



Electoral Commissioner

Our Ref: 13/997

Inquiry Secretary
Joint Standing Committee on Electoral Matters
PO Box 6021
PARLIAMENT HOUSE ACT 2600

Dear Ms Leyne,

Inquiry into the 2013 federal election – Responses to Questions taken on Notice (QoNs) at the 12 and 13 November 2014 Joint Standing Committee on Electoral Matters' (JSC EM) hearing and, an update on the referral of multiple voters to the Australian Federal Police (AFP)

The Australian Electoral Commission (AEC) has previously undertaken to provide updates to the JSC EM on the referral of multiple voters to the AFP. **Attachment A**, titled *Multiple Voting and Electoral Integrity*, examines multiple voting with reference to alleged occurrences at the 7 September 2013 federal election and the 2014 Division of Griffith by-election. It also provides an overview of the actions taken by the AEC, including the referral of specific instances of alleged multiple voting to the AFP. The AEC is concerned that the current arrangements in place do not lend themselves to prosecution of multiple voting and that this cannot be overcome by changes to administrative arrangements.

At the JSC EM hearing on 13 November 2014, the Chair requested a supplementary submission on roll divergence. **Attachment B** contains this submission and also addresses other electoral roll related questions which arose at this hearing.

During the JSC EM hearing on 13 November 2014, Mr Rogers also offered to provide the committee with the Electoral Integrity Unit's Work Plan. This document titled *Electoral Integrity Unit Work Program* is available at **Attachment C**.

The remaining QoNs from the 12 and 13 November 2014 JSC EM hearings are addressed in **Attachment D**.



Electoral Commissioner

This submission contains four attachments:

Attachment A	Multiple Voting and Electoral Integrity
Attachment B	Supplementary submission on roll divergence
Attachment C	Electoral Integrity Unit Work Program
Attachment D	Responses to other outstanding QoNs from 12 and 13 November 2014

I trust that this information is of assistance to the Committee, and would be happy to discuss any issue further at the hearing next month.

Yours sincerely,



Tom Rogers

Electoral Commissioner

20 February 2015

Multiple Voting and Electoral Integrity

20 February 2015



AEC

Australian Electoral Commission

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Like complex links in a chain, violating international standards in any one of the sequential steps [in the electoral cycle] undermines, and weakens, principles of electoral integrity.¹

1. Introduction

- 1.1. This submission focusses on multiple voting, an issue that is at the heart of the broader concept of 'electoral integrity'. In essence, 'multiple voting' refers to alleged instances of electors voting more than once in a single election, as indicated by marks recorded by polling officials on the paper or electronic certified list of voters.
- 1.2. Issues that affect the public's confidence in the administration of the electoral system may undermine electoral legitimacy, and can present a serious threat to the public's perception of reliable, accurate and transparent electoral outcomes. Multiple voting, both real and perceived, is one such issue. This matter has previously received a significant amount of coverage in various elements of the media, and has been the subject of active debate at both the Joint Standing Committee on Electoral Matters (JSCEM) and during Senate Finance and Public Administration Legislation Committee hearings ('Senate Estimates').
- 1.3. This submission examines the issue of multiple voting with reference to alleged multiple voting at the 7 September 2013 federal election and the 2014 Griffith by-election. It will outline actions taken by the Australian Electoral Commission (AEC), including the referral of specific instances of alleged multiple voting to the Australian Federal Police (AFP). The submission will outline the AEC's concerns that current arrangements do not lend themselves to prosecution of multiple voting and that this cannot be overcome by changes to administrative arrangements.

2. Background

Legislation

- 2.1. There are two offences contained in the *Commonwealth Electoral Act 1918* (the Electoral Act) that could apply to a person who votes more than once at the same election.
- 2.2. The first offence is contained in subsection 339(1A) of the Electoral Act which provides that "A person is guilty of an offence if the person votes more than once in the same election". The maximum penalty for this offence is 10 penalty units. A

¹ Norris, P., Frank, R. W., & I Coma, F. M. (Eds.). (2014), *Advancing Electoral Integrity*, Oxford University Press.

penalty unit is currently \$170. Accordingly, the maximum penalty that could be imposed by a court exercising criminal jurisdiction is \$1,700. Subsection 339(1B) of the Electoral Act provides that this offence is an offence of strict liability. Under section 6.1 of the *Criminal Code Act 1995* (the CC Act) the defence of a mistake of fact is available for a strict liability offence.

- 2.3. The second offence is contained in subsection 339(1C) of the Electoral Act which provides that “A person is guilty of an offence if the person intentionally votes more than once in the same election”. The maximum penalty for this offence is 60 penalty units or imprisonment for 12 months, or both. Due to the fault element requiring the prosecution to establish that the person “intentionally” voted more than once, this offence is not one of strict liability.
- 2.4. The practice of both the AEC and the AFP has been to assess a person who may have voted twice as falling within the strict liability offence contained in subsection 339(1A) of the Electoral Act. Where a person is recorded as having voted more than twice then, subject to preliminary analysis, this may require further inquiries to determine if their actions were deliberate and therefore falling within the more serious offence contained in subsection 339(1C) of the Electoral Act.
- 2.5. Both the offences contained in subsections 339(1A) and 339(1C) of the Electoral Act are a “summary offence” as defined in section 4H of the Crimes Act 1914 (Crimes Act). However, there are different time periods in which a prosecution is able to be commenced for each offence. Subsection 15B(1) of the Crimes Act provides where the maximum penalty which may be imposed for the offence in respect of an individual is, or includes, a term of imprisonment of more than six months in the case of a first conviction, a prosecution can be commenced at any time. However, in any other case, a prosecution can only be commenced within one year after the commission of the offence. The result of this requirement in the Crimes Act is that:
 - for the strict liability offence contained in subsection 339(1A), a prosecution must be commenced within 12 months of the day on which the person casts a second or subsequent vote; and
 - for the intentional offence contained in subsection 339(1C), a prosecution can be commenced at any time.

Implications of multiple voting

- 2.6. Amongst other important democratic maxims, the notion of ‘one person, one vote’ is a fundamental tenet underpinning the notion of electoral integrity. Citizens have the right to expect (and do expect) that the administrative processes used to conduct elections are of the utmost integrity, including appropriate measures to ensure that each voter is legally entitled to cast a vote and will only do so once. Any instance, or

even perceived instance, of multiple voting could fundamentally undermine the electorate's confidence in the outcomes of an election, regardless of its effect on the election result itself.

- 2.7. Given the threshold importance of this matter, it is not surprising that alleged multiple voting has been the subject of considerable Parliamentary and media attention for some time, including various election reviews by the JSCEM and at various hearings of the Senate Finance and Public Administration Legislation Committee.
- 2.8. Regardless of whether multiple voting influences the outcome of any election, an exclusive focus on the numerical impact of multiple voting is, in many respects, irrelevant. Even a single instance of multiple voting can create a significantly negative perception of electoral legitimacy and integrity.
- 2.9. It is important that any consideration of multiple voting also address the broader issues. This includes whether existing systems and processes are sufficiently robust to discourage, prevent, and detect multiple voting, and whether appropriate sanctions are available and applied where multiple voting has been proven.
- 2.10. An examination of the current processes and the specific instance of the 2013 election, both of which are outlined below, indicates that there are possible areas of improvement. An examination of other jurisdictions (see Section 7) indicates that this is a challenge for all stakeholders involved in this critical area.

Difficulty in enforcing multiple provisions

- 2.11. It should be noted that the AEC has neither criminal investigative nor prosecutorial powers in dealing with multiple voting matters. Rather, the AEC refers relevant cases to the Australian Federal Police (AFP) for investigation and, where appropriate, the AFP refers matters to the Commonwealth Director of Public Prosecutions (CDPP) for further action. To that end, the AEC has an agreement in place with the AFP covering a range of matters, including the referral of potential multiple voters.
- 2.12. The AFP has provided advice that a major barrier to a successful prosecution is the lack of evidence to the necessary standard of proof to establish an allegation of multiple voting in a court exercising criminal jurisdiction. This is due to the absence of any corroborative evidence to support the allegation that an offence has been committed, given that the manner in which a vote is cast is largely designed to protect the secrecy of the vote, compounded by the possibility of human error in the process of marking an elector's name off the certified list.
- 2.13. The AFP has variously provided advice of potential actions to address the evidentiary gap, including electronic voting, various forms of photographic voter ID,

time-stamped CCTV, identity document verification at the polling place, electronic mark-off and more extensive public information campaigns to highlight the criminal nature of the offence. Each of the suggestions provided to date is likely to be costly or require legislative change, preceded by a comprehensive assessment of the impact of any change on each elector's ability to exercise the franchise.

- 2.14. Deliberations at the JSCEM and at Senate Estimates have acknowledged the difficulty in successfully prosecuting instances of multiple voting. For example, a former Special Minister of State is on record as noting "It seems – and you cannot blame the Federal Police or the Director of Public Prosecutions – that in the absence of any corroborative evidence, a denial would have to be, on the face of it, a denial that could not be overcome in a court of law where the standard ... would be beyond reasonable doubt." (Senate Estimates Hansard, Finance and Public Administration Committee, Page 82, 14 February 2012).

3. AEC processes and investigations

- 3.1. After the close of the electoral rolls for an election, one of the responsibilities of the Electoral Commissioner is to have the certified lists and approved lists of voters available at each polling place before the start of voting (see sections 208 and 208A of the Electoral Act). Identical copies of the lists of voters for a Division are provided to each issuing point at every polling booth for the Division. A national election requires more than 32,000 hard copy certified lists to be in place across all polling venues that issue ordinary votes, and up to 11.4 million marks being made across all ordinary certified lists.
- 3.2. Under the Electoral Act, the certified list and approved list of voters are the only source of information that is available to enable the AEC to investigate electors who may be either non-voters in breach of the compulsory voting requirements in section 245 of the Electoral Act or multiple voters.
- 3.3. Section 229 of the Electoral Act requires the issuing officer at an issuing point to ask each person claiming to vote three questions:
- (i) what is your full name?
 - (ii) where do you live? and
 - (iii) have you voted before in this election?

Where the issuing officer is satisfied from the answers to these questions that the particular person is on the list of voters and has not previously voted in the election, then the ballot papers will be issued to that person.

- 3.4. Section 232 of the Electoral Act requires a polling official to either place a mark against the person's name on the certified list or record electronically on the approved list the fact that a person has been handed a ballot paper. On the

hardcopy certified lists of voters, the marking off process involves drawing a line between two arrow marks, called “clock marks”, against the name of each elector who had been handed a ballot paper. On the electronic approved lists of voters an electronic mark is similarly placed against the name of each elector who had been handed a ballot paper.

