



Part F – After the declaration of the result

**The Scottish Independence
Referendum: guidance for Counting
Officers**

Translations and other formats

This document can be made available in certain alternative formats. For further information, contact Ros Wilson at ros.wilson@edinburgh.gov.uk, telephone 0131 469 3820

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1. Storage and disposal of documents

- 1.1 On completion of the count, you have a legal duty to seal up the counted and rejected ballot papers into separate packets and to forward these, alongside the other relevant documents from the polling stations, the postal vote processes and the count, to the Proper Officer of the local authority area in which the votes have been cast.¹ You must also be aware of the legal obligations for eventual disposal of the documents. Your arrangements should have been put in place at an early stage and included in your project plan.
- 1.2 When handling the materials, remember that, as Counting Officer, you must not open the sealed packets containing the tendered ballot papers, the completed corresponding number lists, the certificates of employment or the marked copies of the Polling List (including any notices of alteration) and the lists of proxies.²
- 1.3 If you are not also the Proper Officer of the Council, you should liaise with that officer at an early stage to make arrangements for the forwarding of the prescribed documents after the declaration of results.
- 1.4 Even if you are also the Proper Officer, you should make sure that the packaging process is as clear as possible. It is essential to maintain a clear audit trail when packaging and forwarding the documents in order to enable anyone wishing to inspect public documents to do so.
- 1.5 A clear audit trail and transparent process can be achieved by:
 - Clearly labelling each packet. You should seal all of the relevant documents in separate packets and to mark each packet with a description of its contents and the date of the referendum. In addition, the labels should state for how long the packet is to be kept and when it is to be destroyed. The labels for documents open to public inspection and for documents that are not open to public inspection should be different. As a minimum, the packets containing documents not open to public inspection should clearly state this fact.

¹ SIRA 2013 Schedule 3 Rule 37 and Schedule 2 para 45

² SIRA 2013 Schedule 3 Rule 36(2)

- Ensuring that you have factored in the parcelling up of documents to your count planning.
- Covering packing instructions as part of your training for polling station staff and when training postal voting and count supervisors. Providing written instructions should also help to reduce the risk of documents being packaged wrongly. The Chief Counting Officer has developed a [template graphical guide to packaging materials](#) at the close of poll, which you could adapt and provide to polling station staff.
- Creating a list of all documents to be forwarded. You should keep a record of all of the materials that you have a duty to send to the Proper Officer and ensure that all of the items are accounted for. Paragraph 1.7 below provides a list of documents that you have a duty to forward. You should also:
 - record the number of parcels you have dispatched
 - record the details of the Proper Officer to whom they have been sent, and
 - obtain a receipt from the Proper Officer indicating that the parcels have been safely received.

1.6 All packets and receptacles containing referendum documents should be stored securely before being transferred to the Proper Officer so that no unauthorised persons can tamper with them.

Documents to be forwarded

1.7 The following documents are to be forwarded to the Proper Officer of the Council:

From the count

- the packets of ballot papers in the Counting Officer’s possession³, including the counted ballot papers, the rejected ballot papers, the tendered ballot papers and the unused and spoilt ballot papers
- the ballot paper accounts, the statements of rejected ballot papers and the verification statements⁴
- the tendered votes list⁵

³ SIRA 2013 – Schedule 3 Rule 37(2)(a)

⁴ SIRA 2013 – Schedule 3 Rule 37(2)(b)

⁵ SIRA 2013 – Schedule 3 Rule 37(2)(c)

- the packets containing the assisted voters list, the marked votes list, the polling day alterations lists, the companion declarations and the tendered votes list (made up in a single packet in each polling station and opened and resealed at the count to allow the tendered votes list to be used for the verification).

