

PARLIAMENT OF VICTORIA

Electoral Matters Committee



Inquiry into the conduct of the 2018 Victorian state election

Parliament of Victoria
Electoral Matters Committee

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About the Committee

Functions

The Electoral Matters Committee is constituted under section 9A of the *Parliamentary Committees Act 2003*.

The committee's functions are to inquire into, consider and report to the Parliament on any proposal, matter or thing concerned with:

- a. the conduct of parliamentary elections and referendums in Victoria
- b. the conduct of elections of Councillors under the *Local Government Act 1989*
- c. the administration of, or practices associated with, the *Electoral Act 2002* and any other law relating to electoral matters.

The committee's functions are not intended to repeal, alter or vary section 94F or 94G of the *Constitution Act 1975*.

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Contents

Preliminaries

Committee membership	ii
About the Committee	iii
Terms of reference	x
Chair's foreword	xi
Executive summary	xiii
Findings and recommendations	xvii

1	Introduction	1
1.1	Examining Victorian elections	1
1.2	Key findings	1
1.2.1	Being more transparent and accountable	1
1.2.2	Conducting more research	2
1.2.3	Improving voting centres	2
1.2.4	Improving the VEC's processes	2
1.3	The Committee's approach	2
1.3.1	Criteria for reviewing an election	2
1.3.2	Was the election inclusive?	3
1.3.3	Was the election trustworthy and transparent?	3
1.3.4	Was the election competitive?	3
1.3.5	Previous recommendations	6
1.3.6	The Upper House voting system	6
1.4	Election data	6
1.5	The Inquiry process	6
2	Inclusive election indicators—enrolment, turnout and formality	7
2.1	Introduction	7
2.2	Enrolment	8
2.2.1	Direct enrolment	10
2.2.2	VEC enrolment programs at the 2018 election	12
2.2.3	2017 Australian Marriage Law Postal Survey	13
2.2.4	Younger people and enrolment	14
2.3	Turnout	15
2.3.1	VoterAlert	17
2.3.2	Trend in electors excused from voting	18
2.3.3	VEC explanations for the drop in turnout at the 2018 election	19
2.3.4	Improving VEC reporting on turnout	25

2.4	Formality	26
2.4.1	Lower House formality	27
2.4.2	Upper House formality	29
2.4.3	The causes of informality	30
3	Including younger voters and voters from culturally and linguistically diverse (CALD) backgrounds	39
3.1	Introduction	39
3.2	Participation among younger Victorians	40
3.2.1	Consistently low turnout among 20-39-year-old electors	41
3.2.2	The 2018 drop in turnout among 30-to-44-year-old electors	44
3.2.3	The relationship between formality and age	46
3.3	Participation among Victorians from CALD backgrounds	47
3.3.1	CALD community forums	48
3.4	VEC inclusion and participation activities leading up to the 2018 election	54
3.4.1	Inclusion and participation framework	55
3.4.2	Community advisory groups	56
3.4.3	Be Heard! Democracy Ambassador Program	58
3.4.4	Other programs aimed at CALD communities	65
3.4.5	Other programs aimed at younger people	67
3.5	Limitations of the VEC’s performance reporting	70
3.5.1	VEC reporting and performance measurement	70
3.5.2	Election performance indicators on inclusion and participation	71
3.5.3	Additional reporting on outreach programs	72
4	Inclusive voting options	75
4.1	Introduction	75
4.2	Voting options at the 2018 election	76
4.3	The continued rise of early voting	78
4.4	Length of the early voting period	79
4.4.1	The number of days for early voting	80
4.4.2	Extended early voting hours	84
4.5	The voting centre experience for voters	85
4.5.1	Voting centre venues	86
4.5.2	Queueing at voting centres	93
4.5.3	Voter interaction with campaigners	95
4.6	Additional ways to vote	97
4.6.1	Postal voting and email voting	98
4.6.2	Telephone assisted voting (electronic assisted voting)	102
4.6.3	Interstate and overseas voting	105
4.7	The rural and regional voter experience	106

5	Trustworthy and transparent elections	109
5.1	Introduction	109
5.2	Security of ballot papers	110
5.2.1	Security processes for early votes	110
5.2.2	Discrepancies in the number of early votes	111
5.2.3	Discrepancies in the total number of votes	112
5.2.4	Improving confidence in the security of ballot papers	113
5.3	Vote counting	116
5.3.1	Arrangements for scrutineers	116
5.3.2	Discrepancies between different counts of the votes	120
5.3.3	Speed of counting votes	125
5.4	Multiple voting	127
5.4.1	Identifying multiple voting	128
5.4.2	Preventing multiple voting	130
6	Transparent performance measurement and reporting	133
6.1	Introduction	133
6.2	The VEC's election indicators	134
6.2.1	The VEC's performance compared to targets	134
6.2.2	Number of legal challenges upheld	135
6.2.3	Expanding the indicators about voting centres	136
6.2.4	Introducing indicators about accuracy	139
6.3	Strategy 2023	139
6.4	Other plans	144
6.4.1	The disability access and inclusion plan	144
6.4.2	Making plans and evaluations public	145
7	Competitive elections	147
7.1	Introduction	147
7.2	The VEC's services to candidates and parties	148
7.2.1	How-to-vote cards	148
7.2.2	Communication with candidates and parties	151
7.2.3	Mental health and emotional support for candidates and their families	152
7.3	An accurately informed vote	153
7.3.1	Non-party-aligned candidates on ballot papers	153
7.3.2	Misleading advertising	154

8	Voting centres	159
8.1	Introduction	159
8.2	Implementing the new legislation relating to voting centres	160
8.2.1	The six-metre rule	161
8.2.2	Conflict at voting centres	162
8.2.3	Limitations on political signage	166
8.3	Strengthening the training of election officials	169
8.4	Candidates, volunteers and how-to-vote cards	172
8.4.1	The early voting period	172
8.4.2	Facilitating the re-use of election materials	173
8.4.3	Limiting the number of people handing out how-to-vote cards	174
8.5	Facilities for candidates and volunteers	176
9	Campaign funding	179
9.1	Introduction	179
9.2	Electoral Legislation Amendment Act 2018	180
9.2.1	Donations and disclosure	181
9.2.2	Public funding	181
9.3	Implementation of the Electoral Legislation Amendment Act 2018	182
9.3.1	VEC implementation activities	182
9.3.2	Challenges for political parties and candidates	183
9.4	Public funding distributed	184
9.4.1	Funding for the 2018 election	184
9.4.2	Funding for the 2022 election	186
9.5	Further possible changes	187
9.5.1	Election expenditure caps and associated recommendations	187
9.5.2	Indexation of amounts under the Electoral Act	189
9.5.3	Providing candidate donation information with ballot papers	189
10	Implementation of previous recommendations	191
10.1	Introduction	191
10.2	VEC's Report to Parliament on the 2014 Victorian state election	191
10.2.1	Recommendation that was partially implemented	192
10.2.2	Recommendations that were not implemented	193
10.3	Electoral Matters Committee's Report on the inquiry into the conduct of the 2014 Victorian state election	196
10.3.1	Recommendations for legislative change	196
10.3.2	Recommendations to the VEC	200
10.3.3	Recommendation to the Victorian Public Sector Commission	202

11	Reforming the Upper House electoral system	203
11.1	Introduction	203
11.2	The 2018 Upper House results	206
11.2.1	Results seen as problematic	206
11.2.2	Key factors contributing to these results	207
11.3	Concerns about the existing system	211
11.3.1	Should the final results reflect first preferences?	211
11.3.2	Are voters making an informed choice when voting above-the-line?	212
11.3.3	Other concerns	214
11.4	Changes that were advocated	216
11.4.1	Changes to above-the-line voting	216
11.4.2	Changes to below-the-line voting	218
11.4.3	Changes to the electorates	219
11.4.4	Greater barriers to candidates nominating and being elected	220
11.4.5	Changes to voting or the way votes are counted	221
11.5	A future inquiry	222
Appendix		
1	About the Inquiry	223
Minority report		231

Terms of reference

Inquiry into the conduct of the 2018 Victorian state election

On 28 May 2019, the Legislative Assembly agreed to the following motion:

That this House refers an inquiry into the conduct of the 2018 Victorian State Election to the Electoral Matters Committee for consideration and report no later than 1 June 2020.

The reporting date for this Inquiry was extended from 1 June 2020 to 31 August 2020.

Chair's foreword

The Electoral Matters Committee plays an important role in keeping our democracy strong. This includes conducting inquiries like this one after each state election. These inquiries provide an opportunity for any member of the community, any candidate or any other stakeholder to share their experiences and to suggest improvements to the system. The inquiries provide an opportunity for scrutiny of the Victorian Electoral Commission and for regularly reviewing the appropriateness of electoral law.

In this inquiry, the Committee considered a wide range of topics. The Committee examined the changing levels of voter participation in Victoria, including the worrying drop in voter turnout and the growing levels of informal voting. The Committee looked at the selection and management of voting centres and some of the difficulties experienced by candidates and voters. The Committee reviewed the electoral commission's reporting and identified areas where more transparency is required.

This report finds that there is much to be proud of in Victoria's democracy. But there is also room for improvement. The report includes 49 recommendations aimed at enhancing elections in Victoria. I call on the Parliament and the Victorian Electoral Commission to give these thorough consideration and take action to address them in time for the 2022 Victorian State election.

In conducting this inquiry, the Committee received information through written submissions, public hearings, community forums and private meetings. We would not have been able to conduct the inquiry without so many people giving up their time and sharing their experiences and expertise. On behalf of the Committee, I would like to thank all of the people who assisted us.

I would especially like to thank the Eastern Community Legal Centre and AMES Australia for arranging and facilitating community forums for us.

As chair of the Committee, I am grateful for the support I received and the collaborative approach adopted by the other committee members— Bev McArthur (Deputy Chair), Lizzie Blandthorn, Matthew Guy, Katie Hall, Wendy Lovell, Andy Meddick, Cesar Melhem, Tim Quilty and Tim Read. I would like to also acknowledge the contribution of former committee members Bruce Atkinson and Ros Spence and recognise Ros' significant work as chair of the Committee for most of the time during which this inquiry was conducted. Finally, I would like to thank Committee's secretariat—Christopher Gribbin, Joel Hallinan, Maria Marasco and Bernadette Pendergast. Their hard work and support throughout the inquiry process has been greatly appreciated.



Lee Tarlamis OAM MP
Chair

Executive summary

In May 2019, the Victorian Parliament asked the Electoral Matters Committee to conduct an inquiry into the conduct of the 2018 Victorian state election.

To analyse the election, the Committee investigated three key questions:

- Was the election inclusive?
- Was the election trustworthy and transparent?
- Was the election competitive?

In considering these questions, the Committee explored community input, information from various stakeholders and electoral data.