- 3.5. Votes that are not cast as an ordinary vote at a polling place or pre-poll centre (i.e. postal votes, absent votes and provisional votes) are called, as a group, declaration votes; these votes are placed in an envelope. The declaration vote envelopes are subject to the preliminary scrutiny process, where each elector’s entitlements are checked before the envelope containing the marked ballot papers can be opened and the ballot papers included in the count (see section 266 of the Electoral Act). The names of these electors are marked off against the lists of voters in the relevant Divisional office.
- 3.6. At the completion of polling, all marked certified lists are sent for optical scanning and the marks consolidated to identify those electors whose names have been marked once, more than once (multiple marks, identifying possible multiple voters) or not marked at all (potential non-voters). In the case of the 2013 election, this also included data from the new electronic certified list pilot.
- 3.7. The scanning process produces reports listing apparent non-voters and apparent multiple voters. The reports are titled “apparent” because there may have been either some human error (the polling official has marked off the incorrect elector’s details) or some mechanical error (the mark is not one that has been placed by a polling official to indicate the handing over of a ballot paper) that has resulted in an elector being incorrectly included in the relevant report.
- 3.8. The Divisional Returning Officers (DROs) for each Division receive these reports and commence investigations into the circumstances by writing to each elector whose name appears on the relevant reports. Under section 245 of the Electoral Act, it is the DROs who are charged with the responsibility of investigating non-voting matters and issuing the relevant notices. The process under section 245 of the Electoral Act intersects with the initial inquiries for electors whose name has been marked off the lists more than once.
- 3.9. Ahead of the 2013 election, the AEC adopted a new way of working with the AFP and the CDPP, engaging in early discussions between the agencies and an agreed scale for categorisation of cases when being assessed for referral for investigation.

4. Multiple voting action following the 2013 federal election

- 4.1. For the 2013 election, following the passage of enabling legislation in 2010, a small pilot deployment of electronic certified lists (ECLs) was introduced. Over 760 ECLs

were used for a range of voting types including ordinary voting at polling places, pre-poll voting centres and mobile polling. ECLs were also used to mark off absent and pre-poll declaration voters at all divisional scrutinies conducted after polling day. For the 2014 Griffith by-election, 145 ECLs replaced all hard copy certified lists. ECLs were used on a smaller scale for the 2014 Senate election in WA.

- 4.2. Of the 14 722 754 electors that were eligible to vote at the 2013 election, 2 013 electors across Australia (or 0.014% of those eligible) admitted to voting more than once. Over 80% of those who have admitted to voting more than once are elderly voters, electors confused about the voting process (including electors voting for the first time), or those with language difficulties.
- 4.3. Below is a table setting out the results of the scanning and the letters sent to electors whose names appeared to have more than one mark against them on the lists:

Table 4.1 - 2013 Federal Election Multi-mark report as at 11 April 2014

State/Territory	Cases loaded from scanning	First letter sent (20/10/2013)	Reminder letter sent (15/11/2013)
NSW	10 621	7 354	2 801
Vic	8 062	4 739	1 756
Qld	4 911	2 893	976
WA	2 693	1 748	734
SA	2 028	1 171	410
Tas	610	373	117
ACT	488	288	110
NT	235	204	101
Total	29 648	18 770	7 005

- 4.4. Following the pattern of recent elections, the majority of multiple marks instances in 2013 were dual marks. 128 electors have more than two marks recorded beside their names:

Table 4.2 – Electors with more than two marks

	Total Voters	Number of instances where greater than two marks were recorded							
		3	4	5	6	7	9	12	15
NSW	89	58	17	4	6	1	1	1	1
Vic	18	17	1						
Qld	6	4	2						
WA	7	7							
SA	3	3							
TAS	3	2	1						
NT	1	1							
ACT	1		1						
Total	128	92	22	4	6	1	1	1	1

- 4.5. In June 2014, the AEC met with both the AFP and the CDPP to discuss the process for proceeding to investigate and possibly commence legal proceedings in these matters.
- 4.6. Following these meetings an assessment was undertaken which resulted in a total of 7 743 cases of alleged multiple voting at the 2013 federal election being referred to the AFP for investigation. These represent cases where an elector has been marked against more than one voting list and where the mark could not be positively confirmed as official error.
- 4.7. In conjunction with the AFP, these cases were categorised on a scale from 1 to 5 on the prospects of successful prosecution. Category 1 included instances of two marks and a reasonable excuse for voting more than once provided by the elector, and Category 5 concerned instances of more than two marks and either an admission of multiple voting or a suspicion that there was a deliberate intention to vote more than once.
- 4.8. The AFP investigated 65 of these cases, all from Categories 4 and 5. These cases were in New South Wales, Victoria, Queensland, Western Australia and South Australia. The breakdown by state/territory is as follows:

Table 4.3 – Breakdown of Category 4 and 5 cases by state

NSW	Vic	Qld	WA	SA	NT	ACT	Tas	Total
33	14	14	2	2	0	0	0	65

5. The results of referral to the AFP

5.1. In a letter dated 10 December 2014, the AFP advised that they had completed the investigation into the 65 separate allegations of multiple voting and none had been referred to the CDPP for consideration of prosecution. The AFP advised that of the 65 referrals:

- 19 suspects had been spoken with and it was established a genuine level of confusion existed due to age, disability or a lack of comprehension due to a non-English speaking background;
- 22 matters revealed either conflicting advice was provided to the suspects by polling officials or genuine confusion concerning pre-poll, absentee and postal voting processes and procedures;
- six suspects had not been spoken with for a variety of reasons and the investigation was unable to proceed; and
- 18 suspects either denied outright the allegation of multiple voting or declined to participate in a taped record of interview.

5.2. The AFP concluded that based on the responses received from the suspects, it could not be established that there was a deliberate intention to cast multiple votes and therefore the offence contained in subsection 339(1C) of the Electoral Act could not be proved. Those electors who had admitted voting more than once in breach of the strict liability offence contained in subsection 339(1A) were not pursued due to:

- the expiration of the 12 month limitation period for the initiation of prosecution;
- an absence of physical evidence; or
- the provision of a reasonable excuse that resulted in it being unlikely that a successful prosecution could be obtained.

5.3. A copy of the letter from the AFP dated 10 December 2014 is provided at [Attachment A](#).

6. Griffith by-election

- 6.1. Following the Griffith by-election conducted on 8 February 2014, another 19 cases of apparent multiple voting arising from the by-election were referred to the AFP on 4 November 2014 for investigation.
- 6.2. The AFP advised the AEC of the results of the referrals in a letter dated 24 November 2014. The AFP assessed each matter and advised the AEC that they would not be taking any further action. 16 of the suspects were categorised as involving persons who were elderly or confused about the voting process. The AFP concluded that it would not be in the public interest to commence any investigation into these suspects. In the remaining three matters the AFP concluded that it was unlikely that sufficient admissible evidence would be available to support commencing a prosecution.
- 6.3. A copy of the letter from the AFP dated 24 November 2014 is provided at Attachment B.

7. Other jurisdictions

- 7.1. The AEC works with other electoral management bodies in Australian jurisdictions to investigate and address common issues such as multiple voting and electoral integrity. It also monitors developments in similar jurisdictions overseas.
- 7.2. The NSW Parliamentary Research Service published a report on 20 January 2015 entitled Integrity in government: issues and developments in New South Wales, 2011-2015. Although it did not deal directly with multiple voting, the report noted growing cynicism and disengagement with the political process, including the electoral system, dealing at length with the public's perceptions of integrity within the political and electoral landscape.
- 7.3. Queensland has also been considering issues of integrity and multiple voting. At the time of writing, the Electoral Commission of Queensland (ECQ) was in the process of evaluating the introduction of a new voter identification scheme for the Queensland State Election conducted on 31 January 2015. The voter identification requirements were introduced specifically to reduce the potential for electoral fraud and consequently increase voter confidence in the integrity of elections. Whilst the formal outcomes of the evaluation are not yet known, it appeared to AEC staff who observed the process that voting proceeded smoothly, and the introduction of voter identification did not cause significant issues.
- 7.4. The AEC will monitor the ECQ's implementation of voter identification requirements and consider any associated implications should such a requirement be introduced federally.

- 7.5. Similarly, some foreign jurisdictions have also attempted to tackle the issue of multiple voting and its impact on electoral integrity in recent years.
- 7.6. In January 2014, the United Kingdom's Electoral Commission published a report entitled Electoral Fraud in the UK.² This report noted that while electoral fraud (including multiple voting) was not widespread across the country, it was of concern to a significant proportion of the community and undermined confidence in the electoral system. The report recommended the introduction of voter identification to address impersonation, multiple voting and its impact on the community's perceptions of electoral integrity.
- 7.7. Voter identification has been required in Canada since 2007 to address concerns relating to the integrity of elections, including public confidence in the electoral system. The Canadian authorities have sought to find the right balance between electoral robustness and accessibility to voting; these lessons could prove valuable for other jurisdictions.

8. Conclusions

- 8.1. As noted above, multiple voting has been a longstanding issue and point of discussion for the JSCEM. It is also the subject of discussion and debate for electoral management bodies across the world. The concern with multiple voting is a response to community concerns with electoral integrity, as the electoral system rests on an assurance that each person has the same opportunity, but only the same opportunity, to vote.
- 8.2. The AEC has satisfied itself that the apparent multiple marks for electors on the lists of voters did not affect the outcome of the 2013 federal election. However, this analysis in some ways misses the point that multiple voting by some electors contravenes the universally accepted standard of 'one person – one vote'.
- 8.3. The AEC adopted a new way of working with the AFP and the CDPP to enhance cooperation in investigation and possible prosecution of these matters. The new approach included early discussions between the agencies and an agreed scale for categorisation of cases when being assessed for referral for investigation. However, despite the change in the AEC's approach in conjunction with the assistance of the AFP and the CDPP, no actual prosecutions have resulted from alleged instances of multiple voting in the 2013 federal election or the 2014 Griffith by-election.

² United Kingdom Electoral Commission, Electoral Fraud in the UK, Final report and recommendations, January 2014, accessed on 18 February 2015.
<www.electoralcommission.ork.uk/_data/assets/pdf_file/0008/164609/Electoral-fraud-review-final-report.pdf>.

- 8.4. The main inhibitors to the taking of prosecutorial action against alleged multiple voters are the voting process contained in the Electoral Act and the lack of any corroborative evidence being available. These issues were addressed in the AFP submission No.105 (dated 27 June 2011) to the JSCEM Inquiry into the conduct of the 2010 federal election.
- 8.5. It is apparent that the current situation cannot be overcome by simple administrative action undertaken by the AEC. Any steps to reform this area, including the adoption of measures previously suggested by the AFP, would require specific amendments to the Electoral Act and the expenditure of significant resources.
- 8.6. Other jurisdictions appear to be increasingly pursuing voter identification to combat multiple voting and enhance electoral integrity. Given the significance of this issue, decisions regarding additional integrity measures (including any introduction of voter identification requirements), is a matter for Parliament. Any changes would need to be accessible, well explained, not disadvantage certain groups in society, and allow for efficient administration. However, as noted in this submission, multiple voting is an ongoing issue with the potential to affect electors' perceptions of electoral fairness and sound outcomes, and the lessons of these jurisdictions could prove valuable to both legislators and administrators.