From the poll

- the packets of the completed corresponding numbers lists⁶
- the packets of the certificates of employment for constables or staff on duty in the polling station⁷
- the packets containing marked copies of the Polling List including any marked copy notices of alteration and of the postal voters list, the lists of proxies and the proxy postal voters lists⁸

From the postal voting processes

- the packets containing the completed corresponding number lists from the postal vote issuing sessions⁹
- the packets containing spoilt postal votes¹⁰
- the packets containing any remaining parts of lost postal votes¹¹
- the packets containing the superseded postal ballot packs¹²
- the marked lists of postal voters and of postal proxy voters¹³
- the packets containing retrieved cancelled votes¹⁴
- the packets containing rejected postal votes¹⁵
- the packets containing postal voting statements which were accepted as valid but were not subject to the verification procedure¹⁶
- the packets containing the rejected ballot paper envelopes¹⁷

⁶ SIRA 2013 – Schedule 3 Rule 37(2)(d)

⁷ SIRA 2013 – Schedule 3 Rule 37(2)(e)

⁸ SIRA 2013 – Schedule 3 Rule 37(2)(f)

⁹ SIRA 2013 – Schedule 2 para 26(a)

¹⁰ SIRA 2013 – Schedule 2 para 28(7)

¹¹ SIRA 2013 – Schedule 2 para 29(6)

¹² SIRA 2013 – Schedule 2 para 30(9)

¹³ SIRA 2013 – Schedule 2 para 35(11)

¹⁴ SIRA 2013 – Schedule 2 para 41(2)(e)

¹⁵ SIRA 2013 – Schedule 2 para 44(1)(a)

¹⁶ SIRA 2013 – Schedule 2 para 44(1)(b). Legislation requires the checking of only 20% of identifiers, however, the Chief Counting Officer requires that you plan for 100% checking. As a result, there should be no requirement for packets of rejected postal votes or statements which were not subject to the verification procedure unless, for some unforeseen reason, you have been unable to check 100%.

- the packets containing the lists of spoilt, lost and superseded postal ballot papers¹⁸
- the packets containing rejected postal votes subject to the verification procedure¹⁹
- the packets containing postal vote statements subject to the verification procedure²⁰; and
- [a completed statement](#) in the form prescribed by the Chief Counting Officer giving details of postal ballot papers issued, received, counted and rejected.²¹ Note that you must also supply a copy of this statement to the Electoral Commission.²²

Received after the poll

- covering postal vote envelopes received by the Counting Officer after the close of poll²³
- any envelopes addressed to postal voters which have been returned as undelivered too late to be re-addressed²⁴; and
- any spoilt postal ballot papers returned too late to enable other postal ballot papers to be issued.²⁵

The above items received after the close of poll must be placed unopened in a sealed packet, endorsed and sent to the Proper Officer at a subsequent date.²⁶

Inspection and disposal

- 1.8 Arrangements for inspection and disposal of the referendum materials are the responsibility of the Proper Officer. However, given that many Counting Officers also fulfil this function, it is appropriate to touch on these issues in the context of this guidance.
- 1.9 The Proper Officer of the Council must retain the referendum papers transferred for a period of one year.²⁷ As described in paragraph [1.5](#), all

¹⁷ SIRA 2013 – Schedule 2 para 44(1)(c)

¹⁸ SIRA 2013 – Schedule 2 para 44(1)(d)

¹⁹ SIRA 2013 – Schedule 2 para 44(1)(e)

²⁰ SIRA 2013 – Schedule 2 para 44(1)(f)

²¹ SIRA 2013 – Schedule 2 para 45(1)(b)

²² SIRA 2013 – Schedule 2 para 45(4)

²³ SIRA 2013 – Schedule 2 para 45(2)(a)

²⁴ SIRA 2013 – Schedule 2 para 45(2)(b)

²⁵ SIRA 2013 – Schedule 2 para 45(2)(c)

²⁶ SIRA 2013 – Schedule 2 para 45(2)

²⁷ SIRA 2013 Schedule 3 Rule 38(1)

materials should be clearly labelled and those which are not for public inspection should be clearly marked as such.