The Committee found no evidence of deliberate fraud, interference or significant counting errors in the 2018 election. Candidates, parties and voters generally rated the services provided by the Victorian Electoral Commission (VEC) highly. The Committee is pleased to note that the VEC has increased the proportion of Victorians on the electoral roll, has expanded its performance reporting and is developing new plans to improve access to elections.

However, the Committee was concerned to see a drop in the voter turnout rate and an increase in the number of people voting informally. These trends suggest that the VEC may need to find new ways to engage and inform voters. Submitters and witnesses to this Inquiry suggested that the VEC could also improve some services it delivers during elections. In particular, the Committee calls on the VEC to continue looking for more suitable venues for early voting, to review the training processes for election officials and to improve the registration process for how-to-vote cards.

The Committee would also like to see more transparency and reporting from the VEC to help stakeholders understand what happens at elections and to enable analyses of the VEC's performance.

These changes will enhance Victoria's electoral processes and keep our democracy strong.

Was the election inclusive?

An election's inclusiveness is generally measured at a high level by three indicators:

- the proportion of eligible people enrolled
- the proportion of enrolled people who actually turn out to vote
- the proportion of votes that are informal.

The Committee is pleased that the enrolment rate increased between the 2014 and 2018 elections. At the same time, however, the turnout rate decreased and the informality rate grew. These trends will present a challenge for the VEC going forward.

The VEC has provided some explanations for these changes. However, the Committee considers that additional research is required to more fully understand the causes. This should be accompanied by more detailed analyses and discussion in the VEC's reports.

Electors under the age of 40 tend to participate less in elections than older electors. This is one area where additional research, consultation and reporting would be particularly valuable. A number of the VEC's programs focus on school children and people aged between 18 and 24. However, there is also a need for inclusion programs targeting people throughout their 20s and 30s.

The VEC could also do more to reduce the barriers faced by voters from culturally and linguistically diverse backgrounds. The VEC currently has a number of programs and policies designed to assist people from these communities. The Committee was told that more could be done. Suggestions included providing more information about how to fill in Upper House ballot papers, making the information available earlier, adopting different engagement models and providing information about candidates and their policies.

Overall, the Committee considers that the VEC needs to explore new ways to encourage people to turn out to vote and to vote formally. Much of the VEC's work encouraging participation relies on face-to-face outreach. Given that face-to-face programs can only reach a limited number of people, the VEC should consider approaches that can reach more people in a cost-effective way.

In addition to traditional election-day voting, the VEC provides a variety of alternative ways for people to vote. These include postal voting, voting at an early voting centre and telephone voting. Surveys indicated that voters were generally happy with their voting experiences in all methods of voting.

Early voting has become increasingly popular in recent elections, with 36.8% of voters voting early in 2018 (not including postal and email voters). The Committee considers that early voting services could be improved by offering extended voting hours on more days during the early voting period and by the use of more suitable venues.

The Committee also notes that voting can be challenging for some voters in regional areas, given the large distances involved and recent changes to Australia Post's services. In response, the VEC should consider modifying its existing services or providing innovative new voting options for regional voters.

Was the election trustworthy and transparent?

The Committee received no evidence indicating that there was any deliberate fraud, interference with ballot papers or significant counting errors at the 2018 election. However, this was not always obvious from material publicly released by the VEC. The Committee would like to see the VEC provide greater assurance to the community that it takes appropriate security measures and avoids errors. To do this, the VEC needs to be more transparent about its ballot paper security processes, about the variations in vote numbers between counts and about its measures to detect multiple voting. The Committee also recommends improved processes around notifying parties and candidates about recounts, so that scrutineers can be organised.

The VEC has improved its performance reporting in recent elections. The Committee considers that further improvements should be made by adding indicators about the suitability of venues used as voting centres, queue times at voting centres and the accuracy of counts. The VEC's existing performance indicator relating to legal challenges to its conduct could also be made clearer.

The VEC is in the process of developing several new plans and strategies. It will be important for these to include concrete actions, measures and quantified targets. The VEC should also make its plans and strategies public, along with associated performance indicators.

Was the election competitive?

In assessing the election's competitiveness, the Committee considered whether there was a level playing field for candidates, whether voters had reasonable access to information and whether the physical security of all involved was adequately protected.

The Committee heard many positive things about the way the VEC delivered services to candidates and parties at the 2018 election. However, the Committee identified several areas where improvements could be made.

The registration process for how-to-vote cards could be improved, as existing processes led to some confusion in 2018. The VEC should also investigate the practicability of mental support services for candidates and their families, given the pressure that standing for election can cause.

Considering the needs of candidates and volunteers when selecting voting centre venues would also help to level the playing field for candidates. In addition, the VEC should further develop its relationship with Victoria Police to manage conflict at voting centres.

The Committee heard a number of concerns about some election officials' lack of knowledge of electoral rules. The VEC could benefit from reviewing and evaluating its election official training.

Political parties expressed various concerns about the rules limiting electoral signs at voting centres. The Committee believes that the Parliament should amend the rules in the Electoral Act so that there is greater clarity at future elections.

The Parliament introduced significant reforms to campaign funding, donations and disclosure in 2018. The Committee welcomes these changes. However, it is too soon to properly assess the new system.

Other matters

The Committee looked at the implementation of recommendations made by the VEC and the Committee after the 2014 election.

Nine of the VEC's recommendations have been fully or partially implemented. The Committee considers that there is still a need for changes to the Electoral Act to allow early votes to be processed earlier and to prohibit anybody other than the VEC from distributing postal vote applications.

Seventeen of the Committee's 23 earlier recommendations have been fully or partially implemented. There remain areas for improvement in relation to postal voting. The Government should amend the rules to make postal vote applications clearer and prevent voter confusion. In addition, the VEC should improve its processes for providing data about successful postal vote applicants to parties and non-party-aligned candidates.

Many submitters to this Inquiry raised concerns about the Upper House electoral system. Some submitters argued that significant numbers of voters do not understand how to fill in Upper House ballot papers. Others believed that group voting tickets can be difficult to interpret. As a consequence, it was argued that the electoral results do not reflect voters' intentions. Submitters called for a variety of reforms. Some of these reforms were opposed by other submitters. The Committee considers that Upper House reform is a complex matter and has recommended that it be considered as part of a separate inquiry focused specifically on that topic.

Findings and recommendations

2 Inclusive election indicators—enrolment, turnout and formality

FINDING 1: Enrolment in Victoria has increased from approximately 93.8% of eligible electors in 2006 to 96.6% in 2018. The VEC failed to meet its enrolment target of one percentage point greater than the national average, as enrolment rates in other jurisdictions have grown at a faster rate than Victoria. As enrolment rates in Victoria and other Australian jurisdictions become higher, the VEC’s enrolment target may be less appropriate.

10

RECOMMENDATION 1: That the VEC consider the appropriateness of its enrolment rate target in light of increases in enrolment nation-wide.

10

FINDING 2: Direct enrolment has contributed to a significant rise in Victoria’s enrolment rate since 2010.

11

FINDING 3: The VEC contacted close to two million electors through the VoterAlert program. Over 500,000 electors used VoterAlert email and SMS message links to check their enrolment online.

13

FINDING 4: The 2017 Australian Marriage Law Postal Survey partly contributed to the high enrolment rate at the 2018 election. The majority of people enrolling in the lead-up to the Survey were under 30.

14

FINDING 5: Younger people enrol at lower rates than people in other age brackets across Australia. The VEC does not publish statistics or a performance measure regarding the enrolment rate of eligible Victorian electors by age bracket.

15

RECOMMENDATION 2: That the VEC regularly publish data on the proportion of eligible electors who are enrolled, broken down by age.

15

RECOMMENDATION 3: That the VEC establish performance targets relating to the proportion of people in different age brackets who are enrolled. This will enable it to track its progress in this area.

15

FINDING 6: Turnout at the 2018 election was 90.2%, 2.8 percentage points lower than in 2014, below the VEC’s target and the lowest rate since 1945. **17**

FINDING 7: The Committee supports the concept of VoterAlert as a mass communication tool that provides electoral information to voters in a convenient way. However, the 2018 data suggest that it was not effective at increasing the turnout rate. **18**

RECOMMENDATION 4: That the VEC conduct an evaluation of the effectiveness of VoterAlert at impacting voter turnout, including a cost–benefit analysis, and publish the results. The VEC should consider this evaluation in deciding whether to continue or expand the program at future elections. **18**

FINDING 8: The VEC does not regularly publish information relating to reasons non-voters provide for not voting at state elections. **19**

RECOMMENDATION 5: That, in future post-election reporting, the VEC publish an analysis of the explanations given for not voting and what that indicates about why people did not vote. **19**

FINDING 9: Satisfaction with democracy in Australia has fallen from 86% in 2007 to 59% in 2019, the lowest level since the 1970s. Low satisfaction can contribute to low voter turnout. **20**

FINDING 10: Low turnout among directly enrolled electors significantly impacted the overall turnout rate at the 2018 election. This effect is also present in other Australian jurisdictions. Low turnout among this specific, large and identifiable group of voters offers an opportunity for the VEC to target its efforts to increase overall turnout rates. **22**

RECOMMENDATION 6: That the VEC identify directly enrolled electors as a priority group for its inclusion and participation efforts and implement engagement programs aimed specifically at increasing turnout among directly enrolled voters. **22**

FINDING 11: Voters who enrolled ahead of the 2017 Australian Marriage Law Postal Survey turned out at a low rate, but were only a small proportion of the overall electorate. **23**

FINDING 12: The VEC identified various factors as contributors to the drop in turnout at the 2018 election. While these factors likely contributed to the drop in turnout, the VEC’s reporting generally lacked the explanations or quantifications to demonstrate how and to what extent each factor contributed. This resulted in uncertainty about what happened at the 2018 election and what actions should be taken in the future. 25

RECOMMENDATION 7: That the VEC provide more detailed explanations of the factors affecting voter turnout at future elections. These explanations should, where possible, include quantifications of each factor’s contribution to overall turnout results and analyses of longer-term trends. The VEC should use this information to guide and evaluate its subsequent strategies and programs to increase turnout. 26

FINDING 13: Victoria’s Lower House informality rate has been increasing for many years and is consistently one of the highest rates among comparable Australian lower houses. With a Lower House informality rate of 5.8% in 2018, the VEC did not meet its target of less than or equal to 5.22%. 28

FINDING 14: With 4.0% of the Upper House votes being informal in 2018, the VEC did not meet its target of less than or equal to 3.3%. Victoria’s Upper House informality rate is in the middle of the range compared to other Australian houses using proportional representation. 29

FINDING 15: Apparently accidental informal votes for the Lower House rose from 2.6% to 3.5% of all votes between 2014 and 2018. 31

RECOMMENDATION 8: That the VEC publish apparently intentional and apparently accidental informal voting rates as a percentage of all votes in its post-election reporting. Reports should also discuss trends in these rates as a percentage of all votes over time. 31

FINDING 16: The VEC did not conduct an analysis of Upper House informal ballot papers at the 2018 election to identify the causes of informality. 32

RECOMMENDATION 9: That the VEC reinstate its analysis of informal Upper House ballot papers at future elections. 32

RECOMMENDATION 10: That the VEC conduct an analysis of Upper House ballot papers to estimate the number of votes that included multiple preferences above the line, to understand how much confusion is being caused by having different systems at Commonwealth and state levels and to inform future information and education campaigns.

