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Act,
- may be present at a calculation, unless permitted by the police area returning officer to attend.
- (3) A person not entitled to attend a calculation must not be permitted to do so by the police area returning officer unless the officer—
- (a) is satisfied that the efficiency of the calculation will not be impeded, and
 - (b) has either consulted the election agents or thought it impracticable to do so.

The first calculation and resolution of equality

59.—(1) As soon as the police area returning officer has received the information required by rule 57 from every local returning officer, the police area returning officer must—

- (a) in relation to an election contested by three or more candidates, ascertain the total of the first preference votes given in the police area to each candidate;
- (b) in relation to an election contested by only two candidates, ascertain the total number of votes given in the police area to each candidate.

(2) As soon as the police area returning officer has ascertained the result of the calculation, the officer must inform such of the election agents as are then present of the relevant figures and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation.

(3) A person informed of the relevant figures under paragraph (2) may require the police area returning officer to make a calculation again but the officer may refuse to do so if in the officer’s opinion the request is unreasonable.

(4) In paragraphs (2) and (3), “the relevant figures” means—

- (a) in the case of an election contested by three or more candidates—
 - (i) the number of first preference votes given in the police area for each candidate, and
 - (ii) the calculation undertaken by the police area returning officer for the purpose of ascertaining whether a candidate is to be returned in accordance with paragraph 3 of Schedule 9 to the 2011 Act (candidate with overall majority of first preference votes);
- (b) in the case of an election contested by only two candidates, the total number of votes given in the police area for each candidate.

(5) Where an election is contested by three or more candidates—

- (a) if paragraph 3 of Schedule 9 to the 2011 Act applies (candidate with overall majority of first preference votes), the declaration of the person to be returned to the office of police and crime commissioner for the police area must be made in accordance with rule 62;

(b) if paragraph 4(1) of Schedule 9 to the 2011 Act applies (no candidate with overall majority of first preference votes), the police area returning officer must proceed with the second calculation in accordance with Part 4 of these Rules.

(6) Where an election is contested by only two candidates and the total number of votes given for each of them is unequal, the person to be returned to the office of police and crime commissioner for the police area is the candidate to whom the majority of the votes is given.

(7) Where an election is contested by only two candidates and the total number of votes given for each of them is equal, the person to be returned to the office of police and crime commissioner for the police area is the person whom the police area returning officer decides, in accordance with paragraph 4(8) of Schedule 9 to the 2011 Act, is to be returned to that office.

(8) In a case to which paragraph (6) or (7) applies, the declaration of the person to be returned to the office of police and crime commissioner for the police area must be made in accordance with rule 62.