- 1.10 The documents, except ballot papers, completed corresponding number lists and the certificates of employment, are to be made available for inspection at such times and in such manner as the Proper Officer may determine.²⁸
- 1.11 A person inspecting marked copies of the Polling List may not make copies of any part of them, nor record any particulars included in them except by taking handwritten notes.²⁹
- 1.12 A person who makes a copy of marked copies of the Polling List, or records any particulars included in them, otherwise than by making handwritten notes, commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale – currently £5,000.³⁰
- 1.13 After the expiry of one year, the Proper Officer must ensure that the referendum documents are securely destroyed, unless otherwise directed by an order of the Court of Session or a sheriff principal.³¹

Supply of marked polling list

- 1.14 The legislation provides that a designated organisation may request a Counting Officer to supply them with:-
 - the marked copy of the polling list
 - the marked copy of any notice setting out an alteration in the register of electors issued under [Section 13B \(3B\) or \(3D\) or 13BB\(4\) of the 1983 Act](#)
 - the marked copy of the postal voters list
 - the marked copy of the list of proxies, and
 - the marked copy of the proxy postal voters list³²
- 1.15 Any such request must
 - be made in writing
 - specify the documents requested
 - state whether a printed copy or a copy in data form is requested: and

²⁸ SIRA 2013 Schedule 3 Rule 38(2)

²⁹ SIRA 2013 Schedule 3 Rule 38(3)

³⁰ SIRA 2013 Schedule 3 Rule 38(4)

³¹ SIRA 2013 Schedule 3 Rule 38(5)

³² SIRA 2013 Schedule 2 para 56(1)

- state the purposes for which the documents will be used and why the supply of the unmarked copies would not be adequate for the purpose³³

1.16 Where a request is duly made by a designated organisation, you must supply the documents if

- you are satisfied that the organisation needs to see the marks on the documents in order to achieve the purpose for which they are requested; and
- you have received payment of the appropriate fee³⁴

However, your legal obligation is to supply this data only in the form in which you hold it.³⁵

1.17 The fee to apply in these circumstances is £10 plus

- (a) for a copy in printed form - £2 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request,
- (b) for a copy in data form - £1 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request³⁶

A request for a copy of the whole or the same part of a document in both printed and data form may be treated as two separate requests³⁷.

1.18 Any person holding a copy of any of the following:-

- the polling lists, notices of alteration and records of anonymous entries³⁸
- the postal voters lists, lists of proxies or the postal proxy voters lists³⁹
- the edited polling list, relative notices of alteration, lists of postal voters, proxies, or postal proxies⁴⁰
- the full latest register of local government electors, relative notices of alteration and lists of postal voters, proxies and postal proxies⁴¹

³³ SIRA 2013 Schedule 2 para 56(2)

³⁴ SIRA 2013 Schedule 2, para 56(3)

³⁵ SIRA 2013 Schedule 2, para 56(7)

³⁶ SIRA 2013 Schedule 2, para 57(2)

³⁷ SIRA 2013 Schedule 2, para 57(3)

³⁸ SIRA 2013 Schedule 2, para 48(1)

³⁹ SIRA 2013 Schedule 2, para 48(2)

⁴⁰ SIRA 2013 Schedule 2, para 50(1)

⁴¹ SIRA 2013 Schedule 2, para 51(1)

must ensure that they are destroyed no later than one year after the date of the referendum, unless otherwise directed by an order of the Court of Session or a sheriff principal.⁴²

- 1.19 Failure to destroy the documents in accordance with the legal timetable is an offence punishable by a fine not exceeding level 5 on the standard scale – currently £5,000.⁴³

⁴² SIRA 2013 Schedule 2, para 55

⁴³ SIRA 2013 Schedule 2 para 55(3)&(4)

2. Post-referendum activity

Providing notice of the local totals and the national result

- 2.1 As soon as practicable after the Count you must give public notice of:-
- the number of ballot papers counted in your council area
 - the number of votes cast in the council area in favour of each answer to the referendum question; and
 - the total number of rejected ballot papers and the number under each head as shown in the statement of rejected ballot papers⁴⁴.

