



**AEC**

Australian Electoral Commission

**POLICY**

# Prematurely Opened Ballot Box

SEPTEMBER 2021

# Table of contents

Purpose of policy..... 3

1. Legislative background ..... 3

2. Prematurely opened ballot box ..... 3

3. Investigation process ..... 4

4. Scenario guide..... 4

Related policies and references ..... 5

# Purpose of policy

The purpose of this policy is to ensure that instances where a ballot box is opened prematurely are managed, reported, and conducted in accordance with the provisions of the *Commonwealth Electoral Act 1918* (Electoral Act) and in the case of a referendum, the *Referendum (Machinery Provisions) Act 1984* (Referendum Act).

This policy is not applicable for overseas pre-poll voting centres – all overseas voting is covered in relevant procedural documents established specifically for overseas voting services.

## 1. Legislative background

- 1.1 Section 238B of the Electoral Act and s 41AB of the Referendum Act outline the process that the AEC and its officers are to undertake when a ballot box is opened prematurely.

## 2. Prematurely opened ballot box

- 2.1 A prematurely opened ballot box includes any ballot box:

- containing either ordinary ballot papers or declaration vote envelopes, that has been opened before the relevant legislated time frame
- discovered to have been opened before the legislated time frame
- where the seal numbers do not match the numbers recorded on the *Record of security seals* form, and the discrepancy cannot be explained.

- 2.2 It excludes ballot boxes where a seal was not affixed correctly in the first place and/or the seal has been accidentally damaged and requires replacement. These types of instances are to be dealt with as part of normal operations.

- 2.3 The legislated time frame for opening ballot boxes is as follows:

Ballot boxes	Prior to election day	Before 6 pm	After 6 pm
Containing pre-poll ordinary ballot papers	Unable to be opened for any reason	Able to be opened to sort (but not count) from 4pm on election day	Able to be opened for scrutiny
Containing other (static or mobile) ordinary ballot papers	Unable to be opened for any reason	Unable to be opened for any reason	Able to be opened for scrutiny
Containing ONLY declaration vote envelopes in a static polling place, PPVC or mobile team	Unable to be opened for any reason	Unable to be opened for any reason	Able to be opened for sorting and forwarding of envelopes
Containing ONLY declaration vote envelopes at an overseas post	Able to be opened for sorting and forwarding of envelopes	Able to be opened for sorting and forwarding of envelopes	Able to be opened for sorting and forwarding of envelopes
Containing ONLY declaration vote envelopes; held by a DRO	Able to be opened for preliminary scrutiny, preparation for declaration exchange and forwarding of envelopes within OPCs	Able to be opened for preliminary scrutiny, preparation for declaration exchange and forwarding of envelopes within OPCs	Able to be opened for preliminary and further scrutinies and declaration exchange

## 3. Investigation process

- 3.1 The premature opening of a ballot box (including declaration vote ballot boxes) or the discovery of a prematurely opened ballot box triggers the requirement to undertake:
- an investigation into and recording of the details of the premature opening of the ballot box
  - an examination of the ballot papers or declaration vote envelopes in the prematurely opened ballot box to enable the Australian Electoral Officer (AEO) for the state or territory concerned to determine if they are to be included or excluded from scrutiny.
- 3.2 The identification of prematurely opened ballot boxes and actions to be taken are the same for federal elections and referendums, or where the two events are held concurrently.
- 3.3 The [Prematurely Opened Ballot Box SOP](#) details the correct process to undertake an investigation and the subsequent actions. These procedures must be followed where an officer suspects there is a prematurely opened ballot box.

## 4. Scenario guide

- 4.1 Certain scenarios may be breaches of the [Ballot Paper Handling Policy](#), but are not considered a prematurely opened ballot box. These should be dealt with as part of normal operations.
- 4.2 The following scenario guide provides further information on the definition of what constitutes an 'opened' ballot box. Specific action to be taken can be found in the [Prematurely Opened Ballot Box SOP](#).

### In the polling place

Ballot box situation	Is this a prematurely opened ballot box?
1. AEC staff person (such as OIC) has opened ballot box prematurely (before prescribed time).	Yes
2. Seal records indicate the ballot box has been opened and then sealed again.	Yes
3. Seal on ballot box has broken or appears faulty.	No
4. Original seal has not been affixed to the ballot box properly.	No
5. When moving a cardboard ballot box, it splits or comes open, or seal comes off or pulls through cardboard. Ballot papers are not spilt.	No
6. Cardboard ballot box splits or comes open. Ballot papers are spilt.	Yes

### In transit

Ballot box situation	Is this a prematurely opened ballot box?
----------------------	--

7.	Seal comes off or is broken/cracked during transit of ballot boxes. Record of security seals form ( <a href="#">EF082-b</a> ) matches numbers on seals.	No
8.	Seal numbers do not match Record of security seals form ( <a href="#">EF082-b</a> ). DRO investigates and is satisfied ballot box has not been opened.	No
9.	Seal numbers do not match Record of security seals form ( <a href="#">EF082-b</a> ). DRO investigates and cannot resolve discrepancy.	Yes

## At the out-posted centre

Ballot box situation	Is this a prematurely opened ballot box?
10. AEC staff person (such as Officer In Charge has opened ballot box prematurely (before prescribed time).	Yes
11. Seal records indicate the ballot box has been opened and then sealed again.	Yes
12. Seal on ballot box has broken or appears faulty.	No
13. Original seal has not been affixed to the ballot box properly.	No
14. Seal on the flap of the (moulded) ballot box is broken or not affixed.	No

# Related policies and references

[Ballot Paper Handling Policy](#)

[Prematurely Opened Ballot Box SOP](#)

[Scrutineers Handbook](#)

The [Election policies and procedures](#) intranet page provides access to the latest versions of election policies, standard operating procedures and supporting guides.