33

FINDING 17: The VEC has not provided satisfactory explanations for Victoria's informality rates. This is particularly concerning given the trend of rising informality, Victoria's Lower House informality rate being higher than most other Australian jurisdictions and the rise in apparently accidental informal voting at the 2018 election. The rise in the accidental informality rate combined with the VEC's lack of explanation bring into question the effectiveness of the VEC's programs to reduce informality.

37

RECOMMENDATION 11: That the VEC ensure the research it sponsors into informal voting includes an investigation of:

- the reasons for the continued increase in informal voting in Victorian Lower House elections
- the consistently high rate of informal voting in Victorian Lower House elections compared to other Australian jurisdictions
- the increase in apparently accidental informality at the 2018 election
- the reasons for informality in Upper House elections.

37

RECOMMENDATION 12: That the VEC increase the depth of its analysis and reporting on informality at Victorian state elections. This includes election-to-election trends and events specific to individual elections. This reporting should be informed by research into the reasons behind informality and should be used to better measure the effectiveness of the VEC's programs aimed at decreasing informality and to improve those programs.

37

3 Including younger voters and voters from culturally and linguistically diverse (CALD) backgrounds

FINDING 18: Electors in the 20-to-39-year-old age group have consistently exhibited low turnout at Victorian elections. Similar patterns exist across Australia and internationally.

44

FINDING 19: The lowest turnout rate in Victoria is for 25-to-29-year-old electors. However, an analysis of 2016 data at the Commonwealth level suggests that 18-to-24-year-olds have lower enrolment rates. When this is taken into account, 18-to-24-year-olds may actually be participating in lower numbers than the turnout rate suggests. It is not clear whether this is also the case in Victoria, as the VEC does not publish statistics about the enrolment rate of eligible Victorian electors by age bracket. Publishing and analysing these statistics would allow the VEC and stakeholders to better understand participation patterns and what interventions are needed.

44

RECOMMENDATION 13: That the VEC publish and discuss turnout by age cohorts in terms of the eligible population in its future reports on state elections.

44

FINDING 20: Turnout among 30-to-44-year-old electors at the 2018 election dropped the most of all age groups when compared to previous elections.

45

RECOMMENDATION 14: That, in its research into reasons for not voting and attitudes toward voting among the 25-to-44-year-old age group, the VEC include a focus on the drop in turnout among 30-to-44-year-old electors at the 2018 election. This research should include data already gathered by the VEC, such as responses to Apparent Failure to Vote Notices and excuses provided prior to notices being sent, which the VEC should be able to break down by electors' ages to understand differences between age brackets. The VEC should publish the results of its research and use the information to inform efforts to improve participation at future elections.

46

FINDING 21: The relationship between age and formal voting is an area of potentially valuable research. Although the VEC has stated that this is virtually impossible to examine, the Committee believes that there are ways to conduct research on this topic.

47

RECOMMENDATION 15: That the VEC ensure its research program includes research into the relationship between age and formal voting at Victorian state elections.

47

FINDING 22: The Committee ran two community forums with people from CALD backgrounds to understand the barriers that make it difficult for CALD communities to vote or to vote formally. Key suggestions from participants included:

- providing more information about how to fill out ballot papers (especially Upper House ballot papers) and providing it before people get to the voting centre
- following the CALD engagement model used by the Australian Bureau of Statistics for the 2016 Census
- providing information about candidates and their policies.

54

RECOMMENDATION 16: That the VEC consider the suggestions from the Committee's CALD community forums as part of developing future plans for engaging with CALD communities.

54

FINDING 23: The VEC has community advisory groups to provide advice about engaging with people from CALD backgrounds, people with disabilities and people experiencing homelessness. The effectiveness of these groups is primarily measured by feedback from members of the groups.

57

RECOMMENDATION 17: That the VEC explore ways to more objectively measure the effectiveness of its advisory groups as a means of addressing the challenges faced by certain groups of voters. The results of these measures should be included in future reports on state elections.

57

FINDING 24: The VEC has consistently struggled to staff and convene its Aboriginal and Torres Strait Islander Advisory Group. The VEC is now working toward a new approach to Aboriginal and Torres Strait Islander engagement.

58

FINDING 25: Independent evaluation of the Be Heard! Democracy Ambassador Program found that six of ten Program outcomes were achieved, with some qualifications. The Program's ability to influence change in voting behaviours was not proven.

62

FINDING 26: Outreach programs based on face-to-face delivery, such as the VEC's Be Heard! Democracy Ambassador Program, are inherently limited in scale. This reduces the impact they can have on electoral participation.

65

RECOMMENDATION 18: That the VEC consider the effectiveness of face-to-face outreach as a foundation for efforts to increase electoral participation, taking into account its inherent scale limitations, and consider alternative models that can provide greater reach and are more cost-effective as potential foundations for future outreach programs.

65

FINDING 27: While the VEC has increased its CALD engagement activities over time, it is not clear whether these activities had a positive impact on CALD participation at the 2018 election. Though CALD voters are among the most satisfied with the VEC's general information products, there remain problems with low turnout and high informality in areas with high proportions of people from CALD backgrounds.

67

FINDING 28: The VEC's inclusion and participation programs do not appear to have had an effect on the low turnout among 20-to-39-year-old electors. They are also largely focused on school children and people in the 18-to-24-year-old age bracket, despite the fact that the lowest turnout rate is seen among 25-to-29-year-olds and turnout remains low for people in their 30s. The VEC's advertising targeted at younger voters did not increase their likeliness to vote.

69

RECOMMENDATION 19: That the VEC develop and trial measures within its inclusion and participation efforts to increase turnout among electors across the entire 20-to-39-year-old age cohort and not just the youngest electors.

69

RECOMMENDATION 20: That the VEC establish an advisory group aimed at advising on engagement programs for voters from 20 to 39 years old, a cohort which consistently shows low turnout.

69

FINDING 29: The VEC has improved its accountability by introducing election performance indicators for its inclusion and participation programs. These could be enhanced by measuring the enrolment and turnout of people participating in the VEC's programs and by establishing robust performance measurement systems for future plans and strategies.

73

4 Inclusive voting options

FINDING 30: Early votes accounted for 36.8% of all votes at the 2018 election. This continues the increase in early voting over recent Victorian elections. This trend is also evident in other Australian jurisdictions and New Zealand. 79

FINDING 31: The two-week early voting period places pressure on parties and candidates, and means that some people vote before all policies have been released. However, reducing the early voting period could make it harder for some Victorians to vote and could exacerbate problems currently experienced at early voting centres, such as queueing, difficulty parking and disrupting neighbouring businesses. The Committee supports retaining the existing two-week early voting period. 83

FINDING 32: Some Victorians find it difficult to vote between the hours of 8 am and 6 pm during the early voting period. Providing early voting outside these hours could help these Victorians to vote more easily and could increase electoral participation. Currently, the VEC only provides late-night voting on one day during the early voting period. 85

RECOMMENDATION 21: That the VEC provide extended voting hours on more days during the early voting period. The VEC should determine which days should have extended hours based on balancing the benefits to voters, the resource implications for the VEC and the impact on people campaigning. The Committee would not consider it appropriate for extended hours to apply on every day of the early voting period. 85

FINDING 33: The number of Independent Wheelchair Access voting centres increased by 80 at the 2018 election. However, the VEC did not meet its target and a fall in the number of Assisted Wheelchair Access voting centres resulted in the total number of wheelchair-accessible voting centres decreasing by 259. 90

FINDING 34: Most voters were satisfied with their experience at voting centres at the 2018 election. However, concerns were raised about some voting centres due to risks to voter safety, a lack of adequate parking, poor public transport access and the continued struggle to secure appropriate venues for voters with limited mobility. 92

RECOMMENDATION 22: That the VEC continue to explore new ways to find more suitable early voting and election-day voting centres, including learning from the approaches in other jurisdictions where appropriate. 92

RECOMMENDATION 23: That the VEC establish an election performance target for the number of Assisted Wheelchair Access voting centres at future elections. **92**

FINDING 35: The proportion of voters queueing on election day has increased significantly since 2010. While the VEC publishes information regarding queue times on a Victoria-wide basis, this does not provide a good indication of whether particular voting centres experienced long queue times. **95**

FINDING 36: The VEC has not established a performance target for queue times, as recommended by the Electoral Matters Committee in the 58th Parliament. **95**

FINDING 37: Candidates and volunteers who campaign and hand out how-to-vote cards at voting centres serve an important role in informing voters. The six-metre exclusion zone, in which people are restricted from campaigning and handing out how-to-vote cards near the entrance to a voting centre, helps maintain a balance between the needs of candidates and voters, contributing to high turnout and inclusive elections. However, even with this provision, voters may feel intimidated by campaigners at times. **97**

RECOMMENDATION 24: That the VEC, in its briefings, proactively engage candidates and parties around the need to minimise the anxiety that some voters may experience when approaching campaigners at a voting centre, with the aim of increasing campaigner sensitivity and reducing the anxiety some voters experience. **97**

FINDING 38: The postal voting rate decreased at the 2018 election, after rising at each election since 1999. Electors could apply for postal voting online for the first time in 2018, and the majority of all postal voting applications were made online. **99**

FINDING 39: Email voters were the least satisfied of all voter groups surveyed. Having to print, fold and post ballot papers back to the VEC was a major source of dissatisfaction. Some email voters would prefer to vote entirely online. **101**

FINDING 40: Changes to Australia Post's services may make it more difficult for some voters, especially in rural areas, to have their votes counted. **102**

RECOMMENDATION 25: That the VEC investigate and develop ways to ensure postal voting and other voting methods remain viable options for Victorians who cannot attend a voting centre. This includes assessing whether changes need to be implemented in response to changes to Australia Post's services. **102**

FINDING 41: At the 2018 election, 1,199 voters used electronic (telephone) assisted voting. Most voters who used the service were satisfied with it. The VEC has called for expanding the categories of people eligible to use electronic assisted voting. **104**

FINDING 42: Some overseas electors were unable to vote due to incorrect information regarding voting times on the VEC website. **105**

FINDING 43: Regional voters face a challenge in accessing voting due to the distances they are required to travel to early voting centres, especially if there is only one early voting centre in a district. **107**

RECOMMENDATION 26: That the VEC establish more early voting centres in larger regional districts and consider further innovative ways of providing voting options for voters living in regional Victoria, such as mobile voting centres. **107**

5 Trustworthy and transparent elections

FINDING 44: Concerns were raised during the Inquiry about the security of ballot papers (especially during the early voting period). The Committee received no evidence which indicated that fraud took place. However, the VEC’s public documentation provides little information about how votes are kept secure or about what checks are conducted by the VEC to ensure that no votes are misplaced or tampered with. Additional information may help to reduce public concern about the risk of electoral fraud or error. **115**

RECOMMENDATION 27: That the VEC improve its transparency in relation to the security of ballot papers, including:

- outlining ballot paper security measures in future state election service plans
- establishing and reporting on performance indicators and targets relating to ballot paper security as part of its election performance indicators
- reporting to Parliament after an election on the effectiveness of its measures to ensure that ballot papers were free from tampering and that no ballot papers were lost, including explanations for any variations in figures that might be used to confirm ballot paper security (such as differences between the number of electors marked off the roll and the number of votes counted). **116**

FINDING 45: At the 2018 election, a recount for Ripon District was called with only one hour's notice to candidates and parties. This made it difficult for parties to organise scrutineers to be present. The way that the recount was announced may also have caused some confusion for candidates.

