



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

**SELECT COMMITTEE ON ESTIMATES 2024-2025**

Ms Nicole Lawder MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),  
Miss Laura Nuttall MLA

**ANSWER TO QUESTION ON NOTICE**

Asked By: Mr Andrew Braddock MLA

Addressed to: ACT Electoral Commissioner

Reference: ACT Electoral Commission

Hearing Date: 1 August 2024

In relation to: ACT Electoral Commissioner and recounts and scrutiny

QON lodgement Date: 1 August 2024

Answer Due date: 8 August 2024

With respect to the eVACS system:

1. If a candidate disputes the reliability of electronic voting, how would the electoral commissioner do a recount?
2. How can scrutineers observe that eVACS is recording and counting votes correctly?

Damian Cantwell AM CSC: The answer to the Member's questions are as follows:

1. As set out under Part 12 of the *Electoral Act 1992*, a recount of some or all ballots can be held at any time before the official declaration of an election result. A candidate wishing to request a recount must submit a written request to the Electoral Commissioner, setting out the reasons for the request. The Commissioner (or delegate) will decide whether to proceed with the recount based on their assessment. If the request is denied, the candidate can appeal to the full Electoral Commission for a review of that decision. Before commencing a recount, the Commissioner will notify each candidate of the date, time and location where the recount will take place. During a recount, the electoral officer conducting it possesses the same authority as during the original scrutiny, including the ability to reverse decisions made in earlier scrutines.

With electronic voting and electronic vote counting, section 187C of the Electoral Act sets out several ways in which a recount may be conducted:

- A recount may be conducted by recounting data from electronic ballot papers kept on a backup copy of electronic data produced by an approved electronic device or approved computer program;
- A recount may be conducted by rerunning the program used to calculate the distribution of preferences, or by reloading the data into a different copy of the program and running that program;

- If practicable, a recount may be conducted by re-examining the accuracy of data entered into the computer program from paper ballots;
- If practicable, a recount may be conducted by a partial or full manual scrutiny of paper ballots from which preference data has been scanned; or
- If practicable, a recount may be conducted by a combination of a manual scrutiny of paper ballots and a computerised scrutiny of electronic ballot papers.

The ability to conduct a recount is intended to ensure that the correct outcome has been achieved and that mistakes in the original count can be uncovered and corrected. A recount was conducted in 1998 for Molonglo, when two candidates were within 3-5 votes of one another at the point where one of the two candidates had to be excluded. The recount showed that the original count was in error and the result was changed accordingly. The 1998 recount for Molonglo demonstrated that manual counting of Hare-Clark ballots was prone to error and that a high degree of accuracy was needed when margins between candidates are tight, in order to ensure that the correct outcome has been achieved.

This experience was a motivating factor for the development of eVACS so as to minimise the need to conduct recounts. The scanning process was designed to deliver an extremely accurate outcome.

2. The introduction of computer voting and computer counting, to some extent, changed the nature of scrutineering at an election. Given the clear trend of ACT voter preference for electronic voting services (more than 70% of all votes were cast electronically in 2020), it is very important the Electoral Commission continues to transparently assure and demonstrate the integrity of eVACS in its preparation and deployment for the election.

Working holistically with traditional scrutineering practices, as per the Commissioner's Service Delivery Plan 2024, these measures include:

- continuous modernisation of the underlying software
- independent auditing and certification of the software to ensure it contains no malicious code, that no votes can be added, deleted or amended and operates as intended and in compliance with the Electoral Act.
- thorough testing and verification of the functionality and reliability of the code
- public release of the code 6 months ahead of the election, to allow public and stakeholder scrutiny and testing of the code and any adjustments that may be necessary as a result, in addition to ongoing internal testing and verification. This published code is the same code version that will be loaded into the eVACS election server for the conduct of the 2024 ACT Legislative Assembly election.
- thorough testing and rehearsals of the system and related processes, including cyber incident response and recovery plans and rehearsals involving staff from Elections ACT, DDTS, federal security agencies and vendors
- load testing under the most extreme possible operational conditions
- Infosec Registered Assessors Program (IRAP) assessment by an independent approved ICT security assessor against the federal Information Security Manual and Protective Security Policy Framework
- conduct of a Hazard and Operability Study (HAZOP) to identify and evaluate operational risks related to design of the system
- external eco-system cyber maturity assessments along with ongoing self-assessments utilising an externally endorsed process

- establishment of a Security Information and Event Management (SIEM) system to assist the detection, analysis and response to security threats to mitigate harm against our electoral operations.

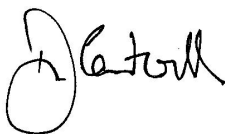
At most polling places the role of scrutineers has not changed. Scrutineers can present during polling to ensure correct procedures are followed and are present at the count of paper ballots after the close of the poll. At electronic voting centres they can observe the transferral of encrypted voting data from the server to mobile storage devices for transfer to the central counting centre.

When ballot papers are scanned and verified, scrutineers are able to witness the verification process by viewing outward facing screens attached to each verification terminal. Scrutineers are able to challenge any determinations or interpretations and observe the correction of interpretation errors. Scrutineers are also able to request to review the physical ballot paper for inspection and final determination by a senior electoral official. Scrutineers are also invited to be present when all informal ballots are inspected by either the Commissioner or Deputy Commissioner.

New for 2024, the Commission will also be undertaking a ballot paper scanning assurance audit during the live scrutiny. An independent auditing firm has been engaged to randomly select ballot papers that have progressed through the scanning verification process and to compare the physical ballot paper with the digitally captured image and the digitally captured preferences. This process will provide an estimated error rate and will be available to scrutineers to observe.

Approved for circulation to the Select Committee on Estimates 2024-2025

Signature:



Date: 6/8/2024

By the Electoral Commissioner, Damian Cantwell AM CSC