

Maintaining the electoral roll

Background

- 3.1 At the announcement of the 2010 federal election, 13 944 532 electors were on the Commonwealth electoral roll. This indicates that the roll had grown since the 2007 election by some 347 993 electors.¹
- 3.2 Following the original close of rolls on 22 July 2010, enrolment stood at 14 030 528 electors, and after the final close of rolls following the High Court's decision in *Rowe v Electoral Commissioner* [2010] HCA 46 (*Rowe*), 14 088 260 electors were enrolled to vote.²
- 3.3 Following removal of the names of deceased electors, the addition of those electors whose enrolment claims had been received but not processed prior to the final close of rolls by the Australian Electoral Commission (AEC), and the reinstatement of those electors removed from the roll in error by the AEC, the final election enrolment for the 2010 federal election was 14 086 869 electors.³ This indicates that the electoral roll grew between the 2007 and 2010 elections by some 440 330 electors.
- 3.4 While the number of electors on the electoral roll is increasing, the eligible Australian population is continuing to grow at a faster rate than the electoral roll. Consequently, the overall enrolment participation rate has continued to decline.⁴

1 AEC website, <http://results.aec.gov.au/13745/Website/GeneralEnrolmentByState-13745.htm>, viewed 16 June 2011. There were 13 646 539 electors on the roll for the 2007 election.

2 Australian Electoral Commission, Submission 87, p. 22.

3 AEC website, <http://results.aec.gov.au/15508/Website/GeneralEnrolmentByState-15508.htm>, viewed 16 June 2011.

4 Australian Electoral Commission, Submission 87, p. 22.

- 3.5 The enrolment figures and growth detailed so far in this chapter compare the election enrolment at the 2007 and 2010 federal elections. The Committee sees this as the most appropriate way of comparing enrolment between elections, as it takes into account the changes the AEC is permitted to make at an election.
- 3.6 However, an examination of the close of rolls figures for elections from 2001 to 2010 tells a similar tale, as shown by the figures in Table 3.1 below.

Table 3.1 Electors enrolled at close of rolls, by State and Territory, 2001 to 2010 elections

State or Territory	2001	Change 2001-04 (%)	2004	Change 2004-07 (%)	2007	Change 2007-10 (%)	2010
NSW	4 201 566	2.29	4 297 917	4.59	4 495 336	2.58	4 611 228
Vic	3 215 913	2.25	3 288 201	4.68	3 442 096	3.51	3 562 802
QLD	2 317 947	6.19	2 461 396	6.13	2 612 300	4.11	2 719 746
WA	1 199 523	3.03	1 235 839	6.24	1 312 942	3.75	1 362 177
SA	1 033 588	1.46	1 048 729	2.60	1 075 968	2.71	1 105 076
TAS	328 539	3.23	339 156	3.13	349 788	2.51	358 567
ACT	219 682	2.24	224 608	6.29	238 742	3.73	247 659
NT	110 469	1.01	111 581	5.66	117 901	2.63	121 005
Total	12 627 227	3.01	13 007 427	4.90	13 645 073	3.25	14 088 260

Source Australian Electoral Commission, Submission 87, p. 22.

- 3.7 It is evident from the figures in Table 3.1 that the roll grew more between the 2004 and 2007 federal elections than it did between the 2001 and 2004 or 2007 and 2010 federal elections.
- 3.8 A significant factor contributing to the greater growth between 2004 and 2007 was the Targeted Enrolment Stimulation exercise (TES) that the AEC rolled out prior to the 2007 election. The AEC advised that in the lead up to the 2007 election, it spent \$36 million on enrolment stimulation activities, which included:
- a large-scale Targeted Enrolment Stimulation (TES) program involving fieldwork visits over a four and a half month period to approximately one million households, supplemented by mail and telephone contact costing approximately \$6-7 million; and
 - over \$29 million on an integrated communications strategy including an extensive national media advertising

campaign, including \$14.9 million on pre-election enrolment advertising.⁵

- 3.9 This program of enrolment stimulation was not undertaken prior to the 2010 federal election. The Electoral Commissioner told the Committee:

Firstly, that sort of funding was not available to the AEC in 2010 nor is it, in my view, sustainable. If we have to spend \$36 million every election year then that is a significant amount of money over successive elections. But, perhaps more importantly, it does not lead to a permanent or long-lasting improvement in the electoral roll. These gains are quickly dissipated months after the close of rolls as people start to move again and the same challenges are faced by the AEC to encourage people to update their enrolment and to get on the roll in the first place.⁶

- 3.10 For the 2010 federal election, the AEC attempted to stimulate enrolment by focusing on a mix of refinements to the Continuous Roll Update program (CRU) and the introduction of new activities such as the Famous People Vote Too campaign.⁷ Various other enrolment activities were undertaken in the different states and territories in the lead up to the 2010 election.

