

The Scottish Independence Referendum

Guidance for Counting Officers

Introduction

Translations and other formats

For information on obtaining this publication in another language or in a large-print or Braille version please contact *(details to be inserted)*.

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1. Introduction to this guidance

Purpose

1.1 This guidance has been prepared by the Chief Counting Officer to support Counting Officers and their teams in successfully planning for and managing the Scottish Independence Referendum to be held on Thursday 18th September 2014. The aim is to provide clear operational procedures and to promote consistency of practice throughout the whole of Scotland in such a way that people will have confidence in the conduct of the poll and in the ultimate result.

1.2 This guidance should be read in conjunction with any directions or additional instructions issued by the Chief Counting Officer as part of her role in co-ordinating the delivery of the referendum.

1.3 This guidance is based on the legislative requirements in:-

- The Scotland Act 1998 (Modification of Schedule 5) Order 2013
- The Scottish Independence Referendum (Franchise) Act 2013
- The Scottish Independence Referendum Act 2013
- The Scottish Independence Referendum (Fees and Charges) Order 2014

1.4 Counting Officers must also have regard to the Public Sector Equality duty contained in Section 149 of the Equality Act 2010.

1.5 In addition, Counting Officers must comply with any direction issued by the Chief Counting Officer in relation to the referendum.

How to use this guidance

1.6 This guidance is divided into six areas:-

- Part A – Roles and Responsibilities
- Part B – Planning and Organisation
- Part C – Administering the Poll
- Part D – Absent Voting
- Part E - Verifying and Counting the Votes
- Part F – After the Declaration of Results

1.7 Each of these parts covers:-

- What you are required to do by law
- The criteria that must be met to fulfil the performance standards set by the Chief Counting Officer
- Recommended best practice to promote consistency and to help you carry out your duties

1.8 The guidance is supplemented by resources which can be accessed through links contained throughout the guidance.

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Guidance for Counting Officers

2. Part A

Roles and

Responsibilities

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A. Roles and Responsibilities *(page references will be inserted on completion of the Guidance)*

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- Appendix A Memorandum of Understanding between the Chief Counting Officer for the Scottish Independence Referendum and the Electoral Commission *(to be included in the final document)*
- Appendix B Performance Standards for Counting Officers *(to be inserted once the Electoral Commission has published its revised Performance Standards framework)*

1. The Chief Counting Officer

Role and responsibilities

- 1.1 The Scottish Independence Referendum Act 2013 designates the Convener of the Electoral Management Board for Scotland (EMB) as the Chief Counting Officer for the referendum.
- 1.2 The Convener of the EMB is Mary Pitcaithly O.B.E., Chief Executive and Returning Officer of Falkirk Council.
- 1.3 Although the EMB itself has no statutory role in the referendum, its members will continue to provide support and professional advice to the Convener as Chief Counting Officer.
- 1.4 The Chief Counting Officer is responsible for ensuring the proper and effective conduct of the referendum including the conduct of the poll and the counting of the votes, in accordance with the legislation.
- 1.5 Her duties, as contained in the Act, are:-
 - to appoint a Counting Officer for each local government area in Scotland and to notify the Scottish Ministers of each appointment made
 - to manage the national count event at which the results for all 32 local authorities will be collated
 - to declare the national result
 - to retain the relevant results documents and make them available for consultation for one year after the referendum in accordance with legislation
- 1.6 She is empowered:-
 - to issue directions and provide guidance to Counting Officers and Electoral Registration Officers
 - to appoint deputies to carry out one or more of her functions
 - to appoint such staff, or to require a council to provide, or ensure the provision of, such property, staff and services as she may require to carry out her functions
 - to prescribe certain statutory forms

- to take such steps as she thinks appropriate to remedy acts or omissions that arise in connection with any function of the referendum and that are not in accordance with the rules
- in exceptional circumstances, to remove a Counting Officer and to reappoint to the post
- to recover from the Scottish Ministers charges for and expenses incurred in connection with her functions under the Act