Attachment A



NATIONAL MANAGER CRIME OPERATIONS

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KDN 17 854 431 143

Our Reference: 5577243

10 December 2014

Mr Tom Rogers
Acting Electoral Commissioner
Australian Electoral Commission
PO BOX 6172
Kingston ACT 2604

Dear Tom

Outcome of the AFP investigation of multiple voting allegations during the 2013 Federal Election.

I wish to advise the Australian Federal Police (AFP) has completed the investigation into the 65 separate allegations of multiple voting following the 2013 Federal Election that were accepted by us for investigation.

The AFP conducted a thorough investigation of the 65 allegations and none have been referred to the Commonwealth Director of Public Prosecution (CDPP) for consideration of prosecution. Of the 65 referrals I can advise:

- 19 suspects were spoken with and it was established a genuine level of confusion existed due to age, disability or a lack of comprehension due to a non-English speaking background.
- The investigation of 22 of the matters revealed either conflicting advice was provided to suspects by the AEC or genuine confusion concerning pre-polling, absentee and postal voting processes and procedures.
- Six suspects have not been spoken with for a variety of reasons including:
 - One suspect is overseas and has been since August 2014;
 - After multiple attempts, using a variety of methods including telecommunications checks, we were unable to locate any contact details for four suspects; and
 - One suspect is now deceased.
- 18 suspects either denied outright multiple voting or declined to participate in a taped record of interview.

Based on the responses received from the 59 suspects who were spoken with (noting six suspects were un-contactable), it cannot be established that there was a

deliberate intention to cast multiple votes therefore offences pursuant to section 339C of the *Commonwealth Electoral Act 1918* cannot be proved.

Admissions to the AEC of multiple voting, in breach of the strict liability offence pursuant to section 339A, were not pursued due to the expiration of the statute of limitations, an absence of physical evidence or a reasonable excuse offered that would deem the prospects of a successful prosecution unlikely.

As you are aware, there are significant challenges associated in prosecuting instances of multiple voting in the absence of an admission and/or independent corroborating evidence. Specifically concerning the 18 suspects who denied voting on multiple occasions, the AEC was unable to provide evidence, other than the electoral roll recording more than one marking against a person's name, of an individual attending more than one polling place.

During this investigation it was evident the significant issues, of which we have documented previously, continue to be encountered in investigating allegations of multiple voting, including:

- The manual recording of attendance at polling stations is susceptible to inaccuracies with judicial processes likely to consider reasonable doubt exists with the integrity of administrative process;
- The inability to prove the identity of the constituent that cast the vote as no formal identification is required to be presented to the officials managing the electoral roll register;
- The inability to prove the exact time of the offence given the lack of accurate records; and
- The unreliability of witness identification by polling officials due to the large volume of people that present at polling stations.

Based on the outcomes of the investigation and taking into consideration the documented constraints associated with investigating allegations of multiple voting, the AFP will take no further action with regards to this referral.

The AFP will liaise with your team and will provide a specific breakdown of the responses provided to the investigators for each of the 65 accepted allegations.

Should you have any questions with regards to the outcome of your referral please direct them to Superintendent Mark McIntyre who can be contacted at mark.mcintyre@afp.gov.au.

Yours sincerely



Ian McCartney
National Manager
Crime Operations

Attachment B



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ASN 17 054 531 143

Our Reference: PROMIS 5709180

24 November 2014

Michael Ross
Director Legal Services
Australian Electoral Commission
PO Box 6172
Kingston ACT 2604

Dear

Thankyou for your referral to the Australian Federal Police (AFP) dated 4 November 2014 in which you request an investigation into 19 cases of 'multiple markings' following the by-election for the Federal seat of Griffith held on 8 February 2014.

The AFP has undertaken an assessment of all matters which included categorising each matter in accordance with the model agreed to following the AEC referral relating to the 2013 Federal Election.

The assessment identified that the referral related to 16 voters, including those categorised as elderly and persons suffering confusion with the process due to receiving a number of postal ballot papers. While it is apparent that some of the voters appear to have signed more than one postal ballot paper, the reasons for this appear to be confusion with the process or a misunderstanding of advice provided by the AEC. For these reasons it is not in the public interest to commence an investigation into any of those 16.

The remaining 3 matters are unlikely to identify sufficient evidence to support the allegations to commence a prosecution. Previous experience with multiple voting matters has identified that the only viable avenue of inquiry available is to approach the voter seeking to interview them. There is no CCTV footage available from polling places nor is there a requirement to produce identification. As such, it is highly unlikely sufficient evidence would be obtained to support the allegation.

For the reasons mentioned above, the AFP will be taking no further action in relation to these matters.

Should you wish to discuss the matter further you can contact me on telephone 02 61313848 or email mark.mcintyre@afp.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark McIntyre', is written over a horizontal line.

Superintendent Mark McIntyre
National Coordinator Special References

Electoral Roll Divergence

Submission to JSCEM

20 February 2015



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Divergence in Australian Electoral Rolls

1. Introduction

- 1.1. The Australian community expects (and demands) that the Commonwealth electoral process is of the highest integrity, characterised by sound processes and integrity in delivering electoral events and services, and in compiling and maintaining the electoral roll.
- 1.2. The overarching principle of roll integrity has two pillars; completeness (i.e. all eligible electors are on the roll) and veracity (i.e. the international principle of ‘one person, one vote/enrolment’). The AEC recognises the importance of striking the right balance between streamlining the process for electors to enrol and ensuring that only eligible electors do so. The AEC enrolment program includes a number of strategies throughout the electoral cycle to ensure that eligible Australians are correctly enrolled. This includes:
 - encouraging individuals to take action to enrol or update their details (through paper forms or online);
 - directly engaging with electors, based on a combination of external agency data and data from within the AEC, prompting them to take action to enrol or update their enrolment (the ‘mail review’ program’); and
 - sending letters to eligible electors under the ‘federal direct enrolment and update’ or FDEU program, indicating that enrolment action will apply after 28 days if they do not demonstrate why the enrolment/update should not occur.
- 1.3. These different strategies have different outcome rates, depending on the level of elector action required. Nonetheless, it remains the position of the AEC that the onus remains on electors to maintain an up-to-date enrolment - a position that is also enshrined in the legislation (see sections 99 and 101) of the *Commonwealth Electoral Act 1918* (the Electoral Act).
- 1.4. This submission focusses on the divergence between the Commonwealth roll and state, territory and local government rolls. Divergence occurs when an elector’s enrolment is not the same on the federal and the state or territory electoral rolls; for example, the elector may either have no enrolment on one roll or an enrolment at different addresses. Roll divergence is not a new problem; it occurs due to a number of factors including differences in laws and, in some cases, differences in practice. The vast majority of divergence derives from differences in direct enrolment and update arrangements between the Commonwealth and several states.

2. Background

Joint Roll Arrangements with state and territory electoral commissions

- 2.1. The principle of one uniform roll that serves the Commonwealth, states and territories was identified as early as the *1904 Select Committee Report, 'The Conduct of the 1903 Federal Election'*. The principle is designed to be elector-centric and reduce duplication of effort across jurisdictions.
- 2.2. Joint Roll Arrangements (JRAs) exist between the Commonwealth and each of the state and territory electoral commissions. They have been in existence, broadly, since 1908 and provide for the maintenance of all electoral rolls under a cost sharing model.
- 2.3. The principles underpinning the JRAs are:
 - improving service delivery for electors;
 - overall cost savings through reduced duplication of effort in maintaining Commonwealth-state/territory electoral rolls; and
 - enhanced integrity and accuracy through minimisation of roll divergence.
- 2.4. In practice, each jurisdiction uses an enrolment form that simultaneously fulfils the requirements for enrolment in that jurisdiction's roll for both Commonwealth and state/territory purposes. The exception is the case of the Victorian Electoral Commission's online enrolment form, which is only valid for Victorian state enrolment at this time.
- 2.5. The AEC continues to meet and negotiate with the state and territory electoral commissions in relation to a number of matters, including harmonising enrolment, differences in the legislation and different administrative approaches. Due to the sensitive nature of these ongoing discussions, they can only be discussed in general terms.
- 2.6. The NSW Electoral Commission (NSWEC) has indicated its desire to reduce its current financial contribution under the JRA and then cease contributions in 2015-16, as it will have developed its own capability to maintain a roll and deliver roll related processes in NSW for state and local government events.
- 2.7. The Victorian Electoral Commission (VEC) has also indicated its desire to take greater control of enrolment in Victoria and reduce its current contribution under the JRA. This approach has included the development of its own online enrolment

system, similar to that which has already been successfully implemented by the AEC.

- 2.8. The emerging duplication of effort in the management of electoral rolls is likely to increase Commonwealth-State roll divergence, which could lead to elector confusion and disenfranchisement.

3. What is divergence of the electoral roll?

- 3.1. As noted in paragraph 1.5, divergent electors fall into two main categories; those with single enrolment and those with dual enrolments. Single enrolment occurs when the elector has satisfied the enrolment requirements for at least one, but not both, levels of government (meaning they can only vote in elections in that jurisdiction). Dual enrolments are created when an existing elector goes through a process which updates only either their federal enrolment or their state enrolment, resulting in enrolment being recorded under two different addresses, only one of these being up to date.
- 3.2. Divergence, particularly where an elector has a single enrolment, or where they are enrolled for more than one address, can cause confusion for affected electors with regard to their enrolment status for forthcoming electoral events.