- 3.11 The AEC State Manager for Queensland, Ms Anne Bright, informed the Committee that:

In the lead-up to the election and to complement the AEC's national enrolment program, targeted fieldwork occurred in a number of divisions...Also, a number of other activities in Queensland were undertaken, including those with a focus on encouraging youth enrolment, such as collaboration with the Gold Coast City Council and state government agencies for AEC staff to attend schoolies.⁸

5 Australian Electoral Commission, Submission 87, p. 26.

6 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 6.

7 Australian Electoral Commission, Submission 87, p. 18.

8 Ms Anne Bright, State Manager for Queensland, Australian Electoral Commission, Transcript, 4 March 2011, p. 42.

3.12 Ms Jenni McMullan, AEC State Manager for Victoria, discussed some enrolment highlights in her state, including the roving enroller program run jointly with the Victorian Electoral Commission, which targeted young people, particularly those at universities; AEC attendance at the Hip Hop Music Festival; the Enrol to Vote Week campaign which involved 68 per cent of Victorian schools; meeting with homeless agencies to provide information on enrolment and voting; an enrolment drive at the Melbourne Good Food and Wine Show; and working with communities affected by the bushfires in 2009 as the rebuilding program gained momentum.⁹

3.13 The AEC Manager for the Northern Territory, Mr Robert Pugsley, informed the Committee that the AEC's Indigenous Electoral Participation Program (IEPP) had commenced in May 2010. He advised that AEC staff had travelled widely throughout the Northern Territory encouraging Indigenous people to participate in elections, and stated that:

The IEPP team were in the field from the calling of the election in a two-phased program to assist Indigenous Territorians. Phase one was an enrolment focus from the calling of the election to the close of rolls and phase two had a focus very much on formality education and imparting specific awareness to people about their various voting options, including how to vote formally.¹⁰

3.14 While state and territory based initiatives help to increase enrolment participation on a smaller scale, the most significant program of enrolment activity undertaken by the AEC remains the continuous roll updates. The AEC explained that:

CRU consists of large scale mail-outs to specific addresses where the AEC believes unenrolled persons reside or people who have changed address. This is supplemented by small scale fieldwork activity, mainly aimed at people who do not respond to the earlier mail-outs. The mail component of the CRU program is the most scalable (millions of letters are sent each year to unenrolled and potentially eligible persons) and affordable means of generating enrolment.¹¹

9 Ms Jenni McMullan, State Manager for Victoria, Australian Electoral Commission, Transcript, 30 March 2011, p. 16.

10 Mr Robert Pugsley, Manager for Northern Territory, Australian Electoral Commission, Transcript, 30 March 2011, p. 22.

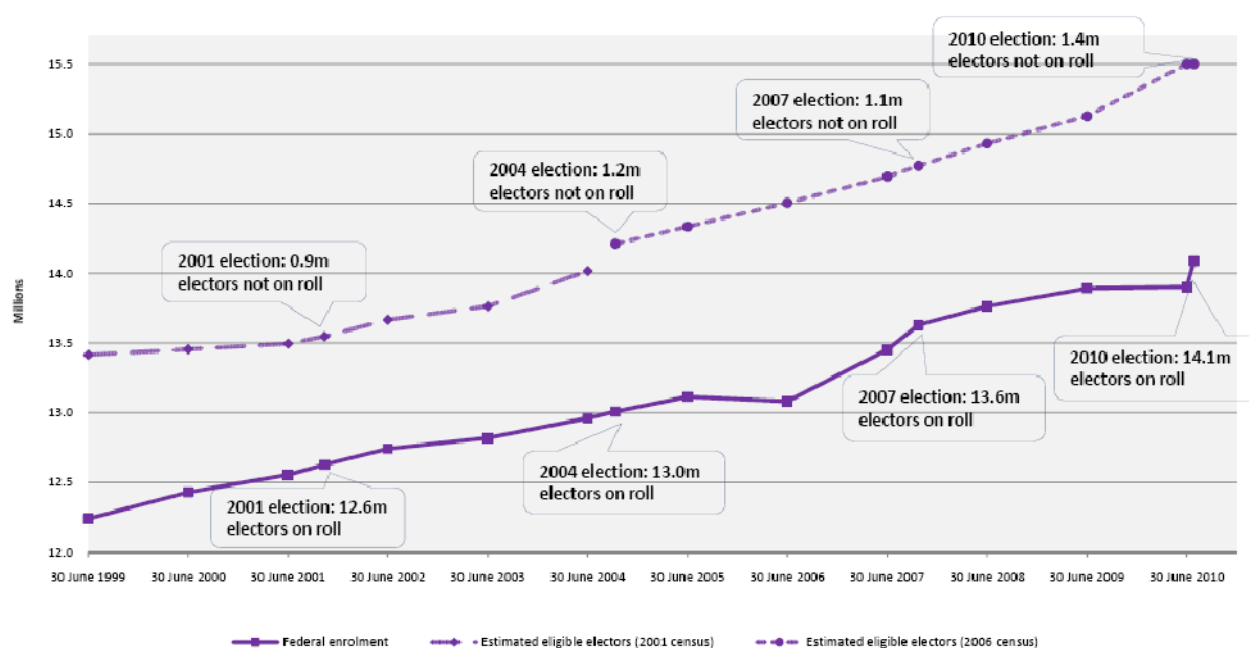
11 Australian Electoral Commission, Submission 87, p. 37.