119

RECOMMENDATION 28: That the Government amend the Electoral Act to:

- mandate a minimum length of time between notifying candidates and parties about a recount and commencing the recount
- specify a particular form of words in which recounts are announced, to avoid any confusion, and
- require the VEC to notify the relevant state secretaries of parties and contact officers for non-party-aligned candidates, as well as the candidates.

119

FINDING 46: The VEC publishes a variety of figures related to vote counting, including figures from different stages of the count process. As a result, adjustments to the way votes are counted can be seen by any interested person. However, the VEC does not provide specific explanations for individual adjustments, causing concern for some stakeholders.

125

RECOMMENDATION 29: That the VEC provide specific explanations on the results pages of its website for any significant adjustment to figures (e.g. more than 200 votes) made between the primary count or two-candidate-preferred count and the final results (recheck or recount results).

125

FINDING 47: Following previous elections, the VEC published data about the number of people who appeared to have voted more than once. These numbers were generally relatively small. However, the VEC did not publish these figures in relation to the 2018 election.

129

RECOMMENDATION 30: That the VEC include information about apparent multiple voting in all future reports on state elections. This should include quantifying the number of apparent multiple votes in each district.

130

RECOMMENDATION 31: That the VEC publish the results of its investigations into multiple voting at each state election, including noting the number of cases which remain unexplained to the VEC's satisfaction.

130

FINDING 48: Voter identification has the potential to reduce multiple voting, but may also disenfranchise some voters. Given the small scale of apparent multiple voting in Victoria, the Committee does not see any need to introduce voter identification at this time.

132

6 Transparent performance measurement and reporting

FINDING 49: The VEC reported that no legal challenges to the VEC's conduct were upheld in 2018, despite the fact that two of the VEC's decisions were overturned by the Victorian Civil and Administrative Tribunal.

136

RECOMMENDATION 32: That the VEC review the election performance indicator and budget paper measure 'Number of legal challenges to VEC conduct upheld' to ensure that what it measures is clear or change what is included when reporting on this measure.

136

FINDING 50: Submitters to this Inquiry raised a number of concerns about the selection of venues as voting centres, especially early voting centres. Given the importance of appropriate voting centres for the smooth running of an election, the VEC should introduce new performance indicators assessing the quality of voting centres at future elections.

138

RECOMMENDATION 33: That, in future election plans, the VEC include two new performance indicators with targets that relate to the suitability of venues used as a) early voting centres and b) election-day voting centres. These might include measures of the proportion of voting centres meeting a certain number of the VEC's selection criteria or voters' assessments as determined by the post-election evaluation. Results for these indicators should be included in future reports on state elections.

138

RECOMMENDATION 34: That, in future election plans, the VEC include two new performance indicators with targets that relate to the proportion of electors who queue for more than 10 minutes at a) early voting centres and b) election-day voting centres. Results for these indicators should be included in future reports on state elections.

138

FINDING 51: The VEC has several measures relating to the timeliness of vote counting, but only one measure relating to the accuracy of the count. The accuracy measure only indicates whether or not the VEC's efforts met the minimum standards required to prevent successful challenges in court.

139

RECOMMENDATION 35: That, in future election plans, the VEC include performance indicators that measure the accuracy of primary counts, two-candidate-preferred counts and, where possible, recheck results. Results for these indicators should be included in future reports on state elections.

139

FINDING 52: The VEC's five-year *Strategy 2023* seeks to make the VEC change-ready and better able to respond to circumstances. The VEC is currently developing a suite of performance measures and targets to monitor its performance towards the goals of the strategy. Developing comprehensive and robust measures, and being transparent about the VEC's performance, will be important to ensure that the strategy is implemented successfully and that the 2022 state election is delivered well.

141

FINDING 53: The VEC's *Disability access and inclusion plan* includes some actions which are defined at a very high level and does not include quantifiable measures and targets.

145

RECOMMENDATION 36: That, in developing future plans and strategies, the VEC include concrete actions, measures and quantified targets in the original plan at the time of release, so that stakeholders have a better understanding of what the VEC intends to do.

145

FINDING 54: The VEC is planning to develop several plans and strategies relating to engagement and inclusion. Previously, the VEC has not made all of its plans and strategies or the associated evaluation criteria publicly available.

146

RECOMMENDATION 37: That the VEC make all future inclusion and participation plans, strategies and key performance indicators publicly available.

146

7 Competitive elections

FINDING 55: The Labor Party, the Liberals and the Greens told the Committee that they had experienced delays in receiving notifications from the VEC about the registration of how-to-vote cards. However, the VEC's records indicated that there were no delays. The problem may lie in the processes used by the VEC to communicate with parties.

150

RECOMMENDATION 38: That the VEC talk with parties to understand their concerns about how-to-vote card registration and identify any changes to processes that could be helpful in the future. This may include emailing confirmation of each how-to-vote card's registration and providing an online register of the status of each submitted card which parties can view at any time.

151

FINDING 56: Successful candidates have access to mental and emotional support services through the Parliament. However, support may not be as easily available to unsuccessful candidates.

153

RECOMMENDATION 39: That the VEC investigate the practicability of facilitating mental and emotional support services for candidates and their families and include a service in its 2022 election planning if appropriate.

153

FINDING 57: Current electoral legislation does little to restrict false or misleading information being published about candidates and parties. Some submitters to this Inquiry called for more regulation by the VEC or an independent arbiter. Others have called for additional measures to disclose who is paying for political advertising and what they are saying. The Committee is currently conducting a separate inquiry into social media and online electoral advertising, which will consider these and other issues.

157

8 Voting centres

FINDING 58: Participants in this Inquiry expressed concerns about the failure of some voting centre managers to enforce the rule preventing campaigning within six metres of a voting centre entrance and about some voting centre managers enforcing the rule too strictly, endangering the safety of volunteers or inconveniencing neighbouring businesses.

162

FINDING 59: There were a number of alleged instances of intimidation and harassment of candidates and volunteers at the 2018 election. Concerns were raised about the way that some of these instances were managed by VEC staff and police.

166

RECOMMENDATION 40: That the VEC further develop its relationship with the police to establish procedures to enable quick and effective responses to any intimidation, harassment or violence at voting centres. **166**

FINDING 60: New legislation introduced in 2018 limits the amount of political signage near voting centres. However, there is some concern about various aspects of the legislation and the way it has been interpreted. The VEC has called for the legislation to be amended to provide greater clarity. **168**

RECOMMENDATION 41: That the Government seek to amend Section 158A of the Electoral Act to provide greater clarity around how many signs candidates and parties can set up at voting centres and what is permitted to be on those signs. The Government should also consider amendments relating to the status of mobile billboards, broadening the range of premises which are exempt from the signage restrictions and clarifying who is responsible for electoral signs. **169**

FINDING 61: A variety of stakeholders identified areas where they believe that the VEC's training of election officials could be improved. This included not only the implementation of new legislation but also basic knowledge and procedures about long-established activities. **171**

RECOMMENDATION 42: That the VEC consider the concerns raised in this chapter about the training of election officials as part of its planned review of the effective management of the VEC workforce during an election. **172**

RECOMMENDATION 43: That the VEC engage an independent expert to evaluate the effectiveness of its training procedures at the 2022 election. This evaluation should include examining the actual behaviour of election officials in voting centres to understand how effectively the training is translated into practice. **172**

FINDING 62: It can be difficult for candidates and parties to print how-to-vote cards and to organise volunteers to hand them out at early voting and election-day voting centres. **175**

FINDING 63: Facilitating the re-use of how-to-vote cards may make it easier for parties and candidates to campaign at voting centres. **175**

FINDING 64: Limiting the number of people allowed to campaign at voting centres or prohibiting people from handing out how-to-vote cards would undemocratically restrict people’s right to support their preferred candidates. **176**

FINDING 65: The VEC struggled to find suitable venues for early voting centres in some districts. As a result, some venues lacked facilities such as toilets or shelters for candidates and volunteers handing out how-to-vote cards. Some venues were impractical or dangerous for candidates and volunteers. The VEC stated that it is considering different ways to acquire early voting centres at future elections. **178**

RECOMMENDATION 44: That, in selecting venues for future elections, the VEC factor in the needs of candidates and volunteers (such as toilets, shelter and appropriate spaces for campaigning) as far as possible. **178**

9 Campaign funding

FINDING 66: The Committee welcomes the significant reforms to campaign funding, donations and disclosure requirements. The new system has the potential to improve competitiveness and transparency in Victorian elections. **184**

FINDING 67: The new election campaign funding, donations and disclosure system may present challenges for some candidates. These include difficulty raising money in country districts and uncertainty around candidates making contributions to their own campaigns. **184**

FINDING 68: There are differing views on whether an election campaign spending cap should be introduced. This issue may be considered as part of the independent, expert panel review following the 2022 election required by the Electoral Act. **188**

FINDING 69: The VEC has recommended removing the indexation of certain dollar amounts relating to donations and disclosures provided for by the Electoral Act, to reduce complexity and the risk of accidental non-compliance. This may be considered as part of the review required to take place after the 2022 election. **189**

10 Implementation of previous recommendations

FINDING 70: Processing early votes from 8 am on election day would increase the number of votes that are able to be counted on election night. 193

RECOMMENDATION 45: That the Electoral Act be amended to allow early votes to be processed, but not inspected, from 8 am on election day. Scrutineers should have the same access to observe this process as they have for current vote processing practices. 193

FINDING 71: The VEC received an increased number of complaints regarding political parties distributing postal vote applications in 2018. Electors find the practice misleading, believe it must be against the rules and sometimes believe the VEC has sent party political material, demonstrating bias. Legislative change ahead of the 2018 election limited, but did not prohibit, this practice. 195

RECOMMENDATION 46: That the Government amend the Electoral Act to prohibit any person or organisation other than the VEC from distributing postal vote applications. 195

FINDING 72: Of the 11 recommendations in the VEC's *Report to Parliament on the 2014 Victorian state election*, nine have been implemented or partially implemented. Two recommendations have not been implemented—the Committee does not support one but has recommended implementing the other. 195

FINDING 73: The current requirement for Victorian postal vote applicants to tick a box declaring that they understand their details may be provided to political parties and non-party-aligned candidates adds an element of confusion to the application process. This may result in applications being unnecessarily rejected. The Committee considers that having information attached to the application form explaining that applicants' details may be passed on is necessary, but a tick box declaration is not. 198

RECOMMENDATION 47: That the Government amend the Electoral Regulations 2012 to remove the requirement for applicants to separately declare that they understand that their name and address may be provided to registered political parties and non-party-aligned candidates. 198

FINDING 74: The 2018 election was the first at which the VEC was required to provide successful postal voter application data to political parties and non-party-aligned candidates. Feedback from the Liberal Party was that this process could be improved, particularly in terms of the timing for the VEC to provide data. 199

RECOMMENDATION 48: That the VEC consider improvements to the way it provides successful postal voter application data to political parties and non-party-aligned candidates at future elections, including providing the data sooner and clearly communicating set times for providing the data.