4. How much divergence is there?

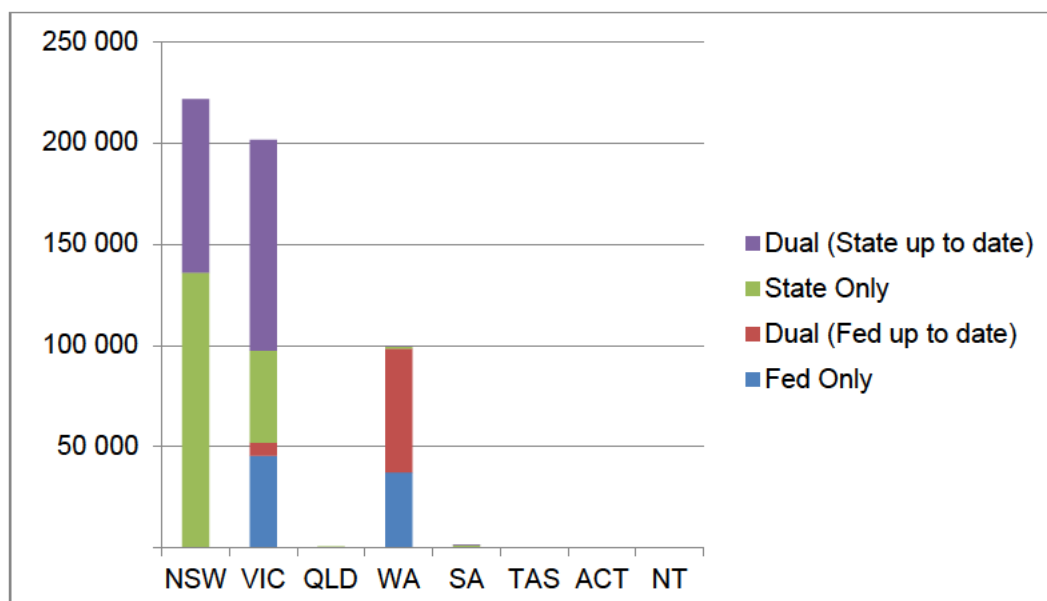
- 4.1. As of 11 November 2014, there were 525 839 divergent enrolments (see Table 4.1). Of these, 19 309 were divergent due to entitlement differences (that is, single enrolments where the individual was not eligible for enrolment at both levels of government), and 506 530 were divergent for other reasons, such as direct enrolment programs. The detailed divergence figures by federal Division are listed in [Appendix A](#).

Table 4.1: Roll divergence (including divergence by entitlement difference) by state as of 11 November 2014

Jurisdiction	More recent Federal enrolment		More recent State enrolment		Total divergence
	Federal only	Federal & state	State only	Federal & state	
NSW	280	83	135 712	85 529	221 604
VIC	45 506	6 561	45 398	104 053	201 518
QLD	183		539		722
WA	37 253	61 106	1 024	339	99 722
SA	177	71	1 144	370	1 762
TAS	46				46
ACT	464				464
NT	1				1
Grand Total	83 910	67 821	183 817	190 291	525 839

4.2. Figure 4.1 identifies the numbers of electors who have a single (state or federal only) enrolment, and those who have dual enrolments (divergent federal and state enrolments, with one more up to date than the other).

Figure 4.1: Types of roll divergence by state



Age profile

- 4.3. Divergence between state and federal rolls in NSW, Victoria and Western Australia are highly age skewed. In NSW and Victoria, young people are the most likely to have a state enrolment without a matching federal enrolment. In Western Australia, young people are most likely to have a federal enrolment without a matching state enrolment.
- 4.4. One of the explanations for the large amount of divergence where the state enrolment is more recent is the focus of the Victorian and NSW SDE programs on enrolling 18 year olds onto their state rolls. Both Victoria and NSW use data from school assessment authorities (see Table 4.2) to enrol new electors in this cohort. The FDEU program has no equivalent data source specifically targeting 18 year olds, although young people will be captured in the FDEU process when they engage with a driver's licence issuing authority or Centrelink.

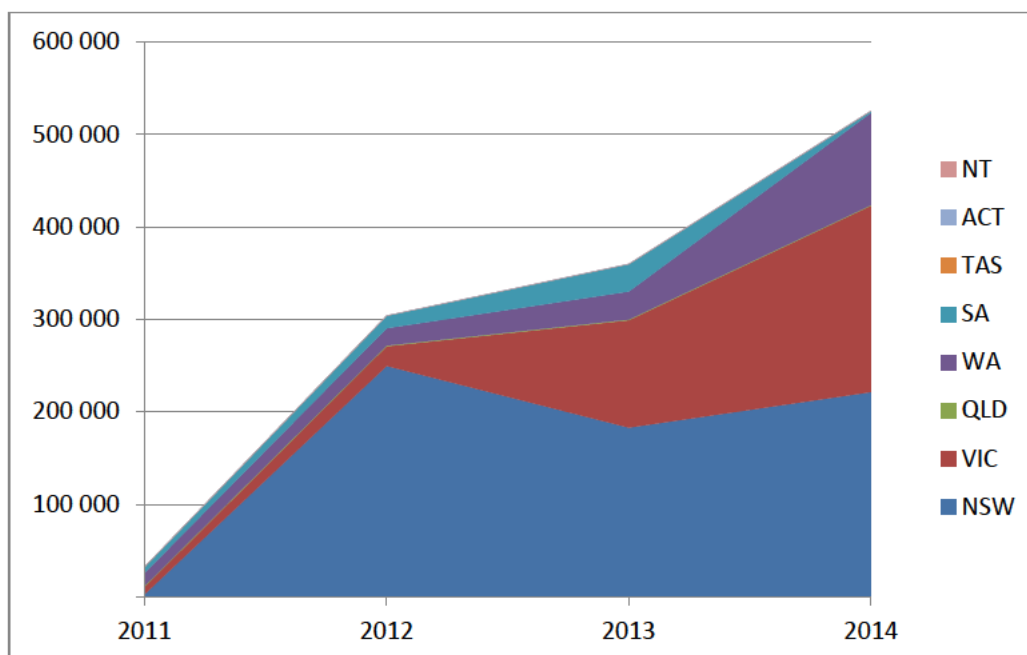
Table 4.2: Data sources used in direct enrolment and update processes in Australia

AEC	NSWEC	VEC
Driver's licence data obtained from NEVDIS	Driver's licence data obtained from NSW Roads and Maritime Services	Driver's licence data obtained from VicRoads
Centrelink	Board of Studies NSW - students updating their mobile number to receive their results	Year 12 students from the Victorian Curriculum and Assessment Authority – used once a year
Previously used: NSWEC SmartRoll data and Victorian direct enrolment data	Previously used: NSW TAFE and First Home Owners grant information	
	Investigating: Rental Bonds	

Changes over time

- 4.5. The number of divergent enrolments has increased substantially in the time that the NSW and Victorian SDE programs have been in operation, with the majority of the national roll divergence occurring in NSW and Victoria, and in Western Australia to a lesser extent. Total roll divergence per state is illustrated in Figure 4.2. Detailed figures for types of divergence per year are provided in [Appendix B](#).

Figure 4.2: Total roll divergence per state, 2011 to 2014



5. What causes divergence?

- 5.1. Roll divergence occurs when the legislative or procedural requirements for enrolment differ between the state or territory and Commonwealth. The main contributing factors are outlined below. These requirements continue to change over time as outlined in the legislative changes timeline in Appendix C.
- 5.2. With most of the causes of roll divergence, the divergence only exists where the elector has not taken action to update their own enrolment through the available mechanisms. It is the position of the AEC that the onus remains on electors to maintain an up-to-date enrolment; direct update and enrolment processes are simply a mechanism to make it easier to comply with this obligation.

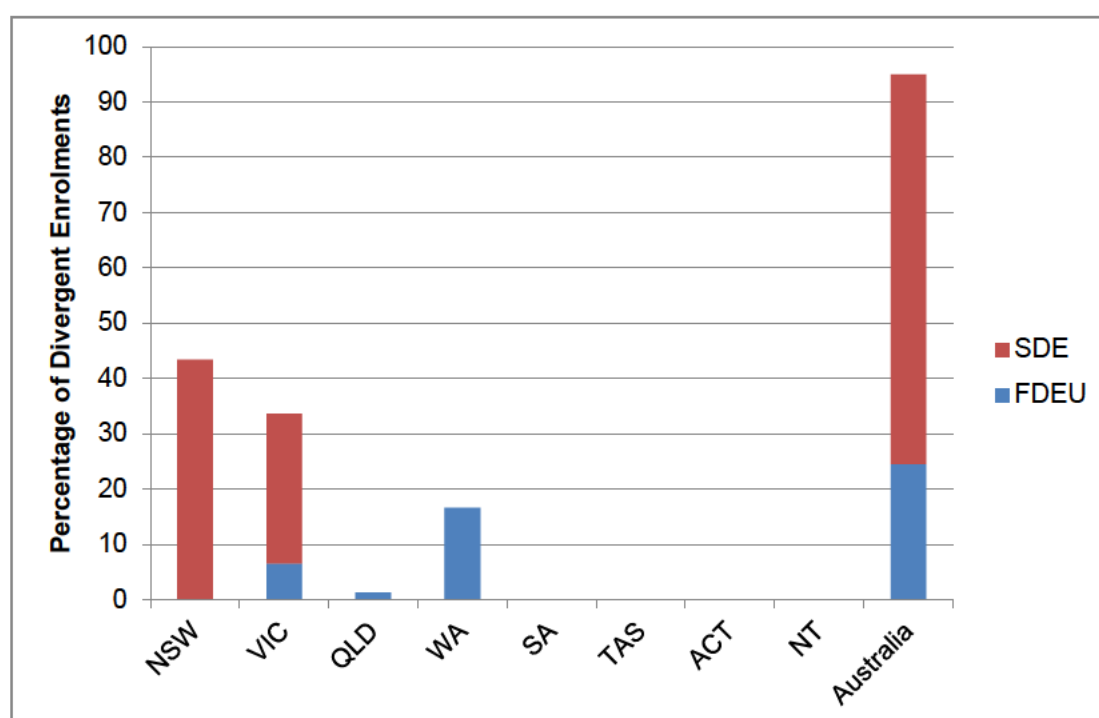
Direct enrolment and update

- 5.3. Recent substantial increases in divergence have arisen from the parallel running of direct enrolment programs by the Commonwealth, NSW and Victoria, and the legislative inability of Western Australia to recognise Commonwealth direct enrolments.
- 5.4. In Western Australia, an FDEU enrolment does not meet the state requirements for an enrolment or update as Western Australian law does not recognise direct enrolments and updates at all. Western Australian state enrolment will not be updated when a federal enrolment is enacted or updated through FDEU, which is

another significant contributor to total roll divergence. This scenario is the cause of 91 per cent of the divergent enrolments in Western Australia.

- 5.5. The difference between federal enrolment and expanding enrolment capabilities of NSW and Victoria, particularly in terms of the NSW and Victorian state direct enrolment (SDE) programs, is the source of approximately 95 per cent of divergence between federal and state rolls in these jurisdictions.
- 5.6. The contribution of the NSW and Victorian state direct enrolment programs to divergence for each state is outlined in Figure 5.1 below.

Figure 5.1: Proportion of divergent enrolments due to state or federal direct programs in each state



- 5.7. The AEC has made an administrative decision not to use the NSW or Victorian state direct enrolment and update data as an input into FDEU. This decision arose as the result of business rules (such as NSW legislation requiring a minimum seven days between notification and change of enrolment, Victoria requiring 14 days and Commonwealth legislation requiring 28 days) and views about the reliability of certain data sources used in NSW and Victoria.
- 5.8. Maintenance of the federal roll is the responsibility of the AEC. As noted above, the AEC is aware of the need to strike the right balance between completeness and ensuring only eligible electors are on the roll. In ensuring the integrity of the federal roll, the AEC applies consistency in processing on a national basis.