3.15 However, the overall effectiveness of CRU in generating enrolment is variable and remains problematic, despite increased response rates in the lead up to an election. The AEC noted that:

Since 2005, enrolment response rates to CRU letters (measured as the number of enrolment forms received divided by the number of letters mailed based on attributing enrolment activity at addresses mailed to) has varied considerably. In general, higher response rates are recorded in periods leading up to the announcement of a federal election and/or in the period leading up to state electoral events.¹²

3.16 The AEC enrolment activities have not been sufficiently effective in arresting the trend of declining enrolment participation that has been evident for over a decade. Figure 3.1 illustrates the widening gap between the eligible population and enrolled electors.

Figure 3.1 Estimated eligible population and enrolled electors, 1999–2010



Source Australian Electoral Commission, Submission 87.1, p. 3.

12 Australian Electoral Commission, Submission 87, p. 37.

3.17 In March 2009, the Electoral Commissioner told the Committee that an estimated 1.2 million eligible electors were not on the electoral roll.¹³ By the end of December 2009, this had risen to approximately 1.39 million electors,¹⁴ and at 30 June 2010 the number had grown to 1.59 million.¹⁵ Opposition members of the Committee note that it is an individual elector's responsibility to join the electoral roll and to update their details as one of the key duties of citizenship. These members believe it is vital for our nation's democratic health to ensure that elections are decided by a voter list that is accurate. Opposition members feel that adding people to the roll through means other than the individual enrolling themselves would jeopardise this outcome.

3.18 The continued drop in participation is of concern to the AEC, which informed the Committee that declining enrolment participation has implications for the health of Australia's democracy. The AEC asserted that:

Priority still needs to be given to ensure that those who are eligible to enrol do so; that those who are enrolled vote; and that rates of unintentional informality are minimised.¹⁶

3.19 Following the 2007 federal election, the Australian National Audit Office (ANAO) undertook a performance audit into the AEC's preparations for, and conduct of, the 2007 federal election. In that review, the ANAO also raised concerns about enrolment decline, finding that:

The most significant long-term issue facing the AEC remains the state of the electoral roll. Notwithstanding the significant effort made by the AEC to recover and improve the enrolment rate prior to the 2007 federal election, on polling day the enrolment rate was well below the target of 95 per cent of the estimated eligible population. As a result, an estimated 1.1 million eligible electors were missing from the rolls on polling day.

...[The] AEC's existing approaches to improving enrolment rates have become less effective (as well as becoming more costly). In addition, the number of enrolment forms being processed by the AEC has been falling since 2001-02 and, for 2008-09, was at the lowest level since 1996-97. A continuation of this decline would

13 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Inquiry into the conduct of the 2007 federal election and matters related thereto, Transcript, 17 March 2009, p. 2.