199

FINDING 75: Of the 23 recommendations in the Electoral Matters Committee's *Report on the inquiry into the conduct of the 2014 Victorian state election*, 17 have been implemented or partially implemented.

202

11 Reforming the Upper House electoral system

FINDING 76: A large number of submitters to this Inquiry called for changes to the Upper House electoral system. The proposed changes involve serious and complex issues. Any changes could potentially have significant consequences for the make-up of Victoria's Parliament. Changes to the Upper House electoral system should therefore be carefully considered as part of an inquiry specifically focused on that topic.

222

RECOMMENDATION 49: That the Parliament refer an inquiry into possible reforms of the Upper House electoral system to the Electoral Matters Committee.

222

1.1 Examining Victorian elections

After each Victorian state election since 2006, the Parliament has asked the Electoral Matters Committee to examine the way the election was conducted. These inquiries play an important role in our democratic system, as they provide the opportunity for concerns to be raised by any stakeholders. The inquiries identify potential improvements and can lead to changes in Victoria's electoral administration and law.

There is much to be proud of in Victoria's electoral system. The Victorian Electoral Commission (VEC) has an excellent reputation for the way that it delivers elections. However, there are some issues that the VEC has been tackling for some time where new approaches may be required. There are also new issues emerging as the expectations of Victorians change over time. Regular reviews are therefore important to maintain the high quality of elections in Victoria.

1.2 Key findings

Overall, the Committee did not find any evidence causing it to doubt the results of the 2018 election. The VEC met its legislated requirements and the Committee notes that many positive things were said about the VEC by a wide variety of stakeholders. However, submitters and witnesses to this Inquiry did identify various areas where improvements could be made.

Based on the information provided by these stakeholders and an analysis of the election data, the Committee has recommended changes in a variety of areas.

Most of these recommendations reflect four major themes.

1.2.1 Being more transparent and accountable

Transparency is one of the key criteria of a healthy electoral system. Transparency provides assurance that election results can be trusted and that elections have been run appropriately.

The VEC publishes a lot of data in reports and on its website. However, there are areas where additional data and explanations would be appropriate. This includes data about elections, such as the security of ballot papers, apparent multiple voting and variations in vote counts. It includes data about voters' behaviour, which can be important for research and for developing evidence-based policy. The VEC could also improve its performance measurement system by setting clear targets as part of all plans and by transparently reporting on its actual performance compared to these targets.

1.2.2 Conducting more research

A thorough understanding of the reasons for voters' behaviour is crucial if the VEC is to effectively respond to challenges in the electoral environment and to Victoria's changing circumstances.

The VEC has plans to conduct research in a variety of areas (see Box 6.1 in Chapter 6), which the Committee supports. The Committee has also recommended areas where additional research would be beneficial, especially regarding informal voting and the factors leading to lower turnout for younger voters and voters from culturally and linguistically diverse backgrounds.

1.2.3 Improving voting centres

The Committee would like to see changes to the location and number of voting centres in some districts to better cater for the community's needs. In particular, the Committee hopes to see new options for early voting explored at the 2022 election, as multiple concerns were expressed about the suitability of some venues used in 2018.

Voting centres are also an important venue for campaigners to inform voters and to communicate their messages. The VEC faces a difficult challenge in ensuring that the behaviour of all candidates and volunteers is in accordance with the law. Clarification of the rules about political signage at voting centres and improved processes for managing conflict between campaigners would help to make things run more smoothly.

1.2.4 Improving the VEC's processes

The VEC faces a massive task in staffing an election, with over 20,000 casual staff recruited during the election period. Evidence provided to the Committee suggested that there is scope for improvement in the training of election officials. The VEC's processes associated with registering how-to-vote cards and with notifying candidates about recounts were also identified as areas where change would be beneficial.

1.3 The Committee's approach

1.3.1 Criteria for reviewing an election

A great deal of work has been done by international bodies and academics to identify the characteristics of a strong democratic electoral system. From its analysis of this work and a consideration of the Victorian context, the Committee has identified three key questions that need to be asked when reviewing Victorian elections:

- **Was the election inclusive?** That is, were all eligible Victorians given the chance to participate?
- **Was the election trustworthy and transparent?** That is, did the VEC demonstrate that the results could be trusted?

- **Was the election competitive?** That is, did all candidates have a fair chance to be elected?

This report is structured around these three questions.

1.3.2 Was the election inclusive?

Chapter 2 examines the three key indicators of an inclusive election—the enrolment rate, the turnout rate and the formality rate. These indicators are generally regarded as important measures of the health of an electoral system.

Chapter 3 considers the VEC’s efforts to include two important groups of people who often participate at lower levels than other groups—younger voters and people from culturally and linguistically diverse backgrounds.

Chapter 4 looks at the different ways that people can vote (such as early voting, election-day voting and postal voting). It considers whether the options presented in 2018 were sufficient to meet the needs of Victoria’s voters and other participants in the electoral system.

1.3.3 Was the election trustworthy and transparent?

Chapter 5 looks at some of the most common concerns about trustworthiness in Victorian elections. These include ballot paper security, inaccuracies in vote counting and people voting more than once. The chapter examines the data and what the VEC did to reduce risks and to demonstrate that these concerns did not occur.

Chapter 6 examines the VEC’s performance measurement and reporting system and considers whether this provides an appropriate level of transparency about the VEC’s activities. The Committee looks at the whole performance management system from planning and setting targets through to reporting.

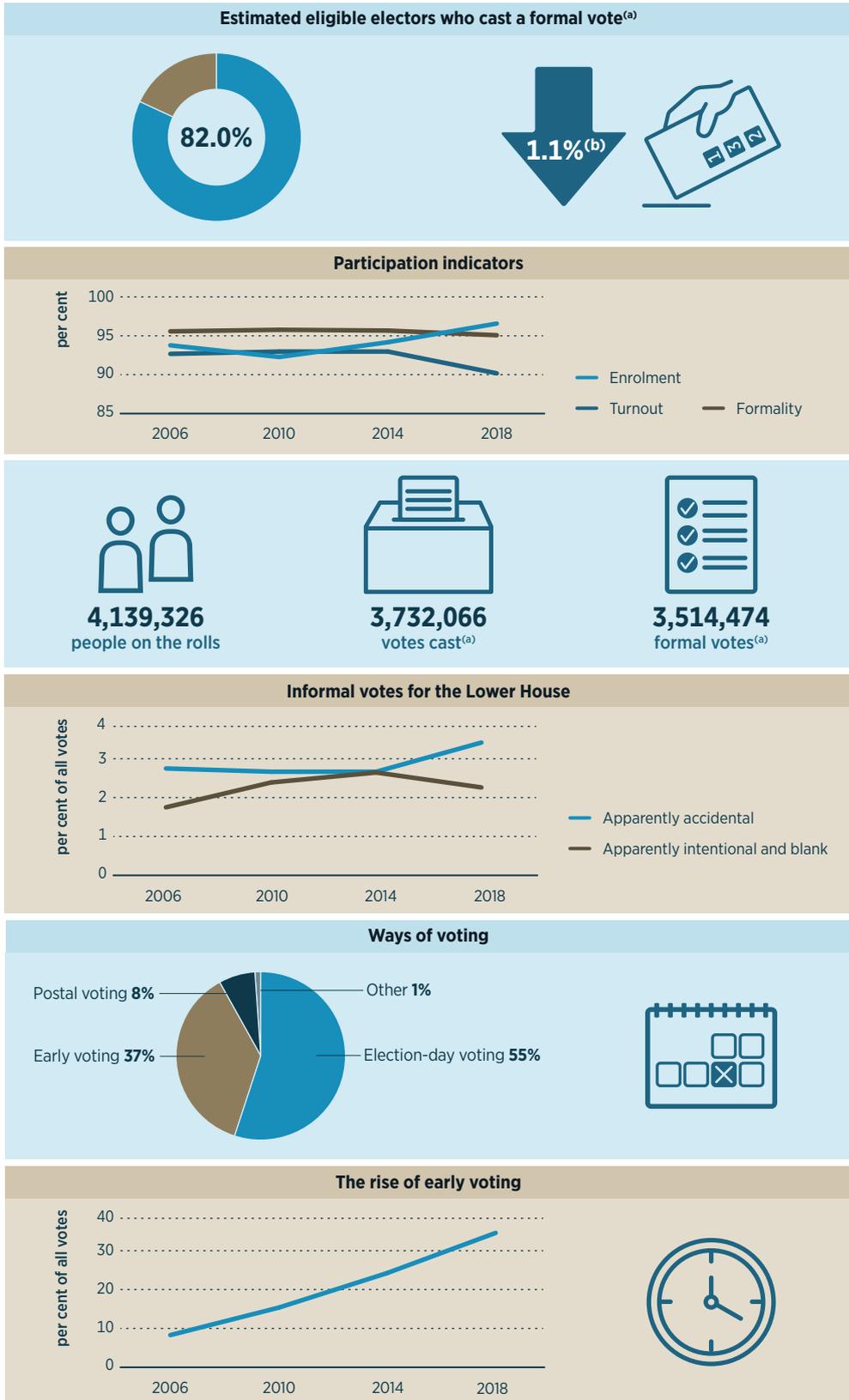
1.3.4 Was the election competitive?