- 5.9. Without wishing to make comment on the decisions of other commissions, the (Commonwealth) Electoral Commissioner, as the responsible officer, formed the view that automatically applying state direct enrolment and update transactions as federal enrolment transactions presented a potential risk to the integrity of the Commonwealth electoral roll. In any case, much of the data that meets the AEC's standards is already captured through the mail review program.
- 5.10. The AEC continues to monitor NSW and Victorian SDE data. However, as at this point in time, the Commissioner is comfortable with his decision in relation to the use of this data.
- 5.11. Federal enrolments, including federal direct enrolments, also create a state enrolment in NSW, and are not a cause of roll divergence.
- 5.12. Victoria will only use Commonwealth direct enrolment outcomes as an input into their process; this is at odds with all other enrolment where the AEC undertakes the enrolment processing and decision-making on behalf of the VEC under the Joint Roll Arrangement.

Other reasons for divergence

- 5.13. The next most common reason for divergence is current and previous requirements for witnessing of enrolments, particularly in Victoria and Western Australia. Other, more minor causes of divergence include differing legislation for the enrolment of prisoners, residents of territories (such as Norfolk Island), British subjects and overseas electors.
- 5.14. A summary of the principle scenarios through which a person can have differing enrolments between state/territory and Commonwealth rolls may be found at [Appendix D](#) (page 26).
- 5.15. For example, Victoria requires all new state enrolment forms, including existing electors moving to Victoria, to be witnessed regardless of other evidence of identity. There are also differences in entitlement, such as three states that tie enrolment eligibility of prisoners to the length of their sentence. The AEC has written about these issues most recently in a submission to the Joint Standing Committee on Electoral Matters (JSCEM) dated 25 July 2014¹.

¹ Supplementary Australian Electoral Commission submission 20.6. Responses to requests for further information by the Hon. Tony Smith MP in a letter to Tom Rogers, Acting Electoral Commissioner, dated 7 July 2014. Section 2.3, page 15.

6. Problems caused by divergence

Elector confusion

- 6.1. The prime concern with divergent enrolments is the risk of elector confusion and uncertainty. Many electors are not aware that there are multiple electoral commissions that have responsibility for elections at different levels of government and maintain their own rolls. In most cases the AEC and state and territory commissions have attempted to circumvent this issue and minimise inconvenience by offering enrolment forms which fulfil the requirements of both the state and territory of residence and the Commonwealth.
- 6.2. An elector may not realise that an SDE enrolment requires them to separately update their federal enrolment. They may be confused when receiving an AEC mail review letter, believing that no further action is required to update their federal enrolment. The error may only be detected when they attempt to vote at the next federal election and discover that they are not enrolled for the address they expected, and may be required to complete a provisional vote or be unable to vote.

Redistributions

- 6.3. The determination of membership entitlement to the House of Representatives will not be affected by electoral roll divergence, as it is based on the resident population distribution rather than enrolments.

State elections

- 6.4. In Victorian and NSW state elections, electors are able to enrol at the time of polling and have their vote counted. This does not apply at the federal level. In most cases, declaration envelopes have been designed to fulfil the requirements as an enrolment form.

7. What can be done to address divergence?

- 7.1. The AEC has a number of strategies in place to minimise the impact of divergence, including electoral engagement and continuing to improve access to enrolment avenues, and these are discussed below.
- 7.2. The AEC will continue to use the mail review process to contact electors who have been enrolled through SDE processes and may have a divergent enrolment. However, the AEC remains committed to the view that processes that assist enrolment, such as FDEU, do not replace the onus on the elector to ensure that their own enrolment is current and accurate.

Targeting divergent electors

- 7.3. As noted above, the age groups that show the greatest amount of divergence are generally young people. The AEC has previously stated to JSCem that the addition of ATO data into the FDEU program should increase the proportion of 18 to 25 year olds being enrolled.² The AEC now has an arrangement in place to acquire ATO data; however, in keeping with its focus on integrity, the AEC is initially trialling the data as part of the mail review process. If the quality of the data proves to be acceptable, it will then be used in FDEU.
- 7.4. Prior to the 2013 federal election, the AEC introduced an online enrolment system allowing electors to enrol and update their enrolment details completely online. This initiative proved extremely popular with electors, with over 85 per cent of enrolment and update transactions completed online during the close of rolls period for the 2013 federal election.
- 7.5. Electors updating their enrolments manually through the respective enrolment processes of the Commonwealth and their state or territory electoral commission will correct most divergence. However, the experience of the AEC is that many electors do not willingly update their enrolment details until an election is called. Accordingly, roll divergence is expected to be higher during the course of the electoral cycle than it is at the end of the close of rolls period for a federal election.

Legislative and practice complications

- 7.6. There is little in the way of Commonwealth legislative change that would substantially reduce roll divergence. The AEC will continue to work with the state and territory electoral commissions to minimise roll divergence. However, as the majority of divergence is a result of Australian electoral management bodies fulfilling their own legislative mandates, without legislative harmonisation, and/or agreement on behalf of the states and territories to allow the AEC to assume responsibility for all enrolment under the JRAs, divergence will continue to be an increasing concern.
- 7.7. The AEC has been intentionally conservative in the use of third party data for FDEU in order to ensure the integrity of the Commonwealth Roll. Data that does not pass the business rules established for FDEU is then used through the mail review process, and is subject to a lower response rate. The AEC will continue to optimise its business rules to ensure that the maximum use is made of the available data without compromising roll integrity.

² Submission 3. Submission to the Inquiry by the Joint Standing Committee on Electoral Matters into the Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012, p. 7

- 7.8. Divergence between the Commonwealth and state and territory electoral rolls is ultimately a by-product of Australia's federated system. Despite the (mostly effective) harmonisation arrangements, the rules for the conduct of enrolment and voting for states and territories will, without constitutional change, remain a power of the states and territories.
- 7.9. Each Australian state and territory retains its own state or territory electoral commission, each of which operates under distinct legislation, and occasionally different electoral priorities. This has led to a situation where there are fundamental incompatibilities between the Commonwealth and the states and territories in fulfilling the same enrolment function with largely the same target population.

8. Conclusions

- 8.1. The AEC is acutely aware of the need to continually assess and strengthen the integrity of the electoral roll as a key component of the electoral system. This is an ongoing activity within the AEC and includes striking the right balance between completeness and ensuring only eligible electors are on the roll.
- 8.2. In ensuring the integrity of the federal roll, the AEC applies consistency in processing rules, including for enrolments across state and territory boundaries. However, different legislative requirements and practices in some states and territories have led to divergence between the Commonwealth and state and territory rolls. This has the potential to cause elector confusion and voter disenfranchisement.

Appendix A: Enrolment Divergence by Division

Note: As of 11 November 2014. Does not include those only entitled to state/territory or federal enrolment.

		More recent Federal enrolment		More recent State enrolment		
	Division	Number of divergent enrolments	% Federal divergence (proportion of divisional federal enrolment)	Number of divergent enrolments	% State divergence (proportion of divisional state enrolments)	TOTAL Divergent people
NSW	Banks		0.00	3 509	3.38	3 509
	Barton		0.00	3 667	3.60	3 667
	Bennelong	4	0.00	2 979	2.85	2 983
	Berowra	2	0.00	2 781	2.81	2 783
	Blaxland		0.00	5 510	5.20	5 510
	Bradfield	5	0.00	2 979	2.89	2 984
	Calare		0.00	5 019	4.71	5 019
	Charlton	2	0.00	4 724	4.58	4 726
	Chifley		0.00	6 924	6.29	6 924
	Cook	4	0.00	3 419	3.19	3 423
	Cowper		0.00	5 243	5.11	5 243
	Cunningham	1	0.00	4 386	4.04	4 387
	Dobell		0.00	6 941	6.66	6 941
	Eden-Monaro		0.00	3 460	3.33	3 460
	Farrer		0.00	3 541	3.65	3 541
	Fowler	1	0.00	5 764	5.49	5 765
	Gilmore	2	0.00	4 870	4.54	4 872
	Grayndler	1	0.00	3 994	3.69	3 995
	Greenway	1	0.00	4 354	4.08	4 355

Hughes	1	0.00	3 676	3.51	3 677
Hume	1	0.00	3 825	3.62	3 826
Hunter		0.00	5 377	5.21	5 377
Kingsford Smith	1	0.00	3 908	3.67	3 909
Lindsay		0.00	7 531	7.03	7 531
Lyne		0.00	4 935	4.83	4 935
Macarthur	1	0.00	5 584	5.30	5 585
Mackellar	5	0.00	3 847	3.59	3 852
Macquarie	1	0.00	6 556	6.33	6 557
McMahon		0.00	4 382	4.26	4 382
Mitchell	3	0.00	3 122	3.09	3 125
New England		0.00	4 150	3.92	4 150
Newcastle	2	0.00	5 166	5.10	5 168
North Sydney	10	0.01	3 265	3.12	3 275
Page	2	0.00	5 112	5.09	5 114
Parkes	1	0.00	6 101	5.68	6 102
Parramatta	1	0.00	4 233	4.13	4 234
Paterson		0.00	5 699	5.62	5 699
Reid	7	0.01	3 923	3.62	3 930
Richmond	1	0.00	3 886	3.83	3 887
Riverina		0.00	4 084	3.95	4 084
Robertson	2	0.00	4 895	4.65	4 897
Shortland	1	0.00	5 717	5.67	5 718
Sydney	8	0.01	4 677	4.20	4 685
Throsby	1	0.00	4 633	4.50	4 634
Warringah	6	0.01	3 731	3.51	3 737
Watson		0.00	4 618	4.38	4 618
Wentworth	4	0.00	4 634	4.07	4 638
Werriwa	1	0.00	5 772	5.64	5 773
NSW Total	83	0.00	221 104	4.40	221 187
VIC					
Aston	586	0.62	2 946	3.10	3 532
Ballarat	1 034	0.98	4 666	4.38	5 700

Batman	1 398	1.33	3 888	3.73	5 286
Bendigo	931	0.89	4 595	4.34	5 526
Bruce	801	0.84	2 677	2.81	3 478
Calwell	1 545	1.47	3 713	3.55	5 258
Casey	700	0.71	3 763	3.77	4 463
Chisholm	722	0.75	2 853	2.95	3 575
Corangamite	903	0.87	4 433	4.24	5 336
Corio	997	0.97	4 861	4.70	5 858
Deakin	643	0.65	2 904	2.96	3 547
Dunkley	1 039	1.03	4 533	4.49	5 572
Flinders	1 063	0.98	5 064	4.64	6 127
Gellibrand	1 455	1.39	4 091	3.93	5 546
Gippsland	1 160	1.15	4 522	4.45	5 682
Goldstein	770	0.75	3 226	3.16	3 996
Gorton	1 421	1.32	5 142	4.77	6 563
Higgins	1 378	1.37	3 730	3.74	5 108
Holt	1 243	1.15	4 931	4.55	6 174
Hotham	852	0.86	2 856	2.91	3 708
Indi	1 453	1.45	3 957	3.96	5 410
Isaacs	972	0.97	3 918	3.89	4 890
Jagajaga	668	0.66	2 940	2.90	3 608
Kooyong	843	0.85	2 977	3.04	3 820
La Trobe	792	0.79	3 929	3.91	4 721
Lalor	1 647	1.44	5 289	4.62	6 936
Mallee	1 218	1.24	4 255	4.31	5 473
Maribyrnong	1 247	1.16	3 545	3.33	4 792
McEwen	1 231	1.04	5 791	4.84	7 022
McMillan	1 173	1.08	5 378	4.89	6 551
Melbourne	2 449	2.38	4 957	4.88	7 406
Melbourne Ports	2 039	2.12	4 800	5.02	6 839
Menzies	544	0.55	2 458	2.49	3 002
Murray	1 079	1.06	4 398	4.32	5 477