14 Australian Electoral Commission, Submission 87, p. 18.

15 Australian Electoral Commission, Submission 87, p. 18.

16 Australian Electoral Commission, Submission 87, p. 7.

further reduce the completeness of the electoral roll at future elections.¹⁷

- 3.20 Some participants told the Committee that the decline may be due in part to the stringent objection processes mandated by the *Commonwealth Electoral Act 1918*, coupled with the inability of the AEC to use existing data sources that indicate where electors reside to update enrolment details for those electors. The Democratic Audit of Australia observed that:

The problem has long been identified and appropriate solutions are at hand. The problem, of course, lies in the current legislative restrictions placed on the capacity of the AEC to utilise data from trusted agencies to enrol or reinstate eligible electors in the same way it can employ the same data to delete persons from the roll who have moved address. Put bluntly, it is a technical problem that admits a technical solution.¹⁸

- 3.21 Elections analyst, Mr Antony Green, told the Committee that the current enrolment system is biased toward removing people from the roll:

The process to this date has tended to automate the process of removing people from the roll when they move, but then someone has to manually lodge an application to go back onto the electoral roll.¹⁹

- 3.22 The AEC supports changes to balance out the effects of objection action on the roll. It argued that with a direct enrolment process, it could utilise data from external agencies to add eligible person to the roll. The AEC anticipates that direct enrolment would provide the following benefits:

- assist eligible persons in meeting their obligation to enrol;
- build on the direct update model already supported by the Australian Government; and
- balance existing provisions which enable the AEC to commence action to remove an eligible elector from the electoral roll where it believes, based on data received from a number of sources (including Centrelink, Australia Post, state and territory motor registries and electoral commissions), that an elector is no longer entitled to be enrolled for an address.²⁰

17 Australian National Audit Office, *The Australian Electoral Commission's Preparation for and Conduct of the 2007 Federal General Election*, Audit Report no. 28 2009-10, pp. 15-16.

18 The Democratic Audit of Australia, Submission 36, p. 2.

19 Mr Antony Green, Transcript, 2 March 2011, p. 1.

20 Australian Electoral Commission, Submission 87, pp. 56-57.

- 3.23 Conversely, an alternate view suggests that our system of compulsory enrolment places an obligation to ensure up to date enrolment directly on the individual. The Nationals argued that:

Our system also, rightly, attaches a level of individual responsibility to an individual's right to vote. Under the Commonwealth Electoral Act voting is compulsory in this country for Australian citizens aged over 18 years and it is incumbent upon all voters to ensure their details on the electoral roll are correct at all times. These responsibilities are not onerous or difficult to fulfil.²¹

Committee conclusion

- 3.24 The Committee remains concerned about the long-term effects of the decline in enrolment participation rates, and notes that the decline has continued despite ongoing efforts on the part of the AEC to arrest it using measures currently permitted under the Commonwealth Electoral Act. Opposition members feel it is vital that every effort is made to ensure that the electoral roll is accurate, and oppose any move to include electors who have not enrolled to vote. These members believe that the AEC would be better suited to review their current campaigns to encourage people to enrol rather than seek to change the legislation so that they enrol people against their knowledge.
- 3.25 The majority of the Committee agrees with Dr Peter Brent, who made the point that appropriate solutions for arresting enrolment decline are at hand. A possible solution has already been canvassed by this Committee during a previous inquiry and was the subject of the Committee's report *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections (Automatic Enrolment Report)*.
- 3.26 The majority of the Committee is of the view that enrolment decline should be arrested as a matter of urgency, and agrees with Mr Antony Green that the current system is biased toward removing people from the roll, with recent amendments to enrolment and the objection process preventing too many electors from exercising the franchise. Objection matters are dealt with later in this chapter. Opposition members are of the view that enrolment decline should be addressed and the AEC might need to consider its current efforts to increase participation. They feel that

21 The Nationals, Submission 93, p. 1.

addressing the enrolment decline should not come at the expense of the integrity of the electoral roll.

Flexible enrolment and roll maintenance processes

- 3.27 State parliaments are also concerned about the effects of enrolment decline. The New South Wales and Victorian parliaments have legislated to allow more flexible enrolment and electoral roll maintenance processes to be adopted in their jurisdictions in an attempt to arrest enrolment decline.
- 3.28 In New South Wales, the New South Wales Electoral Commission (NSWEC) uses data from state agencies to directly enrol new electors and update the electoral roll details of existing electors. As at 28 January 2011, some 8 388 enrolment transactions had occurred with some 58 per cent being new enrolments and 42 per cent changes of address.²²
- 3.29 In Victoria, the Victorian Electoral Commission (VEC) used data supplied by the Victorian Curriculum and Assessment Authority which it matched against Births, Deaths and Marriages data and data from the Department of Justice to ensure that students were eligible to enrol. As a result of the data matching, some 6 576 students were directly enrolled.²³
- 3.30 Under roll sharing arrangements with these states, the AEC obtains the details of these electors and sends information to facilitate their addition to the Commonwealth electoral roll. However, as enrolment at the federal level must be elector initiated, these state direct enrolments are not translating into Commonwealth enrolments. The AEC advised that only two per cent of these directly enrolled persons in New South Wales have subsequently enrolled on the Commonwealth electoral roll.²⁴
- 3.31 The Committee has previously reported that flexible enrolment processes adopted in other jurisdictions could have implications for the Commonwealth electoral roll, including confusing voters and increasing levels of divergence, with the Commonwealth roll ultimately becoming more incomplete.²⁵ However, Opposition members do not see this as a

