

TITLE Multiple marks/voting

KEY POINTS

Issue:

- Section 339 of the *Commonwealth Electoral Act 1918* (the Electoral Act) provides that "a person is guilty of an offence if the person votes more than once in the same election." The AEC is therefore obliged to take action in relation to voters who appear to have voted more than once at the 2016 federal election.
- The AEC does not have authority to prosecute multiple voting offences, but works with the Australian Federal Police (AFP) and the Commonwealth Director of Public Prosecutions (CDPP) on cases of possible multiple voting.
- The AEC is currently working with the AFP to ensure that a coordinated approach is applied to the assessment and investigation of apparent multiple voting at the 2016 federal election.

Sections 47C and 47E of the FOI Act

Statistical breakdown:

- Responses to the first letter issued to apparent multiple voters (MV2) were due to divisional offices on 12 September 2016. 18 343 letters were issued to apparent multiple voters on 29 August, with breakdown by state/territory as follows:

NSW	VIC	QLD	WA	SA	TAS	ACT	NT	TOTAL
6 760	4 800	2 792	1 776	1 414	359	264	178	18 343

Sections 47C and 47E of the FOI Act

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BACKGROUND

- There are two offences contained in section 339 of the Electoral Act where a person votes more than once in the same election. Section 339(1A) concerns the strict liability offence and section 339(1C) concerns the more serious offence of intentionally voting more than once in the same election.
- The AEC has no legislative authority to commence proceedings against an elector for an offence under section 339(1A) or (1C) of the Electoral Act. The prosecution policy of the Commonwealth provides that the AEC is required to refer instances of alleged multiple voting to the AFP.
- The AFP conduct investigations of the alleged cases of multi-voting instances in accordance with the AFP Case Categorisation and Prioritisation Model. In cases where the AFP determines that a *prima facie* case can be established against the voter, the AFP refers those cases to the CDPP. The CDPP will then assess cases against the *Prosecution Policy of the Commonwealth* and commences prosecution action where warranted.
- The offence of voting more than once at the same election carries a maximum penalty of 10 penalty units (currently \$1,800), while the offence of intentionally voting more than once at the same election has a maximum penalty of 60 penalty units (currently \$10,800) or 12 months imprisonment, or both.
- Prosecution of an offence under section 339(1A) of the Electoral Act must commence within 12 months after polling day. Prosecution of an offence under section 339(1C) of the Electoral Act may commence at any time.

Sections 47C and 47E of the FOI Act

- The initial number of MV2 and MV3 letters issued following the 2013 federal elections was as follows:

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	TOTAL
MV2	7 354	4 739	2 893	1 748	1 171	373	288	204	18 770
MV3	2 801	1 756	976	734	410	117	110	101	7 005