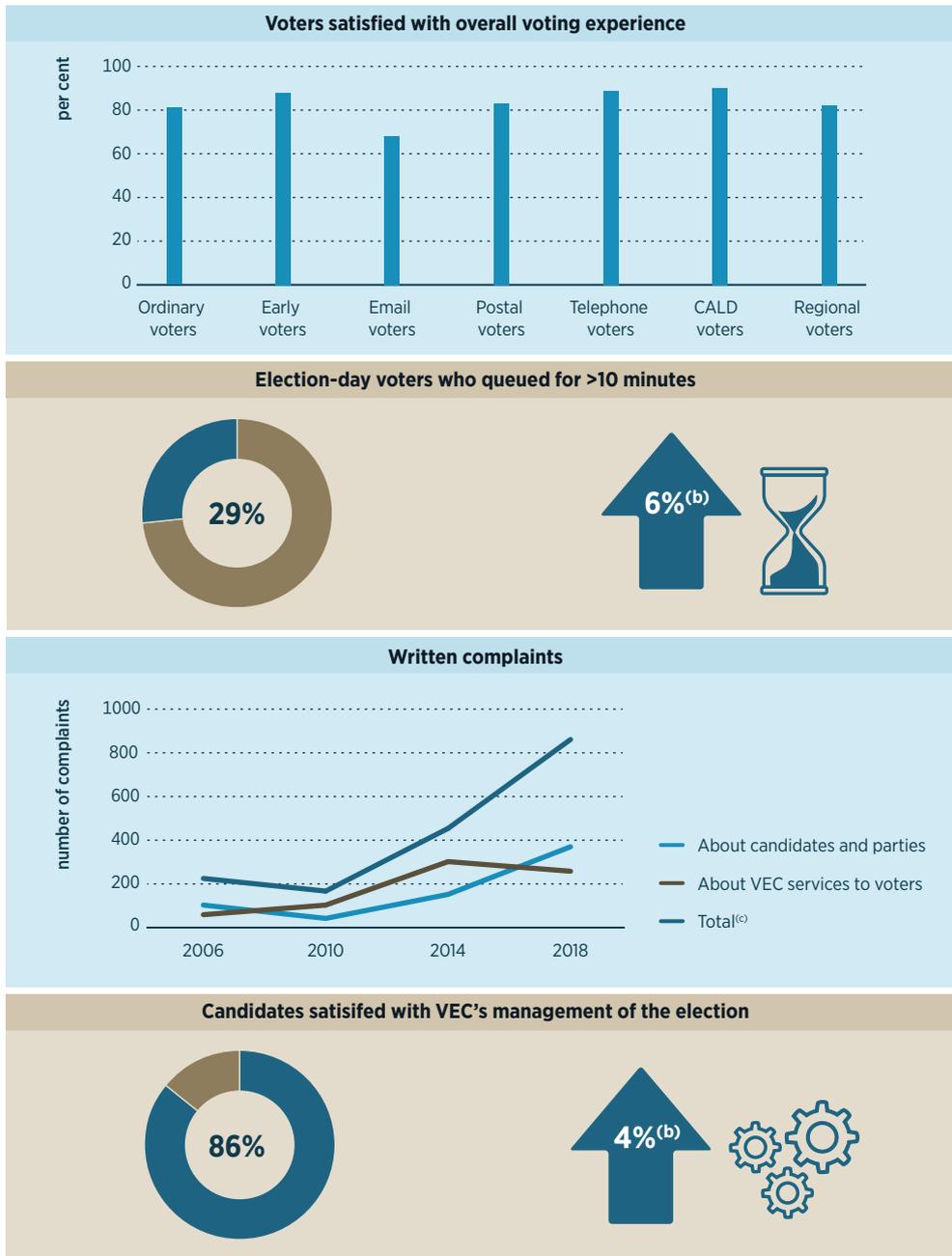
Chapter 7 looks at some of the VEC’s key services to candidates and parties (such as the registration of how-to-vote cards) and the extent to which they created a competitive election. It also considers whether Victoria’s electoral law enables voters to make informed choices.

Chapter 8 looks at the way that voting centres were managed from the perspective of candidates. It considers new legislation introduced in 2018 and additional changes that may make voting centres fairer for all candidates.

Chapter 9 considers Victoria’s new electoral funding, donations and disclosure system, which is also intended to level the playing field for candidates.

Figure 1.1 Key data about the 2018 election





a. Lower House only
 b. Change 2014 to 2018
 c. Includes other categories in addition to complaints about candidates/parties and about VEC services to voters.
 Source: Electoral Matters Committee, based on VEC data.

1.3.5 Previous recommendations

Following up previous recommendations is important for accountability and can help identify issues from previous inquiries that still need to be addressed. Chapter 10 of this report looks at the recommendations that were made by the VEC and the previous Electoral Matters Committee after the 2014 election. The chapter assesses how many of these have been implemented and what still needs attention.

1.3.6 The Upper House voting system

Chapter 11 looks at the voting system for the Upper House. More submissions were received from the community about this matter than any other issue during this Inquiry. Most of those submissions called for changes. The Committee considers that this is an important issue. However, changes to the voting system may have significant impacts on the make-up of Victoria's Parliament and need to be considered carefully. The Committee therefore believes that these matters should be considered in more detail as part of a separate inquiry. As a first step towards this new inquiry, Chapter 11 provides a summary of the key issues raised with the Committee. At this time, the Committee has not reached any conclusions about what changes would be appropriate.

1.4 Election data

In answering the questions set out in Section 1.3.1, the Committee has sought objective data wherever possible. Figure 1.1 outlines key data about the 2018 election. This information provides an overview of what occurred at the election. The data are analysed in more detail throughout the report.

1.5 The Inquiry process

In gathering evidence for this Inquiry, the Committee:

- received written submissions from 106 individuals and organisations
- conducted 13 public hearings
- organised two community forums for people from culturally and linguistically diverse backgrounds
- held meetings with electoral experts and other stakeholders in Sydney and Canberra
- analysed substantial quantities of data published by the VEC.

More details of the Inquiry process can be found in Appendix 1 of this report.

2.1 Introduction

In its guidance for election observers, the Organization of American States lists inclusive elections as one of the four basic conditions of democratic elections. In this context, inclusive elections are those in which all citizens are ‘enabled to express their preferences.’¹ This requires universal and equal suffrage, and the appropriate conditions for people to use their right to vote. The Organization lists four key questions that highlight the necessary conditions for people to use their right to vote:

- Are there significant legal or other hurdles to register to vote?
- Is the information on the electoral roll accurate?
- Are there significant legal or other hurdles to get to a polling station or otherwise cast a vote?
- Are all eligible and willing voters able to cast their vote and do so as intended?²

To answer these questions, the Committee looked at three measures which are regularly used to assess electoral participation:

- the enrolment rate (that is, the proportion of the eligible population that is enrolled)
- the turnout rate (that is, the proportion of enrolled voters who actually cast a vote)
- the formality rate (that is, the proportion of votes that have been filled out in a way that means they can be counted).

The enrolment rate (looked at in Section 2.2 of this chapter) can be used to understand if there are hurdles to registering to vote and if the information on the electoral roll is accurate. The turnout and formality rates (Sections 2.3 and 2.4) can indicate whether there are hurdles preventing people from casting votes and whether the system allows people to cast their votes as they intend.

Trends over time for these three key measures give a good indication of the health of an electoral system, particularly in terms of inclusivity.

Good work has been done by the VEC in recent years to improve the enrolment rate, which is now estimated at 96.6% of the eligible population (up from 94.2% in 2014).

1 General Secretariat of the Organization of American States, *Methods for Election Observation: A Manual for OAS Electoral Observation Missions*, report prepared by Gerardo L. Munck, Washington DC, 2007, p. 7.

2 General Secretariat of the Organization of American States, *Methods for Election Observation: A Manual for OAS Electoral Observation Missions*, report prepared by Gerardo L. Munck, Washington DC, 2007, p. 8.

However, this has been offset by declines in the turnout and formality rates. Turnout fell to 90.2% after holding steady around 93% at the previous four elections. Formality for both houses fell in 2018, to 94.2% for the Lower House and 96.0% for the Upper House.

The combined results for these measures show that 82.0% of estimated eligible Victorians cast a formal vote for the Lower House at the 2018 election. This is down from 83.1% at the 2014 election, indicating a growing problem. In addition, the enrolment, turnout and formality rates were all lower than the VEC's targets for 2018.

Sections 2.2 to 2.4 of this chapter attempt to understand the reasons behind Victoria's enrolment, turnout and formality rates. While they may be partly driven by factors outside of the VEC's control, it appears that there are also actions that the VEC could take to improve matters.

In addition, the Committee considers that the VEC's analysis of the factors impacting participation in 2018 could have been more complete. The Committee emphasises the need for the VEC to improve its reporting on the factors impacting enrolment, turnout and formality through increased research, statistical reporting and performance measurement. An improved understanding of the situation will be an important component of designing appropriate programs to improve participation at future elections.

Other aspects of inclusive elections are considered in Chapters 3 and 4. Chapter 3 looks at the situation in 2018 for two groups which have been identified as having lower levels of participation—younger people and people from culturally and linguistically diverse backgrounds.³ Chapter 4 focuses on the voting options provided by the VEC to understand whether all voters had access to appropriate options to vote.

During this Inquiry, concerns were also raised about Upper House voting and whether people's votes were counted as intended. These issues are discussed in Chapter 11.

2.2 Enrolment

'At the close of rolls at 8.00 pm on Tuesday 6 November, there were 4,139,326 people enrolled to vote in the election, compared with 3,806,301 in 2014, representing an increase of 8.75% ...'⁴

The enrolment rate is an estimate of the proportion of eligible electors who are on the electoral roll. The VEC and Australian Electoral Commission (AEC) have a number of programs to automatically enrol people when they register or update their details

³ The Electoral Matters Committee in the 58th Parliament reported on participation by culturally and linguistically diverse Victorians and 18-to-24-year-old electors in its report on the *Inquiry into civics and electoral participation in Victorian state parliamentary elections*. That report made extensive recommendations regarding electoral participation in August 2018. While the recommendations in this report at times build on those earlier recommendations, the Committee is not performing an audit or reconciliation of the VEC's implementation of the August 2018 report recommendations. This report instead focuses on trends at the 2018 election, using lessons learned from the previous inquiry where possible.

⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 8.

with various agencies (see Section 2.2.1). They also encourage people to update their details manually (see Section 2.2.2). However, these programs do not capture all eligible electors.

Enrolment at the 2018 election was 4,139,326, which is estimated to be 96.6% of eligible electors. This is an increase from 94.2% at the 2014 election and lower rates before that (see Table 2.1).

The VEC's target for enrolment is for Victoria to be one percentage point higher than the national average. Although the VEC met this target previously, it did not meet the target at the 2018 election (see Table 2.1).

Table 2.1 Enrolment as a percentage of eligible electors—Victorian elections, 2006 to 2018

	2006	2010	2014	2018
Proportion of estimated eligible Victorian population enrolled at election time	93.8 ^(a)	92.3 ^(a)	94.2	96.6
National average	92.8 ^(a)	90.9 ^(a)	92.5	96.2
Victorian enrolment compared to national average	+1.0	+1.4	+1.7	+0.4

a. Estimates at election time are not available for these years—these numbers are from 30 June in the year following the election.

Sources: Victorian Electoral Commission, *Submission 92* (revised), pp. 1, 135; Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 120; Victorian Electoral Commission, *Annual report 2010–11*, Melbourne, 2011, p. 29.