22 Australian Electoral Commission, Submission 87, p. 46.

23 Australian Electoral Commission, Submission 87, p. 49.

24 Australian Electoral Commission, Submission 87, p. 47, Table 3.7.

25 Joint Standing Committee on Electoral Matters, *Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections (Automatic Enrolment Report)*, Commonwealth of Australia, 2010, Foreword.

reason to reduce the integrity of the Commonwealth electoral roll by relying on potentially unreliable state information for people who have been automatically enrolled as a result of state legislation. They stressed that it is more important for those who have been enrolled automatically at a state level to confirm that their details are in fact correct, by taking the time to enrol for federal elections through the AEC, as is the responsibility of every Australian citizen.

3.32 The AEC considered roll divergence to be a problem, stating that:

The New South Wales and Victorian legislation therefore presents considerable risk that over time there will be significant divergence between Commonwealth and New South Wales and Victorian rolls. Should proposed reforms in Queensland also be legislated, then (in the absence of appropriate Commonwealth action) this would have the effect of over three-quarters of the current Commonwealth electoral roll subject to significantly different enrolment arrangements. This will likely result in an increase in the number of 'Commonwealth-only', 'state/territory-only' electors, or electors with 'dual enrolment' records on the roll maintained by the AEC and increasing confusion of electors - who often do not differentiate between state and Commonwealth jurisdictions.²⁶

3.33 The Committee invited the Electoral Commissioners for Victoria and New South Wales to discuss the arrangements that had been put in place in their respective states.

3.34 The Victorian Electoral Commissioner, Mr Steve Tully, described the flexibilities provided to the VEC, stating that:

On 3 August 2010 the Victorian parliament passed legislation on a number of things, including the abolition of the three-month rule, provision for automatic enrolment of people on the Victorian Electoral Commission's initiative, provision for the enrolment and voting on election day and at pre-poll centres, and provision for electronically assisted voting in certain voting centres for an expanded franchise. This resulted primarily from the Victorian government parliamentary committee on electoral matters majority reports. That committee investigated concerns about falling participation rates. The package of reforms is integrally and intrinsically connected and, in short, means that every citizen over

26 Australian Electoral Commission, Submission 87, p. 53.

the age of 18 in Victoria who attends a voting centre in Victoria has the ability to vote.²⁷

- 3.35 When asked if there were differences between the Victorian model and that used by the NSWEC, Mr Tully told the Committee that:

Basically, the intention is the same. We will be looking to work with the Australian Electoral Commission on getting our state-only electors on the national roll and we will be working on processes that are as simple as possible to comply with...

...[We] know, from other data sources, where most people on the move are but we are all suffering from the syndrome of non-compliance to various letters by people who are on the move. Such people used to respond at rates of around 30 per cent but now respond at much lower rates – and the trend is continuing.²⁸

- 3.36 In respect of those school leavers who had been automatically enrolled, Mr Tully explained that:

We wrote to them telling them that they were on the roll and they had 14 days to let us know if we had got it wrong. We received no correspondence that I can recall from anyone saying that we got it wrong, due to the safeguards that we had in the process.²⁹

- 3.37 Mr Tully confirmed that roll divergence was a potential problem, despite the VEC working with the AEC to minimise its impact as much as possible.³⁰

- 3.38 In a meeting with the NSWEC, the Committee learned that it was working closely with the AEC, to ensure that, where possible, the SmartRoll processes adopted in New South Wales also provided some benefit to the Commonwealth roll by ensuring that enrolment forms and declaration envelopes used to facilitate state enrolment were also compliant with Commonwealth enrolment legislation.³¹

27 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 3.

28 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 3.

29 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 4.

30 Mr Steve Tully, Victorian Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, p. 5.

31 A number of matters were discussed in a meeting with representatives from the NSW Electoral Commission, 18 April 2011.