The results must be for the council area as a whole⁴⁵. The Chief Counting Officer has prepared a template notice for this purpose which has been issued to Counting Officers as part of the count pack.

- 2.2 The Chief Counting Officer will supply you with a copy of the public notice declaring the number of votes counted in Scotland as a whole, the total number of votes cast in favour of each answer to the referendum question, and the total number of rejected papers which you can display alongside your local notice.
- 2.3 You should ensure that these notices of results for the referendum are made available to all interested parties as soon as possible, including by publishing them on your council's website.

Statement as to postal ballot papers

- 2.4 You have a legal duty to complete a [statement as to postal ballot papers](#) for the referendum.⁴⁶ The statement as to postal ballot papers is also evidence to demonstrate that you have met performance standard 1.
- 2.5 This statement provides an audit trail for the postal voting process throughout the referendum. You should complete this statement accurately

⁴⁴ SIRA 2013 Schedule 3 Rule 35(2)

⁴⁵ SIRA 2013 Section 7(2)(a) & (b)

⁴⁶ SIRA 2013 Schedule 2 para 45(1)(b)

using the figures obtained during the issue, receipt, opening and verification of postal votes.

- 2.6 This document is vital for the accounting of postal votes and for ensuring confidence in the results. To ensure accuracy, the data used to complete the form should be gathered systematically at relevant points in the postal voting process.



Further details on record-keeping throughout the administration of the postal voting process are provided in [Part D – Absent voting](#).

- 2.7 This is a prescribed form prepared by the Chief Counting Officer which you must use, but with such variations as local circumstances may require⁴⁷. The guidance notes accompanying the form will assist you in its completion.
- 2.8 You have a legal duty to forward a copy of the completed statement to the Proper Officer of the council at the same time as you forward the other referendum documents listed in paragraph 1.7 above. You also have a legal duty to provide a copy of the statement to the Electoral Commission⁴⁸.

Data collection and feedback

- 2.9 After the event, the Chief Counting Officer will require a return of data and information on the referendum. This information will be shared with the Electoral Commission to facilitate the preparation of their post-referendum report.
- 2.10 In some circumstances, the Commission may also contact you directly for information which you need to provide.
- 2.11 Forms for collecting information and accompanying guidance notes will be circulated in due course.

Accounting for the referendum

- 2.12 [The Scottish Independence Referendum \(Chief Counting Officer and Counting Officer Charges and Expenses\) Order 2014](#) sets out how much money you will be able to claim for running the referendum in your council area. The Scottish Government has produced accompanying guidance on how to

⁴⁷ SIRA 2013 Schedule 2 para 46(2)

⁴⁸ SIRA 2013 Schedule 2 para 45(4)

account for the referendum and has prepared forms for you to use to record your claims.

2.13 You are entitled to a fee for your services in conducting the referendum in respect of your local authority area. Provision for this has been made in the Charges and Expenses Order.

2.14 The deadline for claims is 20 March 2015. Any queries in relation to Charges and Expenses should be sent to referendum@scotland.gsi.gov.uk.

Payment of creditors

2.15 You should keep receipts throughout the period of the referendum for all services/work provided, and pay all creditors as soon as possible after the referendum.

Payment of fees to staff

2.16 Staff should be paid as soon as possible after the referendum.

National Insurance

2.17 Special modified PAYE arrangements for electoral payments have been agreed centrally with HMRC. Class 1 National Insurance contributions are not payable on these.

Income tax

2.18 Since April 2013, employers have been required to report PAYE information to HMRC in real time. This is referred to as Real Time Information (RTI). This new system was extended to electoral payments in April 2014 and has made significant changes in the way electoral payments are made, reported and taxed. You should liaise with Payroll and HR colleagues within your local authority to ensure that payments are made in accordance with the new arrangements.