The reason for the VEC not meeting its target in 2018 is that the national average has grown at a faster rate than Victoria's enrolment rate. The VEC explained:

Although the VEC sets a target for enrolment to be at least 1% higher than the national average, the 2017 Australian Marriage Law Postal Survey, 2018 State election and the 2019 federal election had a consolidated effect to significantly increase the [national] enrolment rate ...⁵

Direct enrolment programs (see Section 2.2.1) are also impacting on enrolment rates.

The Committee is pleased that the enrolment rate has increased over the past four elections and is now greater than 96%. However, the continued increase in the enrolment rate in Victoria and other Australian jurisdictions leaves less room for the VEC to achieve its enrolment target (greater than or equal to one percentage point above the national average). The enrolment target may no longer be appropriate as a measure of the VEC's enrolment efforts.

⁵ Victorian Electoral Commission, *Annual report 2018–19*, Melbourne, 2019, p. 56.

FINDING 1: Enrolment in Victoria has increased from approximately 93.8% of eligible electors in 2006 to 96.6% in 2018. The VEC failed to meet its enrolment target of one percentage point greater than the national average, as enrolment rates in other jurisdictions have grown at a faster rate than Victoria. As enrolment rates in Victoria and other Australian jurisdictions become higher, the VEC’s enrolment target may be less appropriate.

RECOMMENDATION 1: That the VEC consider the appropriateness of its enrolment rate target in light of increases in enrolment nation-wide.

2.2.1 Direct enrolment

‘Since 2010, the VEC and AEC have engaged in direct enrolment, using information from trusted sources to enrol electors instead of waiting – in some cases indefinitely – for people to do it themselves. As a result, the estimated proportion of eligible Victorians on the roll has increased from 90.85% in [June] 2010 to 96.60% at the 2018 State election ...’⁶

Since 2010 the VEC has used data from other government agencies to directly add people to the Register of Electors. These agencies include:

- VicRoads
- the Victorian Curriculum and Assessment Authority
- the Residential Tenancies Bond Authority.⁷

Before enrolling a person based on this information, the VEC writes to the person advising them of what it plans to do. The person then has a chance to correct any details or provide a reason why they should not be enrolled.⁸

The AEC also receives data from some additional agencies and operates a similar program.⁹ The results are shared with the VEC.¹⁰

⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 71.

⁷ *Electoral Act 2002* s 26; Victorian Electoral Commission, *Information privacy guidelines*, 2017, pp. 4–5.

⁸ *Electoral Act 2002* ss 23A, 26. The VEC in 2019 recommended expanding this program by allowing it to also update the address details of electors who are already on the roll—Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, pp. 21, 110.

⁹ AEC, *Direct enrolment and update*, 2019, <https://www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/direct.htm> accessed 29 April 2020.

¹⁰ Victorian Electoral Commission, *Annual report 2018–19*, Melbourne, 2019, pp. 56, 59.

BOX 2.1: Register of Electors

The VEC maintains a permanent Register of Electors and their personal details, which is continually updated. The details on the Register of Electors on 6 November 2018 were used to create the electoral roll for the 2018 election.

The data for the Register of Electors comes from:

- people filling out paper enrolment forms which they send to the VEC
 - direct enrolment (see Section 2.2.1)
 - data from the Australian Electoral Commission (AEC), which can come from electors submitting paper or online enrolment forms to the AEC,^a or the AEC's direct enrolment activities.
- a. The AEC operates a joint online enrolment system with the VEC. The VEC stopped operating its own online enrolment system during 2017-18.

Sources: Victorian Electoral Commission, *Submission 92* (revised), pp. 8-9; Victorian Electoral Commission, *Annual report 2018-19*, Melbourne, 2019, p. 59.

The VEC reported that 324,501 electors were directly enrolled between the start of 2017 and the 2018 election.¹¹ The VEC considers that direct enrolment has contributed to the rise in the enrolment rate since 2010.¹²

Other Australian jurisdictions also report an increase in enrolment as a result of direct enrolment programs.¹³

FINDING 2: Direct enrolment has contributed to a significant rise in Victoria's enrolment rate since 2010.

¹¹ Victorian Electoral Commission, *Submission 92* (revised), p. 72.

¹² Victorian Electoral Commission, *Submission 92* (revised), p. 71. The figure of 90.85% is at 30 June 2010, before the 2010 election. The figure of 92.3% in Table 2.1 is as at 30 June 2011, following the election in November 2010.

¹³ New South Wales Electoral Commission, *Report on the conduct of the 2015 state general election*, Sydney, 2015, p. 15; Electoral Commission of South Australia, *Election report: 2018 South Australian state election*, Adelaide, 2019, p. 14; Western Australian Electoral Commission, *2017 state general election—election report*, 2017, p. 7; ACT Electoral Commission, *Report on the ACT Legislative Assembly election 2016*, Canberra, 2017, p. 17; Australian Electoral Commission, *Voter turnout – 2016 House of Representatives and Senate elections*, Canberra, (n.d.), p. 30. This includes jurisdictions that do not perform their own direct enrolment procedures, as they receive AEC data collected via direct enrolment through Joint Roll Agreements with the AEC—Australian Electoral Commission, *Direct enrolment and direct update: the Australian experience*, 2012, p. 5.

2.2.2 VEC enrolment programs at the 2018 election

‘To maintain the accuracy of the Register of Electors, the Victorian Electoral Commission (VEC) uses a range of strategic programs to help Victorians enrol or update their enrolment.’¹⁴

Ahead of the 2018 election, the VEC conducted a range of initiatives aimed at ensuring eligible Victorians were enrolled and enrolled correctly. This is in addition to the VEC’s regular enrolment activities, such as sending birthday cards and enrolment information to eligible Victorian students on their 17th birthday (when they can provisionally enrol)¹⁵ and regular collaboration with the AEC.¹⁶

The VEC conducted an enrolment advertising campaign prior to the election, including ‘television, radio, newspaper, online and outdoor advertising to remind eligible electors to enrol or update their enrolment details using any of the available methods.’¹⁷

The VEC facilitates Victorians enrolling or updating their enrolment during this period by continuing the standard online and paper processes, as well as allowing enrolment and updates ‘at the VEC head office, any election office, or any AEC divisional office throughout the state.’¹⁸ All VEC election offices and AEC divisional offices were open until 8 pm on the day the roll closed.¹⁹

‘Of the 405,919 electors who visited the VEC’s enrolment portal during the welcome and close of roll campaign, more than 250,000 (62%) arrived at the portal from an email link, and a further 141,000 ... arrived via an SMS link.’²⁰

VoterAlert was a new communication service used by the VEC at the 2018 election. The VEC contacted almost two million electors via email or SMS message with messages aimed at reminding voters of key activities during the election, including checking their enrolment.²¹

The VEC believes that VoterAlert contributed to an increase in people checking their enrolment details:

Almost 720,000 people checked their enrolment online – a tenfold increase from 2014. The success of the enrolment portal in 2018 can be attributed to VoterAlert, which accounted for three quarters of traffic to the portal (541,834 users and 700,710 sessions).²²

¹⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 8.

¹⁵ Victorian Electoral Commission, *Annual report 2017-18*, Melbourne, 2018, p. 47; Victorian Electoral Commission, *Submission 92* (revised), p. 8.

¹⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 8.

¹⁷ Victorian Electoral Commission, *Submission 92* (revised), p. 8.

¹⁸ Victorian Electoral Commission, *Submission 92* (revised), p. 9.

¹⁹ Which was also the Melbourne Cup public holiday. Victorian Electoral Commission, *Submission 92* (revised), p. 9.

²⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 16.

²¹ Victorian Electoral Commission, *Submission 92* (revised), p. 16.

²² Victorian Electoral Commission, *Submission 92* (revised), p. 17.

The Committee is impressed with the degree to which VoterAlert appears to have influenced people to check their enrolment online. The Committee notes the VEC has plans to expand the VoterAlert program at both local government elections and future state elections.²³

The VEC is also planning to conduct research into the effectiveness of its enrolment engagement strategy²⁴ and to develop an Electoral Roll Management Strategy.²⁵

FINDING 3: The VEC contacted close to two million electors through the VoterAlert program. Over 500,000 electors used VoterAlert email and SMS message links to check their enrolment online.

2.2.3 2017 Australian Marriage Law Postal Survey

‘There was a surge in enrolments in the lead-up to the 2017 Australian Marriage Law Postal Survey.’²⁶

The VEC noted in its 2017–18 annual report that the ‘2017 Australian Marriage Law Postal Survey prompted a significant increase in enrolments, both nationally and across Victoria’.²⁷

The Survey was held from 12 September to 7 November 2017.²⁸ In the month before this (August 2017), 35,730 Victorian electors enrolled for the first time.²⁹ For context, Table 2.2 shows the increase in the number of people on the roll by year.

Table 2.2 Increase in the number of people on the Victorian electoral roll by year, 2012–13 to 2018–19

	2012–13	2013–14	2014–15	2015–16	2016–17	2017–18	2018–19
Increase in enrolment	39,363	103,089	92,179	89,705	31,313	123,449	114,286

Sources: Victorian Electoral Commission, *Annual report 2012–13*, Melbourne, p. 42; *Annual report 2013–14*, Melbourne, p. 48; *Annual report 2014–15*, Melbourne, p. 52; *Annual report 2015–16*, Melbourne, 2016, p. 56; *Annual report 2016–17*, Melbourne, 2017, p. 48; *Annual report 2017–18*, Melbourne, 2018, p. 47; *Annual report 2018–19*, Melbourne, 2018, p. 56.

²³ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 9; Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 10.

²⁴ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 5.

²⁵ Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, p. 16.

²⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 73.

²⁷ Victorian Electoral Commission, *Annual report 2017–18*, Melbourne, 2018, p. 47.

²⁸ Australian Bureau of Statistics, *1800.0 - Australian Marriage Law Postal Survey, 2017*, 2017, <<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1800.0-2017-Main%20Features-Survey%20process-30>> accessed 18 December 2019.

²⁹ And were still on the roll at the 2018 election: Victorian Electoral Commission, *Submission 92* (revised), p. 73.

The 35,730 newly enrolled electors represent approximately 10% of the total enrolment increase since the 2014 election. Of the 35,730 who enrolled in August 2017, over 75% were under 30 years old—32.2% were younger than 20, and 43.8% were in their 20s.³⁰

FINDING 4: The 2017 Australian Marriage Law Postal Survey partly contributed to the high enrolment rate at the 2018 election. The majority of people enrolling in the lead-up to the Survey were under 30.

