



# European Parliamentary Elections 2019

## The Electoral Region of Scotland

### Regional Returning Officer Bulletin

Issue 5, 7 May 2019

## Key points when preparing for and undertaking the adjudication of doubtful ballots

### Purpose

This bulletin seeks to emphasise to Local Returning Officers (LROs), the importance of achieving consistency of approach to the adjudication of doubtful ballot papers.

The need for consistency applies nationally across Scotland, and locally within local count centres, and is important in promoting trust in the result.

Recounts are only allowed (a) at the local level and (b) for reasons of administrative process not closeness. Inconsistency within the count centre by adjudicators can be argued as reasons for a recount so again consistency is to be promoted.

### Electoral Commission Guidance

All LROs, and their adjudication staff, should familiarise themselves with Part E of the Electoral Commission's guidance on [Verifying and Counting votes](#). This guidance, and the supporting [booklet](#) and [placemat](#), can be accessed on the Commission's website.

### Preparing for Adjudication

In advance of your count, LROs should:-

- Decide who will undertake adjudications and appoint them as DROs in advance and in writing.

- Undertake training to ensure that all Adjudicators understand the adjudication process and importance of consistency.
- Ensure, as part of the training, that Adjudicators have opportunity to **practice** adjudications and to discuss and reach a common understanding of what will and will not be allowed.
- Ensure that all Adjudicators are aware that the examples provided in the EC Guidance are not exhaustive. You should agree arrangements for escalating decision making when required.

### Practical Considerations in Relation to Adjudication

How you manage the adjudication is important to how it is received by candidates and agents. So,

- Display the EC guidance [placemats](#) on doubtful ballots in the areas where adjudications will take place.
- Ensure that announcements are made before adjudications commence to allow those permitted to attend to gather at the adjudication area.
- Undertake adjudications at regular intervals and do not leave all doubtful ballots until the end of the count.
- Take control - Adjudicators should take control of the situation. They should

explain who they are and how the adjudication process will be carried out. Crucially they should explain who can and cannot object to adjudication decisions.

- Remember – only candidates and agents, are entitled to be present and object to decisions. EC representatives and accredited observers may also observe the process.
- Be authoritative – Have confidence in your decision making based on your knowledge of adjudication principles and EC guidance. Speak clearly and give reasons for your decisions. Your decision on any question arising in respect of a ballot paper is **final** and can only be challenged by way of an election petition.
- Maintain order - Don't allow the adjudication process to degenerate into a mass conversation, particularly with opinions of those not entitled to object being aired at length.

### The Process: Remember!

1. You are determining whether the intention of the voter is clear, so ensure you:
  - a. Consider the whole of the ballot paper; and
  - b. Consider whether the way the ballot paper has been marked means a vote for one party or candidate is clearly apparent.
2. The legislation provides that you must reject a ballot paper:
  - a. that does not bear the official mark (not the unique identifying mark)
  - b. that contains a vote for more than one party or individual candidate;
  - c. on which anything is written or marked by which the voter can be identified (except the printed ballot

paper number or other unique identifying mark);

- d. that is unmarked or **void for uncertainty**.
3. The legislation further provides that unless the way the ballot paper is marked identifies the voter, a ballot paper on which the vote is marked in the following ways must **not** be rejected if the voter's intention is clear:
    - a. elsewhere than in the proper place;
    - b. otherwise than by means of a cross, or
    - c. by more than one mark
  4. You can consider as part of the adjudication process any ballot papers displaying anything unusual or any ballot paper torn or damaged in any way.
  5. You have a legal duty to draw up a statement showing the number of ballot papers rejected and for what reason. So have a system in place throughout the adjudication process for sorting the rejected ballot papers into the following headings:
    - a. want of official mark
    - b. voting for more than one registered party or individual candidate
    - c. writing or mark by which voter could be identified
    - d. unmarked or void for uncertainty
  6. When making a decision it is important you state clearly and authoritatively your decision and the reason for rejection or acceptance.
  7. Each rejected ballot paper must have the word 'rejected' marked on it as appropriate, and the words 'rejection objected to' must be added if a counting agent objects to your decision.

8. Although observers should be able to observe this process, unlike agents, they do not have the legal right to object to the rejection of a ballot paper.