



Introduction

We appreciate the opportunity to provide our recommendations to JSCEM.

GetUp! has a long history of being engaged in improving Australia's democratic processes, including encouraging more Australians to enrol to vote and campaigning for changes to Australia's laws around enrolment and campaign finance.

The 2013 federal election was a challenging election for Australia's electoral laws and processes, with record numbers of candidates running, record numbers of parties registering, and the most complex Senate election ever.

The extremely close election in Western Australia forced a very rare Senate recount. Under a huge amount of pressure, some electoral processes unfortunately failed, with the loss of a batch of ballots. The extremely close election and the lost ballots forced Western Australia back to the polls for a once-in-a-century Senate re-election.

There are parts of Australian electoral laws and processes which are in urgent need of reform, in particular the Senate voting system, and some elements of the Australian Electoral Commission's organisational structure.

In addition, there are numerous other elements of Australia's electoral system that remain in need of change, despite not drawing as much attention as the problems brought up by the Western Australian election.

GetUp is available to discuss any of these, or any other matters, relevant to the Committee's Inquiry.



About GetUp!

GetUp is an independent, grass-roots community advocacy organisation giving everyday Australians opportunities to get involved and hold politicians accountable on important issues.

Whether it is sending an email to a member of parliament, engaging with the media, talking to voters or helping to get a television ad on the air, GetUp members take targeted, coordinated and strategic action. GetUp does not back any particular party, but aims to build an accountable and progressive Parliament - a Parliament with economic fairness, social justice and environment at its core.

GetUp is a not-for-profit and receives no money from any political party or the government. We rely solely on funds and in-kind donations from the Australian public.

We believe that third parties are an important part of Australian politics and elections. GetUp has over 600,000 members - more than the political parties of Australia combined - and gives many Australians a voice in the political process. We also recognise that third parties must be accountable for their election activities and welcome measures to increase transparency and accountability for all involved in the political process.

Australian Electoral Commission processes and structure

The 2013 election drew a lot of attention to the Commission and how it conducts an election, including criticism. Some of these criticisms have merit, most do not.

The Australian Electoral Commission is one of the best electoral administration organisations in the world, and Australians are lucky to have such a group of competent and independent administrators to run Australia's elections.

The AEC's structures are not perfect, and there are ways that can be improved, but any changes must first and foremost protect the independence of the AEC. Reducing the AEC's independence from political masters would be a big mistake.

Recommendation 1: Any changes to AEC structures respect and protect the Commission's independence.

Funding for the Australian Electoral Commission

Any pressure from the federal Government to cut spending and find efficiencies will naturally make it harder for the AEC to ensure quality control and a high quality of control when it comes to the movement of ballot papers.

The AEC will need to develop more stringent processes for the handling and movement of ballot papers in the future, which will be impossible if the AEC is under pressure to cut costs. A well-functioning democracy needs to be well-funded.

Recommendation 2: Funding to the Australian Electoral Commission is maintained in real terms.

More consistency in AEC structure

The report from former Australian Federal Police commissioner Mick Keelty is very useful and informative in understanding what processes broke down in Western Australia.

From a policy perspective, it seems that the main problems underlying the loss of 1370 ballot papers was a lack of consistency between each local divisional office of the AEC, along with inconsistent processes around logistics and tracking.

For over a decade, the AEC has made numerous attempts to streamline its administrative processes, by reducing the number of Divisional Returning Officers (DROs) or by collocating or merging divisional offices.

While local divisional offices are popular amongst members of Parliament for the service they provide, they do not make it easy for the AEC to ensure a high level of quality control, and the Parliament should not stand in the way of the AEC trailing changes to this structure.

Recommendation 3: JSCEM consider the collocating or merging of divisional offices and reducing the number of DROs in order to allow the AEC to ensure greater consistency.

Senate voting system and ballot paper

The Senate election suffered from a number of significant problems. The group-voting-ticket system allowed a number of candidates to win seats from a very small vote, with preferences from many parties, including those with contradictory agendas.

The ability to win on tiny votes has proven to be an incentive for numerous parties to try their luck, which has increased the size of the ballot to the extent that the ballot papers for New South Wales and Victoria (and Western Australia at the re-election) were at such a size that font sizes needed to be shrunk.

The size of ballot papers and the large numbers of candidates make it extremely difficult for voters to cast an informed ballot. They must either give an informed preference for up to 110 candidates, or they need to cast a vote above-the-line for a party who will then determine how preferences flow with little real transparency for voters and even less understanding of the consequences.

Attempts to increase nomination fees have proven entirely unsuccessful at reducing the size of the ballot. The best way to reduce the ballot size is to reduce the incentive to register new parties by removing the ability for a small party with no public profile to win a seat with preferences from voters who don't understand where their votes flow.