Return of equipment

2.19 You should make arrangements to return any equipment, such as the polling booths and the empty ballot boxes, to storage. This should have been covered in your project plan.

Referendum campaign spending

- 2.20 Referendum spending by campaigners is monitored and regulated by the Electoral Commission. Any enquiries you receive on this subject should be referred to Eddie Follan, Senior Referendum Officer, The Electoral Commission, Scotland Office, Lothian Chambers, 59-63 George IV Bridge, Edinburgh EH1 1RN. Email EFollan@electoralcommission.org.uk – tel 0131 225 0202.

3 Challenging the result of the referendum

- 3.1 The number of ballot papers counted or votes cast at the referendum, as certified by a Counting Officer or the Chief Counting Officer, can only be challenged by a petition for judicial review.⁴⁹
- 3.2 The applicant would have to demonstrate to the Court of Session that he/she has a sufficient interest in the outcome of the referendum and it is for the court to determine whether the petitioner has this sufficient interest.
- 3.3 The petition for judicial review must be lodged within six weeks of the final certification of the result by the Counting Officer or Chief Counting Officer (depending whose certification is being challenged).
- 3.4 The petitioner would have to challenge a particular decision, act or omission that he/she claims was unlawful and led to an incorrect certification.
- 3.5 If the Court of Session rules that a particular decision, act or omission was unlawful, it may order the certification to be set aside, or, in some cases, the Court may declare the correct result.
- 3.6 Any person who contacts you enquiring about challenging the referendum should be advised to seek their own independent legal advice. If you receive any such enquiries, you should notify the Chief Counting Officer without delay.

⁴⁹ SIRA 2013 Section 34

4 Review of referendum procedures

- 4.1 You should carry out a thorough evaluation of all processes outlined in your project plan, seeking feedback from appropriate stakeholders, and produce a lessons learned document which will be used to inform the project plan and risk register for future electoral events.
- 4.2 The Chief Counting Officer has provided, as part of the [template project plan](#), some sample objectives and suggested tools that will allow you to measure the extent to which the conduct of the referendum has been successful. This has also been produced in an [Excel version](#). The project plan includes an evaluation plan to assist you with the review process. It is not a requirement for you to use this particular template in order to meet the standards.



To be able to achieve the outcome set out in performance standard 1, you will need to have planning documentation in place reflecting lessons learned.

The review

- 4.3 The scope of the review should cover all aspects of the referendum. Your project plan should be used as the starting point for the review and each process that was planned for and carried out should be reviewed.
- 4.4 A key part of the review will be the consideration of the aims and objectives set out in your project plan and measuring your performance against these.
- 4.5 You should pay particular attention to reviewing:
- working with the Chief Counting Officer and her team
 - your project planning
 - whether you were able to secure adequate resources
 - the equipment and stationery used
 - how contractors have been managed and whether they delivered work to the required specification
 - recruitment and training of staff
 - the suitability of venues used

- the management of polling stations, the absent voting process, and the verification and count
 - the processing and handling of queries
 - any issues affecting the security/integrity of the referendum
- 4.6 As part of the review, you should seek feedback from appropriate stakeholders, including:-
- the Chief Counting Officer and her team
 - your staff
 - electors
 - referendum agents, permitted participants, designated organisations and any other campaigners who made themselves known to you locally
 - local organisations of disabled people, older people and minority ethnic groups, and the council's access officers
- 4.7 To obtain feedback from staff, for example, you should consider inviting a number of staff, including some polling station staff, to a discussion in order to address all aspects of the polling station process, from training and briefing sessions through to dealing with difficult situations on referendum day. You could also take into account any feedback provided in reports returned by Presiding Officers and polling station inspectors.
- 4.8 Once you have reviewed all aspects of the referendum and sought feedback from appropriate stakeholders, you should produce a lessons learned document. The lessons learned document should include an analysis of what practices were successful and where these could be used elsewhere, what you would do again or do differently and key recommendations. The lessons learned report should then be used to inform the project plan and risk register for future electoral events.