1.7 In order to discharge her duty to ensure the proper and effective control of the referendum, the Chief Counting Officer will:

- assist Counting Officers to discharge their referendum functions satisfactorily while monitoring their performance
- provide training for Counting Officers and their teams; and
- provide, through the Forms Working Group, a comprehensive range of resources to Counting Officers for use in the organisation of the referendum

Support team and contact arrangements

1.8 The Chief Counting Officer has appointed a support team to assist her in her duties, comprising:-

- the Depute Chief Counting Officer, *(to be appointed)*,
- Chris Highcock, Secretary to the EMB
- Dougie McGregor, Project Management Consultant
- Anne Laird, Guidance Consultant

1.9 The Chief Counting Officer is also supported by the Forms Working Group, led by Aileen Knudsen, Depute Returning Officer of South Lanarkshire Council, in developing and making available the complete range of forms to be used by Counting Officers and their teams at the referendum, and by a Communications network, *(details to be inserted)*.

1.10 *(Insert contact arrangements)*

2. The Counting Officer

Your role and responsibilities

- 2.1 The Chief Counting Officer is required to appoint, in writing, a Counting Officer for each local government area. Counting Officers must also accept the appointment in writing.
- 2.2 As Counting Officer, you play a central role in the democratic process. Your role is to ensure that the poll, verification and count in your area are administered effectively in accordance with legislation and any directions by the Chief Counting Officer and that, as a result, the experience of voters is a positive one. You should set out at an early stage what you want to achieve and what success would look like for you.
- 2.3. As Counting Officer you are personally responsible to the Chief Counting Officer for the administration of the referendum in your area, including:-
- providing polling stations
 - appointing and training polling and other staff
 - managing the absent voting process
 - liaising with accredited observers, referendum agents, polling and counting agents in your area
 - managing the verification and counting of votes in your area
 - reporting the results in your area to the Chief Counting Officer in accordance with agreed procedures
 - declaring the local result when authorised by the Chief Counting Officer
 - after the referendum, transferring the relevant documentation to the proper officer of the Council who is responsible for storing them and making them available for consultation as required by the Act; and
 - submitting accounts to the Scottish Ministers in relation to charges for and expenses incurred in delivering the referendum
- 2.4 As Counting Officer, you are also responsible for providing the Chief Counting Officer with any information she requires to carry out her duties. This may include performance standards information and monitoring checklists.
- 2.5 You may appoint one or more deutes to carry out all or any of your functions. However, you cannot delegate your personal responsibility for delivering the referendum in your area. Further information on the appointment of deutes can be found in Part B – Planning and Organisation.

- 2.6 You are also subject to breach of official duty provisions. This means that if you or your appointed deputies are, without reasonable cause, guilty of any act or omission in breach of official duty you (and/or they) are liable on summary conviction to a fine not exceeding £5,000.
- 2.7 You have the power to take such steps as you think appropriate to remedy acts or omissions that arise in connection with any function of the referendum in your area and that are not in accordance with the rules.
- 2.8 This power allows you to correct procedural errors that are made by you as Counting Officer, or by an Electoral Registration Officer, a Presiding Officer, a deputy of any of these officers or a person providing goods and services to you.
- 2.9 Where you remedy an act or omission **in full** by using your power to correct a procedural error, you will not be guilty of an offence of breach of official duty. You should remember that the power to correct procedural errors does not enable you to recount the votes once the result has been declared.
- 2.10 In circumstances where you do have to invoke this power to deal with a potentially serious error, you are requested to advise the Office of the Chief Counting Officer as soon as possible.
- 2.11 As you are personally liable for the conduct of the referendum in your area, you should ensure that you have up-to-date insurance cover. You should be able to demonstrate robust planning and decision-making processes in the event of any challenge to the referendum resulting in a claim against the insurance policy.