Introduction of optional preferential above-the-line preferencing

Group voting tickets have reached the end of their useful life. The simplest way to fix the system is by allowing voters to number preferences above-the-line themselves, in a way similar to the system used in the NSW Legislative Council.

It is important that any new system does not make informal any vote that is currently formal. GetUp urges the Parliament to avoid any model that requires more than one preference above-the-line.

Recommendation 4: Group voting tickets be abolished for Senate elections.

Recommendation 5: Voters be free to number preferences for groups above the line, with a minimum of one preference.

Below-the-line voting

Below-the-line voting is not a practical option for most Australian voters. In the largest states, voters can be required to number up to 110 candidates. Can a voter really be expected to have an informed preference for the order of all 110 candidates?

The large number of candidates almost certainly means that most voters who cast below-the-line votes do not have sincere preferences for or against many Senate candidates, and thus are forced to randomly number many of their preferences. The voting system should not require voters to manufacture preferences.

The number of preferences required also makes it very easy for voters to cast an informal ballot, and this also discourages voters from casting a below-the-line vote.

Either we accept that below-the-line voting is not a realistic option for most voters to cast a vote, or we need to change the voting system to make it possible for most voters to cast a vote legitimately.

We argue that any below-the-line vote that gives a valid first preference should be counted. We are aware of proposals to require a minimum number of preferences. While these are meant to reduce the potential for votes to exhaust, we believe they will result in legitimate voter preferences being discarded while still allowing votes to exhaust with relative ease.

Recommendation 6: Voters are free to number preferences below the line.

Recommendation 7: Legislation is changed to allow any vote below-the-line with a valid first preference to be counted, up to the point that preferences can be determined.

Voting processes and ballot counting processes

Numerous commentators since the 2013 election have suggested that the use of pencils and paper by voters, and the lack of electronic technology in the polling place, are somehow not right.

We do not agree. Voting using a piece of paper and a pencil is, in most cases, the best way to vote. Technology can be advantageous in ensuring that voters only vote once, and to ensure fast, high-accuracy counting of ballots, but rolling out electronic voting to most Australian voters, either in the polling place or online, is expensive and carries significant technological risks that need to be weighed against any benefits.

Voter suppression

Democracy is about we, the people, deciding who governs. Not some people, not the people in power, not their chums - all people. This is at the heart of a free and fair democracy. Infringing upon the right to vote is undemocratic. The people are the lifeblood of democracy, you start bleeding them and the whole thing slips away.

Laws that would require every Australian to prove their identity - not just when they enrol - but every single time they vote would be unnecessary, unfair and wasteful. These sort of voter suppression laws would not only stomp on every single Australian's freedom to vote, they would discriminate against some of the most vulnerable: the elderly, the young, Indigenous Australians, the illiterate, the homeless, people from non english speaking backgrounds, people with disability.

Two in three Indigenous Australians do not have drivers' licenses¹; at least one in ten have never had a birth certificate².

Those who have called voter suppression laws usually claim they want to change the system because of 'voter impersonation' and 'multi-voting'. Firstly - to be clear: voter suppression laws cannot stop multi-voting. In stark contrast networked digital electoral rolls could stop multi-voting, and have drawbacks that are ant sized compared to the voter suppression elephant. Secondly - the reality is that the impact of 'voter impersonation' and 'multi-voting' is between zero and negligible, and the main impact of voter suppression laws is to stop honest people having their say.

The negligible impact of 'voter impersonation' and 'multi-voting' is made clear in the recent research report *Multiple Voting and Voter Identification*, prepared by Professor Rodney Smith for the NSW Electoral Commission. The report released earlier this year found that the number of multiple votes was so small it could not change anything. That is - they have never resulted in an election result being called into question.

It also found that most of what initially appears to be multiple voting is actually just clerical error, and in the rare instances of genuine 'multi-voting' it's almost always an honest mistake, usually by elderly people, people with a poor understanding of the electoral process or people with a limited understanding of English. Perhaps what we really needed is an education campaign so that voters better understand the process?

Some experts say the laws are politically motivated³. When politicians want voter suppression laws might it have something to do with making it harder for people to vote who are less likely to vote for them?

¹ OSER, Queensland Government, 2012, Indigenous Regional Profiles, (Census 2006) Australia, 12 March

² Orenstein, J, 2008, Being Nobody - The Difficulties Faced by Aboriginal Victorians in Obtaining Identification, Joel

³ Emily Howie, 2013, Voter ID laws politically motivated, Brisbane Times

Intentional multi-voting and voter impersonation are extremely rare. The report prepared by Professor Rodney Smith for the NSW Electoral Commission into the issue of multiple voting identified that the cases of multiple voting are extremely small, and appear to

Recommendation 8: Voter suppression laws be given no place in Australia's free and fair democracy. The the roll out a system of digital, networked electoral rolls and education on the democratic process be instead considered.