- 3.39 The AEC holds the view that something needs to be done to provide flexible approaches to enrolment and roll maintenance processes, not just to arrest the decline in participation, but also to move workloads out of the election period, wherever possible. The Electoral Commissioner stated that:

Our submission recommends that further enrolment measures, which we believe will not only lead to more long-lasting benefits to the accuracy, integrity and completeness of the electoral roll but also will assist in significantly shifting the timing of enrolment transactions away from the election periods, when workloads are at their most intense, to an earlier part of the overall electoral cycle. The implementation of online update, which the joint standing committee recommended, the government has now supported and parliament has passed, is a significant first step. But our view is that we now need to go further with our recommendation suggesting direct update of the electoral roll based on third party information as well as direct enrolment of new enrollees. We are also recommending that the joint standing committee give further consideration to the potential for online enrolment, moving away from the current paper process for new enrollees.³²

- 3.40 The Committee rigorously discussed the flexibilities sought by the AEC during the hearing in Canberra on 4 March 2011. It became obvious during the hearing that there were opposing views held on the issue of direct enrolment. In justifying the AEC's support for direct enrolment, Mr Killesteyn explained that:

The AEC is not suggesting that direct enrolment is the panacea for the sorts of trends we are seeing in relation to non-enrolment. What we are simply suggesting is that direct enrolment is one part of a set of tools that we have, and should have, at our disposal to try to deal with that large number.

We do not think this will solve the problem. We think it is a range of measures, which includes our continuing processes – particularly around continuous roll update, mechanisms and strategies which we are about to unfold this year – to be closer to the point at which the person is changing their address with other agencies – and I can go into the detail of some of that if you like – that direct update using third party data – that is, when the person

32 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 6.

is already on the roll we use third party data to change their address – and then, finally, direct enrolment. It is a whole suite of programs...³³

- 3.41 The AEC noted that the New South Wales and Victorian Parliaments had also enacted legislation to enable electors to enrol on Election Day providing that they were able to produce evidence of identity at the time of casting a provisional vote.³⁴
- 3.42 While data sharing for the purposes of direct enrolment and direct update of enrolment is not currently permitted, the AEC submitted that it currently uses data to enable it to send letters to electors as part of CRU processes.
- 3.43 The AEC has indicated that it would use the data received from some of its existing suppliers in any future roll maintenance model, also that it has had some preliminary discussions with the Australian Tax Office (ATO), which has indicated its willingness to message persons who notify ATO of address changes, that they should also contact the AEC to inform of the change of address.
- 3.44 The Committee wrote to the Electoral Commissioner requesting details of the discussions with ATO and seeking information about possible data sharing opportunities.
- 3.45 The AEC responded by letter confirming that discussions were in progress, advising that the ATO was intending to message clients who advised changes of address and providing a link to the AEC website.
- 3.46 The AEC noted, however, that under existing legislation governing the privacy of taxpayer information, the ATO would be prohibited from sharing name and address data with the AEC.³⁵

33 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 26.

34 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, pp. 26-27.

35 Letter from the Australian Electoral Commission to the Joint Standing Committee on Electoral Matters, dated 28 June 2011.

Committee conclusion

- 3.47 It is evident to the Committee that there are serious implications for the electoral system if action is not taken to arrest the decline in enrolment. Opposition members believe that the AEC needs to urgently review the effectiveness of its current campaigns to inform people of their duty to add themselves to the Commonwealth electoral roll and to update their details when they change addresses.
- 3.48 The Committee notes that enrolment is compulsory, but also notes that despite compulsion, the trend of decline in enrolment participation has been evident since before the turn of the century.
- 3.49 The Committee considers roll completeness to be a critical component of roll integrity. It is clear that an incomplete electoral roll has the potential to diminish the Australian community's continued acceptance of the legitimacy of election results. Opposition members believe it is also important to ensure that the information on the electoral roll is correct, allowing those to vote whose details are incorrect would raise far more questions about the legitimacy of election results than a roll which is allegedly incomplete. Opposition members asserted that if the legitimacy of electoral results was to be seriously addressed, setting up a fraud division within the AEC with effective powers to prepare prosecutions would be the first step.
- 3.50 The Committee agrees with the Australian Electoral Commissioner, Mr Killesteyn, who told the Committee that:
- From my perspective as an administrator faced with the sorts of figures that we are now being confronted with for the lack of electoral participation, I not only have a duty as an administrator enforcing the act to enforce the obligation but I also have a duty to facilitate the entitlement. All of the processes we are putting out there for debate are both about enforcement and facilitation.³⁶
- 3.51 The Committee reiterates the position it took when examining enrolment issues following the 2007 federal election. That is, 'the threshold issue facing Australia's democracy is to ensure that enrolment and roll update processes be made as accessible as possible in order to enable the