	Scullin	942	0.89	3 637	3.44	4 579
	Wannon	1 017	1.05	3 767	3.87	4 784
	Wills	1 927	1.78	3 971	3.69	5 898
VIC						
Total		41 882	1.10	149 361	3.93	191 243
QLD³	Blair		0.00		0.00	
	Bonner		0.00		0.00	
	Bowman		0.00		0.00	
	Brisbane		0.00		0.00	
	Capricornia		0.00		0.00	
	Dawson		0.00		0.00	
	Dickson		0.00		0.00	
	Fadden		0.00		0.00	
	Fairfax		0.00		0.00	
	Fisher		0.00		0.00	
	Flynn		0.00		0.00	
	Forde		0.00		0.00	
	Griffith		0.00		0.00	
	Groom		0.00		0.00	
	Herbert		0.00		0.00	
	Hinkler		0.00		0.00	
	Kennedy		0.00		0.00	
	Leichhardt		0.00		0.00	
	Lilley		0.00		0.00	
	Longman		0.00		0.00	
	Maranoa		0.00		0.00	
	McPherson		0.00		0.00	
	Moncrieff		0.00		0.00	
	Moreton		0.00		0.00	
	Oxley		0.00		0.00	
	Petrie		0.00		0.00	

³ All divergent enrolments in Queensland are due to entitlement.

	Rankin		0.00		0.00	
	Ryan		0.00		0.00	
	Wide Bay		0.00		0.00	
	Wright		0.00		0.00	
QLD						
Total			0.00		0.00	
WA	Brand	9 042	8.48	97	0.09	9 139
	Canning	8 024	7.41	58	0.06	8 082
	Cowan	4 831	4.88	59	0.06	4 890
	Curtin	4 320	4.46	31	0.03	4 351
	Durack	7 676	8.26	140	0.16	7 816
	Forrest	6 539	6.48	116	0.12	6 655
	Fremantle	6 024	5.75	63	0.06	6 087
	Hasluck	6 504	6.36	68	0.07	6 572
	Moore	4 844	4.84	44	0.04	4 888
	O'Connor	5 467	5.71	93	0.10	5 560
	Pearce	6 665	6.17	83	0.08	6 748
	Perth	6 020	6.13	68	0.07	6 088
	Stirling	5 838	5.88	69	0.07	5 907
	Swan	6 748	6.85	78	0.08	6 826
	Tangney	3 115	3.24	33	0.03	3 148
WA						
Total		91 657	6.08	1 100	0.07	92 757
SA	Adelaide	30	0.03	119	0.11	149
	Barker		0.00	78	0.07	78
	Boothby	6	0.01	72	0.07	78
	Grey	4	0.00	167	0.16	171
	Hindmarsh	5	0.00	109	0.10	114
	Kingston	3	0.00	129	0.13	132
	Makin	4	0.00	79	0.08	83
	Mayo	2	0.00	35	0.03	37
	Port Adelaide	10	0.01	206	0.19	216
	Sturt	4	0.00	88	0.09	92

	Wakefield	11	0.01	181	0.17	192
SA						
Total		79	0.01	1 263	0.11	1 342
TAS⁴	Bass		0.00		0.00	
	Braddon		0.00		0.00	
	Denison		0.00		0.00	
	Franklin		0.00		0.00	
	Lyons		0.00		0.00	
TAS			0.00		0.00	
Total						
ACT⁵	Canberra		0.00		0.00	
	Fraser		0.00		0.00	
ACT			0.00		0.00	
Total						
NT	Lingiari	1	0.00		0.00	1
	Solomon		0.00		0.00	
NT		1	0.00		0.00	1
Total						
National		133 702	0.89	372 828	2.46	506 530
Total						

⁴ All divergent enrolments in Tasmania are due to entitlement.

⁵ All divergent enrolments in the ACT are due to entitlement.

Appendix B: Change in Divergence over Time

Table 1: State and Federal roll divergence as at 30 June 2011

State	More recent Federal enrolment			More recent State enrolment			Total Divergent
	Fed Only	Fed Only (FDEU)	Fed & State	State Only	State Only (SDE)	Fed & State	
NSW	863	4		312	9	1 751	2 939
VIC	1 827	2 116	3	190	3 050	921	8 107
QLD	227			633			860
WA	832	3 925	6 735	445	1 287	864	14 088
SA	1 678	419	2 393	335	773	751	6 349
TAS							
ACT	381						381
NT							
National Total	5 808	6 464	9 131	1 915	5 119	4 287	32 724

Table 2: State and Federal roll divergence as at 30 June 2012

State	More recent Federal enrolment			More recent State enrolment			Total divergent
	Federal Only	Federal only (FDEU)	Federal & State	State only	State only (SDE)	Federal & State	
NSW	501		1	249	75 214	173 887	249 852
VIC	1 827	2 462	7	167	15 867	892	21 222
QLD	227	1		611			839
WA	832	5 273	10 073	414	1 336	784	18 712
SA	1 678	1 784	8 105	313	822	702	13 404
TAS							
ACT	381						381
NT							
National Total	5 446	9 520	18 186	1 754	93 239	176 265	304 410

Table 3: State and federal roll divergence as at 30 June 2013

State	More recent Federal enrolment			More recent State enrolment			Total divergent
	Federal only	Federal only (FDEU)	Federal & State	State only	State only (SDE)	Federal & State	
NSW	429	3	33	196	108 995	73 502	183 158
VIC	7 421	19 347	49 243	128	20 157	19 820	116 116
QLD	243	2		577			822
WA	4 176	9 512	14 305	354	1 274	609	30 230
SA	4 301	9 946	13 513	291	886	579	29 516
TAS	27						27
ACT	419						419
NT		1	1				2
National Total	17 016	38 811	77 095	1 546	131 312	94 510	360 290

Table 4: State and federal roll divergence as at 11 November 2014

State	More recent Federal enrolment			More recent State enrolment			Total divergent
	Federal only	Federal only (FDEU)	Federal & State	State only	State only (SDE)	Federal & State	
NSW	280		83	137	135 575	85 529	221 604
VIC	10 185	35 321	6 561	90	45 308	104 053	201 518
QLD	183			539			722
WA	6 702	30 551	61 106	263	761	339	99 722
SA	169	8	71	251	893	370	1 762
TAS	46						46
ACT	464						464
NT		1					1
Grand Total	18 029	65 881	67 821	1 280	182 537	190 291	525 839

Appendix C: Legislative Changes in Divergence over Time

Prior to the introduction of legislative proof of identity requirements, the volume of divergence was low across all jurisdictions.

Each state/territory reflected the federal Roll, through one of two mechanisms. The state legislation either inherited the federal enrolment process, by allowing the state/territory commission to accept enrolments on the federal roll, or mirrored the requirements by incorporating the Commonwealth legislation into the relevant state legislation.

Proof of Identity - 2006

Proof of identity (POI) was introduced by the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* (Cth). This required new and re-enrolees to provide documents or an attestor to establishing their identity. It is also removed the requirement for enrolment to be witnessed.

Those states that mirrored the legislation in the past became out of sync with the federal legislation as it continued to evolve through amendments. These states continued to require witnesses and did not require POI. Following the introduction of POI requirements, divergence grew in those states which were not compliant.

The AEC has adopted a policy of seeking fully compliant (for both state/Commonwealth) state-specific enrolment forms where possible. All enrolment forms, which are provided jointly by the Commonwealth and respective state or territory, continue to provide instructions which will result in a fully compliant form when completed correctly. Where enrolment forms are received which are not fully compliant, reasonable efforts are made by the AEC to obtain a fully compliant form. For example, if an elector provides a form which has been witnessed but does not provide proof of identity, the form will be held and the elector contacted in an attempt to obtain a new form. If a close of rolls for an election is pending, and the partially compliant form would allow the person to be enrolled for that election, then the enrolment form will be processed and the person will qualify for either a state/territory or federal enrolment. These electors are also followed up by the AEC after the electoral event.

In 2010, a slightly different requirement – evidence of identity (EOI) – replaced POI. However, this did not change the landscape of divergence.

NSW SmartRoll - 2009

In late 2009, the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* (NSW) commenced. Superficially, the NSW process operates in a similar manner to the way to the Commonwealth enrolment process, with data being used to notify people of a proposed update. The NSW program commenced cautiously, with several smaller pilot projects being undertaken before wider application.

As the CEA does not recognise enrolments which occur under the auspices of state legislation, nor accept the method by which the enrolments were undertaken, these enrolments have created divergence.

In order to maintain the federal Roll, the AEC decided to maintain the address of the elector as it was most recently on the federal roll. Electors who were updated through the SmartRoll program therefore had dual enrolments, one for the state roll, and another for the federal Roll.

Where the NSW SmartRoll program updated electors who were enrolled in other states, the dual enrolment of the person would be across these two states.

Victorian Electoral Commission Direct Enrolment - 2010

In August 2010, the enactment of the *Electoral Amendment (Electoral Participation) Act 2010* (Vic) enabled the VEC to undertake its own direct enrolment program. The VEC commenced with a trial program targeted towards 18 year olds, and have subsequently expanded the SDE program. As with the NSW SmartRoll Program, the CEA does not accept the provisions under which these enrolments occurred.

Commonwealth Direct Enrolment - 2012

In July 2012, the enactment of the *Electoral and Referendum Amendment (Maintaining Address) Act 2012* (Cth) and the *Electoral and Referendum Amendment (Protecting Elector Participation) Act 2012* (Cth) enabled the AEC to undertake its own direct enrolment processes. The change did not permit the AEC to recognise the Victorian and NSW programs.

Like POI before it, those states which only mirrored, rather than inherited the Commonwealth Roll, could not accept enrolments through the Commonwealth program. These states were WA, SA and Victoria. Unlike POI, the enrolment to the federal Roll occurs before any follow-up action can be taken. The AEC makes efforts to encourage these electors to enrol for both state and federal purposes. These efforts have similar levels of success to other roll stimulation efforts.