Increasing enrolment

We have been encouraged by the implementation of direct enrolment processes by the federal AEC and the state Commissions in New South Wales and Victoria.

We hope to see numbers of direct enrolment increase over the coming term, and very much hope this program will be allowed to continue in the future.

Recommendation 9: The AEC's Direct Enrolment program is supported and allowed to fully roll out over the next parliamentary term.

Enrolling on election day

Despite direct enrolment, many people, particularly young people, turn up on election day to vote. Despite being eligible to vote, they are turned away because they are not enrolled.

Eligible voters who are yet to be added to the roll should be able to enrol on election day and vote.

Recommendation 10: Legislate to allow eligible voters to enrol, or update their enrolment, and vote at the same time and place.

Limited trials of electronic voting

We do not believe electronic voting is practical for most voters at most polling places, both due to the cost of equipment and the difficulty in training up thousands of polling booth workers to provide necessary assistance.

However, there are good reasons to use electronic voting to make it easier for voters with certain types of disabilities to cast a vote without giving up the right to a secret ballot. Some states have introduced limited audio-based electronic voting for 'blind and low vision' voters, and we welcome these innovations.

We also believe that electronic voting could be implemented for certain major pre-polling centres, with paper ballots available as a backup and for voters who do not wish to vote electronically. These have been implemented in the ACT. They may prove to be a useful way forward for federal elections, but we don't believe that it will ever be necessary or practical to be used for all votes cast across the country.

Recommendation 11: That the AEC and the Parliament consider trials of electronic voting at major urban pre-poll centres, and for 'blind and low vision' voters.

Optical scanning of ballot papers

While the AEC is very diligent and puts a great deal of effort into counting ballots, the process of counting Senate ballots takes an extremely long time. The WA recount also demonstrated that even the most rigorously scrutineered process results in many votes being mis-tallied. Close to half of all polling places in Western Australia saw the total number of votes change between the original scrutiny and the recount.

We can do better, both in terms of speed and accuracy.

The ACT Electoral Commission has implemented the use of Intelligent Character Recognition (ICR) optical scanning, which allows computers to recognise handwritten

numbers and thus enter ballots into the counting system with a high level of accuracy in a short amount of time.

Recommendation 12: That the AEC investigate the option of ICR scanning, with the aim of eventually counting all Senate ballots at a central location in each state using ICR scanning.

Postal vote applications

Both major parties engage in extensive postal vote campaigns, and under current electoral law it is perfectly legal to ask voters to return applications to the campaign, rather than directly to the AEC. This allows the party to collect this data, usually without the voter realising that this is happening.

There is no reason why political parties need to be involved in this process. No other part of our electoral process is set up so that parties do the work of administering the electoral process. If the AEC requires more funding to properly inform people of their right to vote by postal ballot, this funding should be found.

If the Parliament considers it legitimate for parties to know which voters are casting a postal ballot so that they can be campaigned to, this data should be equally available to all candidates and parties, in the same way that access to the electoral roll is available.

Recommendation 13: Require that all postal vote applications are returned directly to an AEC office.

Recommendation 14: If JSCEM and or the Parliament decide that some groups receiving postal votes in the mail is a priority, that the funds be provided so that voters receive an application form and information on postal voting directly from the AEC.

Recommendation 15: If JSCEM and or the Parliament decide that candidates should be able to reach out to voters who are likely to postal vote, this data should be equally available to all candidates and parties, in the same way that access to the electoral roll is available.

Party registration, nominations and election campaigns

Prior to the 2013 election, nomination fees were increased for both House of Representatives and Senate elections, ostensibly to reduce the size of the ballot and discourage 'frivolous' candidates. This clearly did not work, with record numbers of candidates nominating, and a record number of parties registering.

Rather than actually reducing the number of frivolous candidates, an increase in nomination fees only blocks frivolous candidates with a small budget, as well as serious and genuine parties and candidates with a small budget, while allowing parties with plenty of money to continue to nominate a large number of candidates.

It is essential that our election laws are open to new participants, new candidates, new parties, and considering the failure of the increase in nomination fees to make the Senate ballot paper more manageable, we believe the Parliament should reverse the changes made to nomination fees in 2013.

Recommendation 16: Reverse the increases to nomination fees passed in early 2013, to \$1000 per Senate candidate and \$500 per House of Representatives candidate.

Recommendation 17: If JSCEM and or the Parliament decides it wants to increase the barriers to nominating, that it do so by 100 residents of the state in which they are nominating, not by increasing nomination fees or membership numbers.

Access to the electoral roll

All members of Parliament, political parties and candidates are entitled to receive a copy of the electoral roll. These are provided in order to ensure that there is equal access to the list of voters, and for the purposes of campaigning.