36 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript, 4 March 2011, p. 26.

franchise, whilst not compromising the integrity of the electoral roll and subsequently the electoral system'.³⁷

- 3.52 To this end the Committee draws attention to the recommendations made in its earlier report into the implications of the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009*, which are designed to provide some flexibility in the maintenance of the electoral roll.
- 3.53 While the Committee does not intend to restate the findings of that inquiry, it is satisfied from re-examining some of the matters considered then that urgent action needs to be taken to address the issue of declining enrolment and believes that the New South Wales and Victorian Parliaments have enacted appropriate legislation to help address this issue in their respective jurisdictions.
- 3.54 The majority of the Committee accepts that the Commonwealth should adopt a model that allows direct enrolment of electors on the basis of accurate and reliable data provided to the AEC, and the direct update of enrolment details based on that same data wherever required. However, Opposition members believe that the only data that should be truly relied upon is an individual elector's enrolment form when they join the roll or update their details. They felt that relying on any other information would dramatically reduce the integrity of the roll.
- 3.55 However, the Committee is not specifically recommending the adoption of the models presently utilised in New South Wales or Victoria. The Committee agrees with the Australian Electoral Commissioner that a model adopted at the Commonwealth level requires transparency regarding the data sources it utilises.³⁸

37 Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2007 federal election and matters related thereto*, Commonwealth of Australia, 2009, pp. 28-29.

38 Mr Ed Killesteyn, Australian Electoral Commissioner, Australian Electoral Commission, Transcript 4, March 2011, p. 24.

Recommendation 1

- 3.56 The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* should be amended to allow the Australian Electoral Commission (AEC) to directly enrol eligible electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.

Recommendation 2

- 3.57 The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow the Australian Electoral Commission (AEC) to directly update the enrolment details of electors on the basis of data or information provided by an elector or electors to an agency approved by the AEC, as an agency which performs adequate proof of identity checks, where that information is subsequently provided by that agency to the AEC for the purposes of updating the electoral roll. Approval of such agencies by the AEC should be made by disallowable instrument.
- 3.58 The Committee notes the assistance being provided to the AEC by the ATO in notifying people who have advised the ATO of a change of address that they should also update their enrolment details. The Committee is also aware that cooperation beyond that is limited, as data sharing arrangements between the AEC and the ATO are not currently permissible.
- 3.59 The Committee believes that if the ATO were permitted to share enrolment relevant data with the AEC it would provide a genuine and lasting improvement to roll maintenance processes and roll integrity.

Recommendation 3

- 3.60 The Committee recommends that relevant legislation governing the protection of personal data collected by the Australian Taxation Office (ATO), which would prevent the ATO from providing enrolment relevant data to the Australian Electoral Commission (AEC), be amended to allow such data to be shared with the AEC for the purposes of facilitating enrolment.
- 3.61 The Committee believes that enrolment at the time of voting provides an important safety net for a system which allows for direct enrolment and update. The Committee is satisfied that such an option should be available at the Commonwealth level, but believes that enrolment obtained in this manner should only be permitted for the address which appears on the evidence of identity document.

Recommendation 4

- 3.62 The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* be amended to enable electors who provide satisfactory evidence of identity and address to a pre-poll issuing officer at a pre-poll voting centre or a declaration vote issuing officer at a polling place, to enrol for that address at the time of voting, by completing and signing an enrolment compliant declaration vote certificate into which their ballot papers are to be inserted.

Recommendation 5

- 3.63 The Committee recommends that, should the Government accept Recommendation 4 above, the *Commonwealth Electoral Act 1918* be amended, wherever appropriate, to enable electors who enrol at the time of voting to be added to the electoral roll used for the election and to enable votes cast by those electors to be admitted to the scrutiny for that election.
- 3.64 The Committee also notes the decision of the Federal Court of Australia in *Getup Ltd v Electoral Commissioner* [2010] FCA 869, which was discussed briefly in Chapter 2.

- 3.65 The Committee believes that the use of electronic or digitally formed signatures should now be specifically provided for in the Commonwealth Electoral Act.