The first enrolments through the Commonwealth FDEU process occurred in December 2012 with a small pilot run in Tasmania, before being progressively implemented across all states and territories.

A second round of direct enrolment occurred in February/March 2013, using the information for those already enrolled through the NSW and Victorian processes but not on the federal Roll. After some issues were identified with the accuracy of addresses used in the NSW and Victorian programs, the use of this information as a data source for the federal enrolment program was discontinued.

WA partially harmonises - 2012

In November 2012, the *Electoral Amendment Act 2012* (WA) partially harmonised the West Australian legislation with the CEA by requiring evidence of identity and removing the requirement for a handwritten signature where the elector was already on the WA electoral roll. The legislation also operated retrospectively to allow enrolments which were not compliant prior to the legislation, but compliant under the new legislation to be on the WA state roll.

There are still a number of areas where the WA state legislation is not in alignment with the Commonwealth, most notably in relation to FDEU.

VEC uses AEC as data source – 2013

In June 2013, the *Justice Legislation Amendment Act 2013* (Vic) allowed the VEC to use the enrolments from the AEC as one of the sources for their direct enrolment program. Practically, since almost all other enrolments are also enrolments on the Victorian roll, that means that the VEC uses the outcomes of the federal direct enrolment process as an input for the state enrolment process. Electors who go through the one process, then the other process will be entitled to enrol and vote at the same address for federal and state elections, but will do so at different times through different mechanisms, with two sets of communication from the electoral commission to the elector.

SA substantially harmonises – January 2014

In January 2014, the *Electoral (Miscellaneous) Amendment Act 2013* (SA) substantially harmonised the SA and federal rolls by deeming people who have enrolled federally as being equivalent to complying with South Australian legislation and thus able to be added to the SA roll. The legislation also operated retrospectively in this aspect.

This means, that other than a few small categories, for most enrolments the federal and SA rolls are the same.

Appendix D: Sources of Roll Divergence

Table 5: Areas in which state or territory legislation is incompatible with the CEA enrolment requirements

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
State Direct Enrolment ^b	X	X	-	-	-	-	-	-
Federal Direct Enrolment	-	X	-	X	-	-	-	-
Pol/Eol	-	X	-	X	X	-	-	-
Prisoners	X	X	-	-	X	X	-	-
16 years olds	-	X	-	X	-	-	-	-
Non-contiguous territory	X	-	-	-	-	-	X	-
British subjects date	-	-	X	X	-	-	-	-
Witness signature	-	X	-	-	-	-	-	-
Eligible overseas elector	X	-	-	-	-	-	X	-
Itinerant electors	-	-	-	-	X	-	-	-
State-specific form	-	-	X	-	-	-	-	-

Note: A description of the source of divergence as it applies to each state is listed below.

⁶ Where an elector moves from a state other than NSW or Victoria into NSW or Victoria and is enrolled under SDE in that state they will have a state-only enrolment in either NSW or Victoria respectively, which is not listed on this table.

Proof and/or Evidence of Identity and Witnessing Requirements

The Commonwealth requires evidence of identity (either a driver's licence number, passport number or attestor) for all new enrolments and re-enrolments. All states except Victoria now have identical requirements for EOI. Where a Victorian elector submits an incomplete enrolment form that is missing EOI but has a witness, they will be enrolled only for state and local government elections, creating a single entitlement. For divergence purposes, there is no difference between the effect of EOI and POI.

Witnessing requirements work in a similar way. A witness to an enrolment application is required for new enrollees in Victoria. If an otherwise complete enrolment lacks a required witness, then these electors will only be enrolled for federal elections.

Prisoners

Under Commonwealth law, a person who is serving a sentence of imprisonment for three years or more is not entitled to vote during the sentence, but his or her enrolment is not affected. Three Australian states do not allow prisoners to enrol if they are serving sentences of varying lengths: NSW (12 months), Victoria (five years), and Tasmania (three years), resulting in a federal-only enrolment.

Non-contiguous Territories

Norfolk Islanders enrolled in NSW or the Division of Canberra will receive a federal-only enrolment. Jervis Bay Territory electors in the division of Canberra will receive a federal-only enrolment.

Eligible British subjects

Eligible British subjects who were enrolled on the Commonwealth Roll immediately prior to 26 January 1984 may remain on the Commonwealth Roll and vote in state elections. Queensland or Western Australia had different dates for eligibility for state enrolment in their respective state legislation. In Queensland, eligible British subjects who were enrolled after 25 January 1984 but before 31 December 1991 could only be placed on the Queensland state roll. An eligible British subject in Western Australia enrolling before the WA state legislative deadline of 26 October 1983 received a state only entitlement.

Enrolment of 16 year olds

Citizens aged 16 years or more can be enrolled on the Commonwealth Roll but are unable to vote until they turn 18 years old. In Victoria and Western Australia an individual can only be enrolled on the state roll once they turn 17 years old, so those who enrol in those states between the ages of 16 and 17 years will only have a federal enrolment once they turn 18 years old unless they have submitted a state enrolment form between the ages of 17 and 18 years.

Eligible Overseas Electors

Eligible overseas electors enrolled in NSW will receive a federal only enrolment. Eligible overseas electors who have advised that they wish to remain enrolled but do not intend to return to an ACT address will receive a federal-only enrolment.

Itinerant Electors

Itinerant electors in SA who enrol without providing a signature will receive a federal-only enrolment.

State-specific forms

An elector who enrolls in Queensland using the enrolment form of another jurisdiction will receive a federal-only enrolment.

Electoral Integrity Unit Work Program

Work cycle

Following an establishment phase, the work cycle for the Enrolment Integrity Unit is expected to move into a mode that includes repeated cycles of identifying, analysing and assessing, recommending change, supporting implementation, and monitoring and reporting into issues related to electoral integrity at the AEC.

Overview

The work program for the Electoral Integrity Unit will initially focus on elements of enrolment and elections integrity. An AEC electoral integrity framework will be developed to underpin and inform the work. The framework will not be fixed, but will evolve as our understanding of integrity issues develop.

The work program will integrate work from Roll Management Branch (RMB) that is already ongoing or planned related to Roll integrity. Extensive consultations will be undertaken with Elections Branch and state managers to determine and prioritise an elections-related program of work to occur in parallel with the Roll integrity work.

The detailed work program below is indicative. The Unit will remain responsive to high priority issues as they arise, such as JSCEM recommendations or unexpected events, and the work program will be adapted as necessary.

The work program will initially focus on pieces of work that can be delivered rapidly, rather than extended, long-term projects. The work will be targeted to allow adoption into the activities of relevant business areas.

Quarter 1 (Oct – Dec 2014)

- Define 'electoral integrity' and prepare a first draft of an Integrity Framework. This will incorporate existing Roll integrity measures and expand to encompass election integrity.
- Consult with Elections Branch and state managers to develop a prioritised work program relating to the needs of those business areas, and leverage their expertise in the development of the Integrity Framework.
- Commence Roll integrity work, using ongoing work in RMB to help identify knowledge gaps and areas requiring further analysis, with a focus on federal direct enrolment update (FDEU) and online enrolment.

- Promote the Electoral Integrity Unit, including publication of intranet information, and internal communication including a blog from National Program Manager.
- Inform the Special Minister of State and Chair of the JSCEM of the establishment of the Electoral Integrity Unit.
- Analyse incidents of alleged or apparent electoral fraud referred to the AEC or discovered by the AEC.

Quarter 2 (Jan – Mar 2015)

- Continue ongoing Roll integrity work program.
- Develop reporting and products based on the Roll integrity work program.
- Commence elections integrity work program following consultations with Elections Branch and state managers.
- Refine initial assessment of level of Roll integrity against Integrity Framework including views on initial targets for remediation.
- Review specific enrolment processes as indicated in the Electoral Commissioner's statement to the JSCEM – specifically FDEU and Online Enrolment Services.
- Undertake roll integrity analysis for state electoral events.
- Determine future structure and resourcing requirements.

Quarter 3 (Apr – Jun 2015)

- Continue ongoing Roll and election integrity work program and reporting.
- Consult with other business areas, such as Funding and Disclosure, to incorporate relevant integrity work into the work program.
- Undertake detailed consultation with key programs and agreement to specific measures determined to date.
- Publication of Refined Assessment of Overall Roll Integrity.
- Review model and determine forward program.

Responses to Questions on Notice from the 12 and 13 November 2014 Joint Standing Committee on Electoral Matters' (JSC EM) hearing in Canberra

1. On pages 22 and 23 of the 12 November 2014 JSC EM hearing transcript, Senator Faulkner requested the proportion of senior New South Wales (NSW) polling officials who received face-to-face training at the 2013 federal election broken down by division. Senator Faulkner also requested the proportion of senior NSW polling officials who received online training:

[p. 22] Senator FAULKNER: ... Are you able to indicate, perhaps even in broad terms, what proportion of your polling officials received face-to-face training and what proportion online training?

Mr Orr: Some of the people who received face-to-face training also have online training elements as well. The so-called 'senior positions'—OIC and 2IC—received face-to-face training. Declaration-issuing officers received face-to-face training in the group that they move within. I would suggest it is in the order of, out of the 26,000, close to 10,000, but I will take that on notice and give you an exact figure.

...

[p. 23] Senator FAULKNER: If I asked you to provide to this committee, on notice, the divisional records for the 50 seats in New South Wales, you would be able to provide for me the records in relation to training for each individual electorate.

Mr Orr: That is correct. For the categories that attend face-to-face training, we are able to provide how many of those staff—

Senator FAULKNER: That is for face-to-face training. We know, from what the ANAO has done, that this is a smallish proportion. Who knows what the proportion is—we will get the statistics. If you could take that on notice, I would appreciate it. ... We also know from the ANAO that there is, effectively, no record on how many have completed—we know how many have undertaken—online training. There comes a lack of certainty about those who have completed it and those who have had neither face-to-face nor online training. If you had those statistics on a division-by-division basis in New South Wales that would be helpful. If you could provide that to us, on notice, that would be helpful.

AEC response:

- 1.1. Of the 4 433 senior polling officials working on election day in polling places and interstate voting centres within NSW, 29 did not receive face-to-face training.

