

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
ADDITIONAL ESTIMATES 2013-2014

Finance Portfolio

Department/Agency: Australian Electoral Commission

Outcome/Program: General

Topic: Multiple Voting

Senator: Collins

Question reference number: F61

Type of question: Hansard, F&PA Committee, Page 124, 25 February 2014

Date set by the committee for the return of answer: Friday, 11 April 2014

Number of pages: 2

Question:

Senator JACINTA COLLINS: I have a follow-up question on that line of questioning. Can you tell us anything about the incidence of multiple voting over time?

Mr Rogers: If I do not have those details for you this evening I can certainly provide them on notice.

Answer:

Issuing ordinary votes to electors involves a process of first checking their name against the certified list (electoral roll for the election) to establish eligibility, then crossing their name off the certified list and issuing ballot papers. The process of admitting declaration votes to the count involves a similar process of checking entitlement against a certified list, crossing the elector's name off the certified list and then opening the envelope and counting the ballot papers inside.

To date, these processes have predominantly involved a manual process of crossing names off hard copy certified lists. A national election requires more than 27,000 hard copy certified lists to be in place across all polling venues that issue ordinary votes, and up to 11.4 million marks being made across all ordinary certified lists.

Following the completion of the election, all certified lists are consolidated to identify those electors whose names have been marked once, more than once (multiple marks) or not marked at all (potential non-voters). System reports are then examined by divisional office staff to identify those marks that can be established as being caused by official error and therefore do not require further investigation.

For the 2013 election, following the passage of enabling legislation in 2010, a small pilot deployment of electronic certified lists (ECLs) was introduced. Over 760 ECLs were used for a range of voting types including ordinary voting at polling places, pre-poll voting centres and mobile polling. ECLs were also used to mark off absent and pre-poll declaration voters

at all divisional scrutinies after polling day. For the 2014 Griffith by-election, 145 ECLs replaced all hard copy certified lists for the election. A small deployment was used for the 2014 Senate election in WA. Multiple mark investigations are still underway for the general election and the Griffith by-election.

The issue of multiple voting has been the subject of considerable Parliamentary attention for some time, at various election reviews of the Joint Standing Committee on Electoral Matters (JSCEM) and at various hearings of the Senate Finance and Public Administration Legislation Committee. Detailed information and responses to questions on notice have been provided and are on the public record.

A consistent theme contained within these discussions at both the JSCEM and the Senate Finance and Public Administration Legislation Committee is a general acknowledgement of the difficulty in bringing a successful multiple voting prosecution. For example, a former Special Minister of State is on record as noting "It seems – and you cannot blame the Federal Police or the Director of Public Prosecutions – that in the absence of any corroborative evidence, a denial would have to be, on the face of it, a denial that could not be overcome in a court of law where the standard . . . would be beyond reasonable doubt." (Estimates Hansard, F&PA Committee, Page 82, 14 February 2012).

It should be noted that the AEC has neither investigative nor prosecutorial powers in this area. Rather, the AEC refers relevant cases to the Australian Federal Police (AFP) for investigation and, where appropriate, the AFP refers matters to the Commonwealth Director of Public Prosecutions (CDPP) for further action. To that end, the AEC has an agreement in place with the AFP covering a range of matters, including the referral of potential multiple voters. The AFP has provided advice that a major barrier to a successful prosecution is the lack of evidence sufficient to prove an allegation of multiple voting in a court of law. This is due to the absence of any corroborative evidence to support the offence given that the manner in which a vote is cast is largely designed to protect the secrecy of the vote and the possibility of human error in the process of marking an elector's name off the certified list.

The AFP has variously provided advice of potential actions to address the evidentiary gap, including electronic voting, various forms of photographic voter ID, time-stamped CCTV, identity document verification at the polling place, electronic mark-off and more extensive public information campaigns to highlight the criminal nature of the offence. Each of the suggestions provided to date would require legislative change, preceded by a comprehensive assessment of the impact of any change on each elector's ability to exercise the franchise.