



**AEC**

Australian Electoral Commission

# STANDARD OPERATING PROCEDURE

# Prematurely Opened Ballot Box

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## Relevant information

- [Prematurely Opened Ballot Box Policy](#)
- [Ballot Paper Handling Policy](#)
- [Ballot Paper Handling Scenario Guide](#)

# 1. Overview

- 1.1 Section 238B of the *Commonwealth Electoral Act 1918* (the Electoral Act) and s 41AB of the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act) prescribe procedures that polling officials, Divisional Returning Officers (DROs) and Australian Electoral Officers (AEOs) must follow if a ballot box containing ballot papers has been opened prematurely
- 1.2 The premature opening of a ballot box, or the discovery of a prematurely opened ballot box, triggers the requirement to undertake:
  - an investigation of the events leading up to the prematurely opening of the ballot box
  - an examination of the ballot papers and declaration vote envelopes in the prematurely opened ballot box to enable the AEO for the state or territory concerned to determine if they are to be included or excluded from scrutiny.
- 1.3 Further information, including what is and what isn't considered a prematurely opened ballot box, is located in the [Prematurely Opened Ballot Box Policy](#).

## 2. Role of polling staff

- 2.1 Polling staff who become aware that a ballot box containing ballot papers has been opened prematurely must immediately report this to the Officer-in-Charge (OIC) or Team Leader.
- 2.2 Once notified of the prematurely opened ballot box, according to the instructions in the [Election Procedures Handbook](#), the OIC or Team Leader must:
  - take the ballot box and any loose ballot papers to the ballot paper secure zone
  - secure the opened ballot box
  - count the ballot papers and/or declaration envelopes that were contained in the ballot box and place these in a parcel
  - seal the parcel and affix with [Label 33](#) – For AEO Investigation
  - write on the label an indication of the type of ballot papers enclosed and that the ballot box has been prematurely opened
  - sign the label.
- 2.3 The OIC/Team Leader must alert the Polling Place Liaison Officer (PPLO) / Early Voting Liaison Officer (EVLO) or DRO immediately about the incident.
- 2.4 The OIC/Team Leader must ensure that the parcel containing ballot papers is sealed with tamper evident tape.
- 2.5 The OIC/Team Leader must prepare a report using the *Prematurely opened ballot box* report ([EF285](#)) found in the return or materials catalogue, about the circumstances in which the ballot box was opened prematurely, including details of any witnesses.
- 2.6 This report must be provided to the DRO along with the parcel, ballot box and any other thing the OIC/Team Leader considers appropriate as soon as practicable. A *Ballot Paper Transfer Record* ([EF405](#)) must be completed.
- 2.7 Transport of the ballot papers must comply with transport requirements as per the [Ballot Paper Handling Policy](#).

### 3. Role of Divisional Returning Officer

- 3.1 The DRO for the division must examine the report, parcel, ballot box and any other thing provided by the OIC/Team Leader and provide all materials to the AEO for their state or territory. DROs must ensure that they record the event and details of their observations and the report in the election diary.
- 3.2 The DRO must ensure that an appropriate ballot paper secure zone is established to undertake this examination. They must also ensure that when transporting ballot papers to the AEO, transport requirements as per the [Ballot Paper Handling Policy](#) are complied with. The *Ballot paper transfer record* ([EF405](#)) must be completed at the time the transfer of custody of ballot paper takes place and retained on file in the election diary.

### 4. Role of Australian Electoral Officer

- 4.1 The AEO must open the parcel and examine the ballot papers not enclosed in declaration envelopes, the declaration envelopes, the ballot box, the report and anything provided by the OIC via the DRO, and decide whether ballot papers are to be included in the scrutiny and whether declaration envelopes are to be included in preliminary scrutiny.
- 4.2 The AEO must decide that a ballot paper is to be included into the scrutiny unless the AEO is satisfied that the ballot paper has been fraudulently altered or otherwise interfered with so as not to reflect the voter's intention.
- 4.3 The AEO must decide that an envelope is to be included in preliminary scrutiny unless the AEO is satisfied that the envelope has been fraudulently altered.
- 4.4 After examining all the ballot papers and envelopes, the AEO must place in separate parcels:
  - all ballot papers that are to be included in the scrutiny
  - all ballot papers that are to be excluded from the scrutiny
  - all declaration envelopes that are to be included in preliminary scrutiny
  - all declaration envelopes that are to be excluded from preliminary scrutiny.
- 4.5 The AEO must then seal each parcel with tamper evident tape, and complete and affix [Label 36](#) – AEO Decision.
- 4.6 The AEO must then return the parcels containing ballot papers and declaration envelopes to the DRO for the relevant division for inclusion or exclusion from either the scrutiny or preliminary scrutiny as the case requires. The AEO must ensure that an [EF405](#) is completed for each parcel at the time the transfer of custody takes place. This form must be retained on file.
- 4.7 Section 238B(14) of the Electoral Act requires that the AEO is responsible for the safe custody of the ballot papers and declaration envelopes they have determined to be excluded from the scrutiny. The AEO may decide to return these parcels to the DRO for storage pending statutorily authorised destruction; however they should be aware they ultimately remain responsible for these documents.
- 4.8 Before the declaration of the poll in the election, the AEO must advise the Electoral Commissioner by formal minute, and the candidates concerned by letter, of the following:
  - that a ballot box was opened before the close of poll other than in accordance with the Act
  - the number of ballot papers the AEO examined
  - the number of ballot papers that were excluded from the scrutiny because the AEO was satisfied that they had been fraudulently altered or otherwise interfered with so as not to reflect the voter's intention
  - the number of declaration envelopes the AEO examined

- the number of envelopes that were excluded from the preliminary scrutiny because the AEO was satisfied that they had been fraudulently altered.
- 4.9 The AEO is responsible for the safe custody of the report and any other thing given to the AEO by the DRO in relation to this matter until they are destroyed.

## 5. Dealing with the ballot papers

- 5.1 Ballot papers to be included in the count are to then undergo the applicable scrutiny under the control of the DRO. Ballot papers to be excluded from the scrutiny should be re-counted and these figures must be reconciled with the number provided in the OIC return.
- 5.2 Ordinary ballot papers to be excluded from the count are to be recorded as 'Discarded BPs' in ELMS screen RHVO.
- 5.3 Declaration votes to be included in the count are then to either go through the declaration vote exchange process or through the preliminary scrutiny process, as the case may be.
- 5.4 Declaration votes that have been rejected by the AEO should be processed through the RMANS Declaration Scrutiny sub-system and rejected with the reason code DV (Discarded Declaration Votes). DROs should recheck these rejected declaration votes as per the usual process for rejected declaration votes.
- 5.5 Once scrutiny has been completed, all ballot papers that have been affected by this process are to be parcelled separately and stored with other ballot papers from the division in accordance with the [Ballot Paper Handling Scenario Guide](#).