Table 1.2: Number and proportion of senior NSW polling officials who received face-to-face training by division

Division	Number trained	Trained %	Division	Number trained	Trained %	Division	Number Trained	Trained %
Banks	76	100	Gilmore	98	100	North Sydney	85	100
Barton	89	100	Grayndler	90	100	Page	132	100
Bennelong	83	100	Greenway	81	100	Parkes	148	99
Berowra	78	100	Hughes	74	100	Parramatta	75	100
Blaxland	75	98	Hume	124	100	Paterson	116	100
Bradfield	77	100	Hunter	120	100	Reid	71	99
Calare	139	100	Kingsford Smith	91	100	Richmond	98	100
Charlton	89	100	Lindsay	77	100	Riverina	139	100
Chifley	77	100	Lyne	107	100	Robertson	83	97
Cook	75	97	Macarthur	82	99	Shortland	84	100
Cowper	103	95	Mackellar	72	100	Sydney	96	100
Cunningham	89	100	Macquarie	95	100	Throsby	87	100
Dobell	93	100	McMahon	67	99	Warringah	70	99
Eden-Monaro	112	100	Mitchell	67	100	Watson	75	100
Farrer	115	96	New England	138	98	Wentworth	81	100
Fowler	62	97	Newcastle	99	100	Werriwa	71	96

Table 1.3: Percentage of senior polling officials who completed online training by state/territory

State/Territory	Completed %
NSW	83.1
VIC	80.2
QLD	79.0
WA	74.8
SA	84.9
TAS	83.2

ACT	81.5
NT	85.1
Grand total	80.9

Table 1.4: Percentage of senior NSW polling officials who completed online training by division

Division	Completed %	Division	Completed %	Division	Completed %
Banks	77.2	Gilmore	84.6	North Sydney	87.3
Barton	85.1	Grayndler	75.3	Page	87.3
Bennelong	93.2	Greenway	77.1	Parkes	82.7
Berowra	89.8	Hughes	75.4	Parramatta	82.4
Blaxland	83.5	Hume	82.9	Paterson	98.6
Bradfield	94.1	Hunter	97.1	Reid	78.0
Calare	85.0	Kingsford Smith	81.0	Richmond	81.3
Charlton	93.2	Lindsay	80.1	Riverina	96.9
Chifley	77.6	Lyne	91.3	Robertson	79.2
Cook	72.6	Macarthur	76.8	Shortland	87.0
Cowper	89.4	Mackellar	91.1	Sydney	73.9
Cunningham	78.7	Macquarie	85.5	Throsby	78.8
Dobell	77.2	McMahon	70.0	Warringah	89.5
Eden-Monaro	77.6	Mitchell	86.1	Watson	85.0
Farrer	70.5	New England	83.3	Wentworth	77.2
Fowler	76.3	Newcastle	89.0	Werriwa	82.8

2. On page 27 of the 12 November 2014 JSCem hearing transcript, NSW State Manager, Mr Doug Orr was asked by Senator Faulkner if there were additional factors identified as above and beyond the 'normal' causes of informality in NSW at the 2013 federal election:

Senator FAULKNER: I am just interested in understanding beyond the broader patterns and understanding any work about whether it is deliberate or non-deliberate informality. That is sensible, as is looking at broader demographic patterns and the like, the skill set of electors and so on and so forth, the proportion of non-English

speakers and a range of other issues that are traditionally important and we do look at on a regular basis. Has anything been identified at this stage above and beyond those factors that ordinarily would be identified as the normal contributors to the level of informal voting?

Mr Orr: Well, the other normal contributor for us, for New South Wales, of course, is this optional preferential state. But apart from that—

Senator FAULKNER: Yes, but again that has not changed.

Mr Orr: No, that is correct. Until I get the breakdown by vote and informality type, that will not—well, that will give us a bit more clarity on that.

Senator FAULKNER: And what is your timing on that, then?

Mr Orr: The raw data was finalised for New South Wales in October, and I think it is around March or so—February-March—that I expect that would be done. The national office is managing that.

Senator FAULKNER: I am sure, given the increase in the informal vote in the state of New South Wales, the committee would be quite interested in any of the analysis from the raw data that comes forward. You and Mr Kitson might just take that on notice again if you would not mind.

AEC response:

- 2.1. Fieldwork for NSW electoral divisions for the 2013 House of Representatives Informal Ballot Paper Study was undertaken in September-October 2014. Analysis of completed divisional returns and fieldwork for most States and Territories, including NSW, is still in progress. A report analysing informal voting at the 2013 House of Representatives elections based on this study is expected to be publicly released by the end of March 2015.
- 2.2. While the AEC will be undertaking additional analysis into possible demographic influences on informal voting, it is important to recognise there are many factors that could cause a voter to intentionally or unintentionally cast an informal vote. Additionally, in most cases it is not possible to accurately quantify or even separately identify the effect of these factors. The very nature of the secret ballot (and uniqueness of the environment for each federal election) means that it is difficult to determine the causes of informal voting.
3. On page seven of the 13 November 2014 JSCEM hearing transcript, the Chair requested an updated version of the dashboard report, by electorate, for the day after election day to understand what the employee vacancy figures by electorate were for election day and the day after election day:

Mr Rogers: There are sometimes occasionally seats where it is difficult to get workers, and that is historic. In other seats where there is never an issue in getting workers and we fill that pretty quickly. But, particularly in that last week, the flags are up if we are not filling those positions—noting that a lot of the train occurs in the last two days on the Wednesday, Thursday and Friday of that final week before polling—but we are actively managing that through that process.

CHAIR: From yesterday and today it would be useful if we could get the figures by electorate.

AEC response:

- 3.1. The election Dashboard data for the recruitment of temporary staff is available at a state based level for 7th September 2013. This data was not published at a divisional level. This data includes all vacancies existing at that time including roles for polling day and post polling day requirements.

State/Territory	Vacancies	Total Positions
NSW	855	28603
VIC	694	19256
QLD	654	15711
WA	243	8230
SA	171	6433
TAS	67	2254
ACT	22	1213
NT	29	659
Total	2735	82359

4. On page seven and eight of the 13 November 2014 JSCEM hearing transcript Senator Gray requested by division, the number of polling officials who worked but did not receive training, and the number of officials trained but who did not work:

Mr GRAY: Yes. Do we have an idea of the number of people who were actually in position on the day who did not receive training? ... I am curious to know not simply how many people were trained but how many people were trained and did not make it into the line on the day, and how many people who did not have training were in the line on the day, and then how we interpret events such as those I have just described: ballots being inappropriately handled; a ballot box being inappropriately sealed; an event on the day that gets reported to the AEC. Can you help me with that information?

Mr Rogers: Certainly. The issues that occurred in 2013, and in fact at every election where incidents occur, in my view, are actually failures of training or assessment—the incidents that Mr Orr referred to yesterday, where ballot boxes were opened. It does not matter what systems we put in place or what training we provided. That failed at that point. The systems that we had in place did not work. I have said previously, both at Senate estimates and at this committee, that I think our training methodology is at the very end of its life span. It is not working the way that it should work, which is why we are moving forward with a different set of training for the future. What I can provide you on notice is that detail: people who turned up at a polling place because of exigent circumstances and who had not done the full suite of training—because I think that is the question that you are asking. They would still be briefed when they arrived there. There would be no-one who was just thrown in without some sort of information about how to conduct themselves. But I will find out who did not complete any—

Mr GRAY: I just want to come back to that point. I accept that we would like that to be the case, but I do not believe it is the case.

Mr Rogers: And I am going to get that data for you.

...

Mr Rogers: I will provide those statistics for you, as you have asked. We will break them down by division for you. I am trying to be very open here: the system of training that we were using up to 2013 was clearly inadequate. It led to a number of issues.

AEC response:

- 4.1. Obtaining the number of polling officials who worked but did not receive training, and, the number of officials trained but who did not work is not available from the published reports on the election dashboard. To date analysis of the raw data, some of which is not held centrally, has shown the result is statistically unreliable. In the report on the *Preparation for and conduct of Federal Elections No 4 2014-15*, the ANAO identified that the AEC needed an efficient means of tracking completion of training (Recommendation 4). The AEC has agreed with this recommendation so as to prevent this situation occurring at the next election.
5. On page 22 of the 13 November 2014 JSCEM hearing transcript, Senator Rhiannon placed a number of questions on notice about companies contracted by the AEC and political donations:

Senator RHIANNON: I will put some questions on notice. How many companies have been contracted by the AEC and what are the names of the companies? Did you check if these companies, their subsidiaries or their parent companies have donated to any political party, group, candidates, third parties or associated entities? If so, what did you find with respect to the donations? Did you check on possible donations before or after the contract was entered into?

Mr Rogers: We will take that on notice. But I will tell you that we followed every requirement under the Commonwealth procurement guidelines to procure these companies.

Mr Pirani: In addition, all of our contracts and requests for tender have a political neutrality clause in them. We are requiring disclosure to take place when we do the evaluation of any tender bids.

Senator RHIANNON: Thank you very much. If you can take it on notice about the donations.

AEC response:

- 5.1. The list of contracted services entered into by the Australian Electoral Commission (AEC) that involve the expenditure of \$10,000 (including GST) and over is available at the AusTender site (www.tenders.gov.au).
- 5.2. The list of contracted services entered into by the AEC that involve the expenditure of between \$4,000 and \$10,000 (including GST) is available in the answer to a Question on Notice (F84 Senate Finance and Public Administration Legislation Committee Supplementary Budget Estimates 2014-15) that was tabled on 23 December 2014.
- 5.3. Standard AEC contracts contain a provision requiring contractors to respect the AEC's political neutrality.
- 5.4. The political neutrality contract clause that appears in all standard AEC contracts is as follows:
 - 1.1. The Contractor must:
 - (a) respect the strict political neutrality of the AEC; and
 - (b) not associate the AEC in any way with any political activity that they undertake.
 - 1.2. Where the Contractor provides Personnel to provide any of the Services, the AEC in its absolute discretion may:
 - (a) by Notice require the Contractor to ensure that those Personnel sign a declaration of political neutrality in such a form as may be required by the AEC to ensure that such personnel are aware of this requirement;
 - (b) remove such Personnel who do not sign that declaration of political neutrality from provision of the Services, in accordance with this Contract.
- 5.5. The AEC ensures that the contractors meet the above political neutrality requirements by the use of the above declarations in the contracts and the disclosure of any possible conflicts of interest.
- 5.6. The AEC is unaware of any contractor that it has used or currently uses being listed on the various returns lodged under Part XX of the *Commonwealth Electoral Act 1918* as a donor to a registered political party, Senate group, candidates, third parties or associated entity.
- 5.7. The AEC as part of its response to the Keelty recommendations has developed an additional process that requires the AEC system that records the details from the returns lodged under Part XX to be checked prior to the entering into of a contract.

Correction to Wednesday 12 November 2014 JSCem hearing transcript

6. On page 22 of the transcript, Mr Orr responded to Senator Faulkner stating that ordinary issuing officers received online training. Whilst that was true for the 2010 election, this was not the case in 2013. This error is regretted. Ordinary issuing officers received the following training material or aids in 2013:

- a role specific election procedures paper handbook
- a DVD recreating the operations of a polling booth on election day. It provides advice to the viewer about what to expect when they turn up to work on election day
- a role specific placard which sits on the table in front of the polling official and contains instructions on how to issue ballot papers, the three questions to ask a voter, and how to mark the electoral roll
- a role specific lanyard badge which contains instructions pertinent to the role on the back of the badge.