Recommendation 6

- 3.66 **The Committee recommends that, wherever appropriate, the *Commonwealth Electoral Act 1918* be amended to specifically permit the use of electronic or digitally formed signatures for enrolment purposes.**

Objections to enrolment

- 3.67 The matter of objecting to the enrolment of electors on the basis that the AEC believes a person does not reside at a particular address also has implications for the completeness of the electoral roll.
- 3.68 The Committee heard during this inquiry, and during the inquiry into the 2007 federal election, that the enrolment system is biased toward taking persons off the roll rather than facilitating the enrolment of electors.
- 3.69 The matter merits consideration because it impacts on the ability of electors to be reinstated to the electoral roll at elections, and contributes significantly to the number of votes which are disqualified from progressing into the scrutiny.
- 3.70 However, it is clear that amendments made by the then Government in 2004 to subsections 114(4) and 118(4)³⁹ and to Schedule 3 in 2006⁴⁰ of the Commonwealth Electoral Act, which specifically removed any discretion that existed for the AEC to make an informed decision about the enrolment of electors who no longer reside at the enrolled address has influenced the growth in the rejection rate of provisional and other declaration votes. These matters are discussed in some detail in Chapter 6.
- 3.71 The Committee deals with the matters particular to objections processes here (even though also related to reinstatements) on the basis that they are inherently a roll maintenance issue and rest comfortably in this chapter.

39 *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures Act) 2004*, items 51 and 55.

40 *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*, item 96.

- 3.72 Opposition members expressed a number of concerns with the recommendations in this chapter.
- 3.73 Firstly, Recommendations 1 and 2 regarding automatic enrolment, and the AEC's use of means other than an individual's enrolment form to initially enrol voters or update enrolment details. Coalition concerns were outlined in the Dissenting Report to the Committee's inquiry into the implications of the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW)* for the conduct of Commonwealth elections, and are further expanded upon in the Coalition Members' and Senators' Dissenting Report for this inquiry.
- 3.74 Opposition members of the Committee are also concerned that the AEC has made a recommendation that is by its nature highly politically contentious and that poses such a dramatic change to our enrolment and roll management processes. These concerns have been expressed at numerous hearings.
- 3.75 Opposition members believe that consideration should be given to legislation to provide the AEC with the power to investigate allegations of fraudulent voter behaviour. It is important that such investigations are not discarded due to lack of resources and the provision of a legislative duty to investigate by the AEC will ensure this does not eventuate.
- 3.76 Finally, Opposition members qualify their support for Recommendation 6 regarding the proposed acceptance of electronic signatures by the AEC. Coalition members believe that such signatures should only be accepted following the provision of photographic identification such as a driver licence or a passport.

Committee conclusion

- 3.77 The Committee is of the view that changes made to the objections process by the then government in 2004, have prevented many electors who have been removed from the roll in error by the AEC, from subsequently being reinstated to the roll when they have cast a declaration vote for the same address from which they were removed, or for another address in the same electoral division.
- 3.78 In many such cases, the recommendations about direct enrolment and direct update of enrolment (Recommendations 1 and 2) made by the Committee earlier in this chapter have the potential to mitigate this particular situation to a degree, as they will allow the AEC to update the roll on the basis of information that it receives from other sources.

- 3.79 However, there will inevitably be a time delay between the release of this report and implementing the respective recommendations, should the Government accept and support them. Similarly, a significant proportion of the electors who have already been or will be removed from the roll because of the operation of the relevant subsections, will find no relief is available to them.
- 3.80 The Committee believes that there is no valid reason to remove the franchise from a person, who, despite not living at their enrolled address, still lives in the electoral division in which they are enrolled.
- 3.81 The Committee is also of the view that the requirement that the Electoral Commissioner 'must' object to the enrolment of a person for a Subdivision of a Division in the circumstances outlined above is not justified and that the Electoral Commissioner should be able to exercise discretion in such circumstances.
- 3.82 The Committee, therefore, makes the following recommendations aimed at ensuring that objection action, on the grounds of non-residence, are only made where appropriate. This is necessary to stop electors being removed from the roll in error.

Recommendation 7

- 3.83 **The Committee recommends that Part IX of the *Commonwealth Electoral Act 1918* be amended to provide that an elector should not be removed from the electoral roll by objection on the grounds that they do not live at a particular address, and have not lived at the address for a period of at least one month, in situations where the Australian Electoral Commission is aware from information or data sources in its possession that the elector lives at a different address in the same electoral division.**

Recommendation 8

- 3.84 **The Committee recommends that paragraphs 114 (4), 118 (4A), and any other relevant provisions of the *Commonwealth Electoral Act 1918*, be amended to provide the Australian Electoral Commissioner with a discretion not to object to the enrolment of an elector where the Electoral Commissioner is aware that the elector resides at a different address in the same electoral division.**