Your skills and knowledge

- 2.12 You should have a working knowledge of the relevant legislation governing the conduct of the referendum. This means that, in addition to having a clear understanding of your statutory functions, you should also have an overview of what the legislation contains and an understanding of how it affects the administration of the referendum, so that you can review, question where necessary and quality assure the whole process in your local authority area.
- 2.13 There are management responsibilities attached to your role. For example, you should:-

- take all necessary steps to ensure that the local authority provides you with the resources you need to deliver a well-run referendum, as it is required to do by law
- oversee the planning, project management and risk management of the referendum for which you are responsible and incorporate any lessons learned from previous electoral events
- identify and oversee any actions necessary to mitigate any issues arising
- ensure that all staff are appropriately trained to deliver the roles required of them
- support the staff administering the referendum and provide appropriate oversight of their work
- provide direction to staff, monitor progress and receive regular feedback on activities
- ensure that referendum accounts are completed in a timely manner
- if you are not the Electoral Registration Officer, maintain an effective working relationship with that officer
- maintain an effective working relationship with your police SPOC (Single Point of Contact)

3. The Electoral Commission

Role and responsibilities

- 3.1 It is important for Counting Officers and their teams to be aware that the role and responsibilities of the Electoral Commission in the referendum differ greatly from those it would normally have in an election. This is particularly important with the referendum coming in the wake of the elections to the European Parliament where the Commission's role follows the more usual model.
- 3.2 At the referendum, the Electoral Commission will have responsibility for:-
- registering campaigners
 - designating lead campaign organisations
 - regulating campaign spending and donations
 - providing guidance for campaigners on registration, designation, campaign spending and donations
 - accrediting official observers
 - promoting public awareness
 - advising the Chief Counting Officer: and
 - reporting on the conduct of the referendum
- 3.3 At the referendum, the provision of guidance for Counting Officers and their teams and the setting and monitoring of performance standards do not fall within the remit of the Commission but are the responsibility of the Chief Counting Officer. To promote consistency of practice, however, the Commission has made available to the Chief Counting Officer its previously used guidance and performance management materials for adaptation and use at the referendum. The Chief Counting Officer acknowledges the support and assistance of the Commission in providing these.
- 3.4 A Memorandum of Understanding has been agreed between the Commission and the Chief Counting Officer identifying respective areas of responsibility and issues to be addressed in circumstance where those areas of responsibility may overlap. This memorandum is attached as Appendix A for the information of Counting Officers. *(This will be attached to the final document.)*

4. Performance standards

- 4.1 Counting Officers are accustomed to participating in the Performance Standards reporting framework implemented by the Electoral Commission.
- 4.2 At the referendum, the Commission does not have the responsibility of monitoring Counting Officers' performance. This falls within the remit of the Chief Counting Officer.
- 4.3 In the interests of consistency, the performance management framework to be implemented at the referendum will be based on the Commission's revised framework published in December 2013 for use at the European Parliamentary Elections. The standards follow in Appendix B – Performance Standards for Counting Officers. Further detailed information on the procedures to apply will be issued as part of a circular from the Chief Counting Officer.
- 4.4 The intention is to focus on the delivery of the key principles, namely that:
- there should be no barriers to any voter taking part;
 - voters must have the same experience wherever they are in Scotland;
 - the referendum will be administered efficiently; and
 - the referendum will produce results that are accepted as accurate.
- 4.5 The performance standards framework will focus on the quality of delivery of the service to key stakeholders in the following areas:-
- (insert when final details are available)*
- 4.6 Each of the performance standards contains:
- (insert when final details are available)*
- 4.7 Wherever the standard states that a task 'must' be completed this constitutes a requirement which must be met in order to meet a particular standard.
- 4.8 Parts B to F of this guidance are designed to support you in meeting these standards, and the requirements of each standard are embedded throughout the guidance.
- 4.9 As Counting Officer, you are legally required to provide any performance information that the Chief Counting Officer may require for the discharge of her duties.

Monitoring performance

- 4.10 *(details will be inserted when the new framework becomes available)*