Apart from these groups, access is not provided to any other group campaigning in an election.

Political parties and candidates are not the only groups that participate legitimately in election campaigns, contacting voters and running campaigns.

Other parts of electoral law, including state electoral law, recognise the significant role of 'third parties' in election campaigns, including for the purposes of donations disclosure and caps on expenditure.

There is already a requirement in legislation that the electoral roll cannot be sold or used to make a profit. With this requirement, maintained this requirement, is no reason the same access to the roll could not be extended to registered third parties.

Recommendation 18: JSCEM consider access to the electoral roll - currently provided to members of Parliament, candidates and political parties - being extended to third parties registered for the purposes of participating in elections. The prohibition on the use of the roll for profit should of course be maintained.

Use of parliamentary entitlements during election campaigns

Members of Parliament who are up for election are entitled to spend most or all of their entitlements for the purpose of their election campaign, and more generally use their other entitlements such as staff, travel and office space for the same purpose.

This is a massive subsidy to incumbent MPs from the government, and a massive unfair advantage. Most state Parliaments do not allow MPs to use their resources for their own election campaign.

Recommendation 19: Parliamentary entitlement rules be changed to ban the use of parliamentary resources and entitles to assist with an MP's re-election.

Recommendation 20: Members of Parliament's printing and communications allowance not be available to be spent during the period between the issue of writs and election day.

Fixed terms

Most Australian states now have fixed terms, giving clear direction to voters, candidates, members of Parliament and electoral administrators as to when the election will be held.

There are other practical benefits to fixed terms; the Keelty report made clear that the AEC's job was made significantly more difficult due to the lack of a clear date, meaning that the AEC had to find premises for polling places and for counting centres at very short notice. This forced the AEC to use premises that were not entirely appropriate for the purpose.

The issue of fixed terms has been caught up in the past with the issue of extending Parliamentary terms to four years. The former requires only legislation, while the latter would require a constitutional change. There is no need to wait for four-year terms to institute fixed terms.

Legislation for fixed terms could also deal with the current problem whereby Senators are elected well before their terms begin. Since the 1998 election, Senators have been elected between seven and ten months before the July 1 date for the start of the new Senate term.

It could be possible over the course of a decade to shift election dates back 1-2 months per term, from the September 2013 date to be held in March of the following year.

Recommendation 21: Fixing the election date. This legislation would fix dates gradually later in the year over the next decade until dates are fixed permanently in March.

Electoral finance

The issue of money in politics remains significant and unresolved on a federal level. Laws on donations disclosure need to be reformed, and we need to move towards caps on spending, caps on donations and bans on certain types of donations, and reforming the public funding system.

Disclosure of donations

The threshold for the disclosure of donations is far too high as it currently stands, and allows a large amount of large donations to go undisclosed.

Donations should be able to be disclosed far more rapidly than the current legislation requires. Donations from the 2013 election campaign will not be disclosed until February 2015.

Parliament also needs to close the loophole which allows donations given to different branches of a political party to exceed the donations threshold and yet not be disclosed.

Recommendation 22: All donations of over \$1000 be required to be disclosed, including smaller donations that cumulatively add up to over \$1000 in a financial year.

Recommendation 23: Donations to different registered branches of the same political party be counted towards the same total for the purpose of determining if the donations exceed the \$1000 disclosure threshold.

Recommendation 24: Political parties and candidates be required to disclose all donations exceeding \$1000 within two months, and within one week during the official election campaign period.

Spending and donations caps and bans

The recent Western Australian election demonstrated the problems caused by the lack of any restrictions on campaign expenditure in Australian federal elections, and in particular the problems caused by individuals being permitted to donate large amounts of money.

Recommendation 25: Caps on spending be imposed on political parties, candidates and third parties, with caps both per electorate and across the entire country.

Recommendation 26: That JSCEM consider the capping of political donations from any individual to any political party or candidate at \$1000 per year.

Recommendation 27: JSCEM consider the banning of donations to political parties or candidates from anyone not listed on the electoral roll (noting the recent NSW decision).

Public funding for political parties

The principle of public funding of elections is essential to help reduce the influence of money in politics, although small donations from individuals will remain important in funding election campaigns.

Current election funding is provided without a need to demonstrate that the funding has been spent on election campaigns. In practice, some of this funding is used to fund the underlying administrative costs of running a political party. Any restrictions on how public election funding is spent should go hand-in-hand with the introduction of administration funding for political parties, as is available in NSW.

The existence of public funding is important, but it can make it harder for new, small parties to break through. This can be mollified by providing small amounts of start-up funding for new parties.

Recommendation 28: JSCEM consider the restricting of public election funding to be used for the purpose of election campaigning, and that public administrative funding be introduced.

Summary of Recommendations

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