2.2.4 Younger people and enrolment

The *Inquiry into civics and electoral participation in Victorian state parliamentary elections* conducted by the previous Electoral Matters Committee noted that:

There has been a longstanding concern, both amongst electoral commissions and commentators, in Australia and Victoria about rates of youth electoral enrolment ... On an average, yearly basis, according to the AEC, the youth enrolment rate has been approximately nine percent lower than the enrolment rate for the general population since 2005.³¹

Young people are one of the priority communities the VEC targeted as part of its *Community education and electoral inclusion strategy 2017–2019*,³² and the VEC identified young people as one of its target groups for electoral participation programs at the 2018 election.³³ Young people aged 18 to 24 were also a focus of the VEC's 2018 election advertising services.³⁴

The AEC aims for 80% enrolment among 18-to-24-year-old electors. The current AEC figure (as at March 2020) is 84.8%.³⁵ These figures are published quarterly on the AEC's website.³⁶

While the VEC has published a breakdown of the electoral roll at the 2018 election by age, it has not published estimates of enrolment as a proportion of eligible electors within each age bracket.³⁷ Nor does the VEC publish performance targets for enrolment by any specific age brackets.

³⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 73.

³¹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, p. 29.

³² Victorian Electoral Commission, *Submission 12a*, submission to the Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, 2018, pp. 2–3. The VEC has begun evaluating its education and inclusion strategy following the end of its implementation period—Victorian Electoral Commission, *Annual report 2018–19*, Melbourne, 2019, pp. 15, 19.

³³ Victorian Electoral Commission, *Submission 92* (revised), p. 23.

³⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 15.

³⁵ Australian Electoral Commission, *National youth enrolment rate*, 2020, <https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/performance/national-youth.htm> accessed 29 April 2020.

³⁶ Australian Electoral Commission, *National youth enrolment rate*, 2020, <https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/performance/national-youth.htm> accessed 29 April 2020.

³⁷ Victorian Electoral Commission, *Submission 92* (revised), p. 8.

The Committee believes that publishing data on the proportion of eligible electors enrolled, broken down by age, would be beneficial as a measure of the VEC's efforts to ensure all eligible Victorians are enrolled. An age breakdown would provide information which allows this Committee and the community to assess the VEC's efforts at increasing enrolment among certain age groups and would highlight emerging areas of need.

The Committee notes this is an expansion on the comments and recommendations made in the *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, which recommended the VEC 'include statistics about the enrolment rate of eligible Victorian electors aged 18 to 24 years in its annual report to Parliament, and in each report to Parliament on a Victorian state election'.³⁸

FINDING 5: Younger people enrol at lower rates than people in other age brackets across Australia. The VEC does not publish statistics or a performance measure regarding the enrolment rate of eligible Victorian electors by age bracket.

RECOMMENDATION 2: That the VEC regularly publish data on the proportion of eligible electors who are enrolled, broken down by age.

RECOMMENDATION 3: That the VEC establish performance targets relating to the proportion of people in different age brackets who are enrolled. This will enable it to track its progress in this area.

Implementing this recommendation would also allow the VEC to more meaningfully report on turnout rate by age cohort (see Section 3.2.1).

2.3 Turnout

'While more Victorians voted in 2018 than at any previous State election, the turnout rate for the State as a whole was 90.16% – the lowest since the 1945 State election ... This was a disappointing result, particularly given the comprehensive communication campaign across social media and outdoor advertising. It is incumbent on the Victorian Electoral Commission (VEC) to try to account for this development.'³⁹

Turnout is a measure of the proportion of enrolled voters who cast a vote. Turnout, along with enrolment and formality, gives an indication of the health of an electoral system.⁴⁰

³⁸ Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, p. 32.

³⁹ Victorian Electoral Commission, *Submission 92 (revised)*, p. 71

⁴⁰ Lower House turnout is highly predictive of Upper House turnout. Upper House turnout was within 0.03% of Lower House turnout at every Victorian election since 1999. As such the Committee uses Lower House turnout as a measure of turnout for elections as a whole, and any references to turnout in this report that do not specify a house refer to Lower House turnout.

At the 2018 election, turnout was 90.2% for the Lower House. This did not meet the VEC’s target of 93.0%.⁴¹ It is also almost 3 percentage points less than the average turnout for Victoria between 2002 and 2014 (93.0%), and the lowest rate since 1945.⁴²

Table 2.3 Voter turnout—Victorian elections, 2002 to 2018

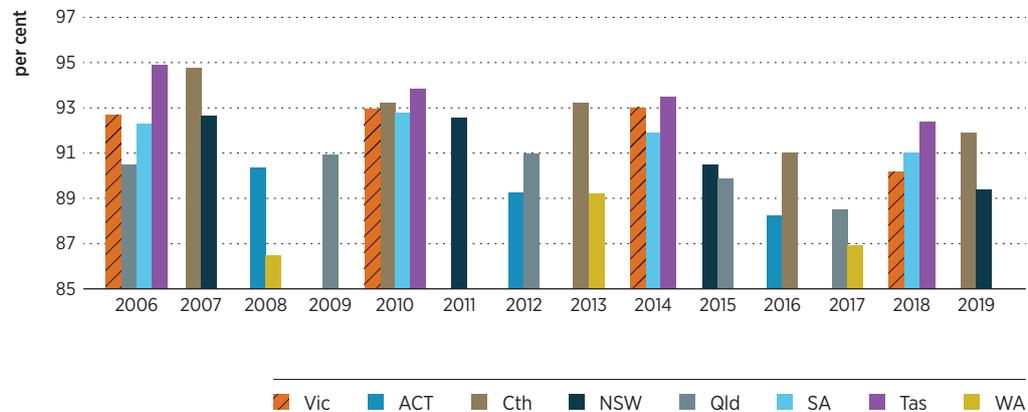
	2002	2006	2010	2014	2018
Turnout as a percentage of enrolled electors	93.2	92.7	93.0	93.0	90.2

Sources: Victorian Electoral Commission, *Submission 92* (revised), p. 103; Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 111.

Declining turnout is not a uniquely Victorian trend. Elections across Australia and the world have seen falling turnout rates. Research on elections across 20 democracies worldwide from 1950 to 2012 showed a significant linear decline in turnout since 1980.⁴³

Victoria’s turnout relative to other Australian jurisdictions decreased at the 2018 election. In 2010 and 2014 Victoria had one of the highest turnout rates, but it is now in the middle of the pack (see Figure 2.1.). While Victoria does not have the consistently low turnout of the Northern Territory, ACT and Western Australia, the drop in turnout from the 2014 to 2018 elections places Victoria’s turnout below the most recent Commonwealth, Tasmanian and South Australian elections.

Figure 2.1 Turnout across Australian jurisdictions, 2006 to 2019



Note: Lower Houses and unicameral Parliaments included only. Northern Territory excluded as turnout rate is in the 70s and therefore less comparable.

Source: Electoral Matters Committee, based on data from electoral commissions.

41 Victorian Electoral Commission, *Submission 92* (revised), p. 137.

42 Victorian Electoral Commission, *Submission 92* (revised), p. 71.

43 Marc Hooghe and Anna Kern, ‘The tipping point between stability and decline: trends in voter turnout, 1950–1980–2012’ *European Political Science*, vol. 16, no. 4, 2017, doi: 10.1057/s41304-016-0021-7.

FINDING 6: Turnout at the 2018 election was 90.2%, 2.8 percentage points lower than in 2014, below the VEC’s target and the lowest rate since 1945.

The VEC noted its disappointment in the turnout rate at the 2018 election.⁴⁴

Gaining an accurate understanding of the factors influencing turnout is an important step in designing and delivering communication strategies and other programs that are effective at increasing turnout. The following sections discuss factors affecting turnout, including those suggested by the VEC as impacting on turnout at the 2018 election.

2.3.1 VoterAlert

‘A total of 90.22% of VoterAlert recipients cast a vote throughout the State election.’⁴⁵

As discussed in Section 2.2.2 VoterAlert was a new communication service used by the VEC at the 2018 election. VoterAlert sent almost two million electors email or SMS messages reminding them of key activities during the election, including the start of early voting and election day.⁴⁶

Ms Sue Lang, VEC Director of Communication and Engagement, told the Committee that the VoterAlert reminders had been effective at driving turnout:

Ultimately, I would love to see everybody getting those reminders, because they actually are effective. When we looked at the rate of voting or turnout of those who actually received an alert, it was 91 per cent of those who had received a reminder actually turned out to vote.⁴⁷

However, the turnout rate for those contacted via VoterAlert according to the VEC’s submission was 90.22%, which is only 0.06 more than the overall turnout rate of 90.16%.⁴⁸

The Committee supports VoterAlert in principle. Part of the VEC’s role is to engage in mass communication of electoral information in a way that is convenient for voters. The Election Guide mailed to all electors and VoterAlert are examples of this service. The Committee further notes that non-voters have told the VEC that receiving SMS reminders (as VoterAlert provides) would help them to vote.⁴⁹ As discussed in Section 2.2.2, VoterAlert may also have contributed to an increase in the number of voters confirming their enrolment details prior to the election.

⁴⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 71.

⁴⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 16.

⁴⁶ The VEC initially contacted 1,968,739 electors as part of the VoterAlert program. This dropped to 1,938,687 at the start of early voting, after some people dropped out and invalid contact details were removed. Victorian Electoral Commission, *Submission 92* (revised), p. 16.

⁴⁷ Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 10.

⁴⁸ Victorian Electoral Commission, *Submission 92* (revised), pp. 16, 71.

⁴⁹ The Social Research Centre, *Understanding non-voters of Victorian state and council elections*, Melbourne, 2018, pp. ix, 20–1.

However, the Committee is yet to see evidence that VoterAlert is an effective method of increasing turnout. The turnout rate among the half of the electors who received reminders from VoterAlert was only slightly higher than the turnout rate for all electors, and there are many unexplored factors that could be affecting turnout among VoterAlert electors (for example, people who sign up for VoterAlert may be more likely to vote, even without reminders).

FINDING 7: The Committee supports the concept of VoterAlert as a mass communication tool that provides electoral information to voters in a convenient way. However, the 2018 data suggest that it was not effective at increasing the turnout rate.

RECOMMENDATION 4: That the VEC conduct an evaluation of the effectiveness of VoterAlert at impacting voter turnout, including a cost-benefit analysis, and publish the results. The VEC should consider this evaluation in deciding whether to continue or expand the program at future elections.

2.3.2 Trend in electors excused from voting

Victoria's compulsory voting system includes fines for people who do not vote in state elections unless they have a valid explanation. While close to 400,000 enrolled electors did not vote in 2018, slightly more than half had excuses which were accepted (such as being overseas or illness) and were not issued with a fine (see Table 2.4).

Table 2.4 Voters excused from compulsory voting—Victorian elections, 2010 to 2018

	2010	2014	2018
Non-voters (enrolled)	252,367	266,161	396,373
Non-voters who had an accepted excuse	138,992	139,923	204,921
Non-voters who were sent infringement notices	113,375	126,238	191,452

Sources: Victorian Electoral Commission, *Submission 92* (revised), pp. 45–6; Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 39; Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 89.

The Committee notes the increase in both non-voters with accepted excuses and non-voters without accepted excuses. Both trends require investigation and analysis—to understand why voters without accepted excuses chose not to vote and why voters with accepted excuses did not make use of the various voting options provided by the VEC (see Section 4.2).

The VEC records reasons electors give for not voting through its election management system, combining data both from responses to Apparent Failure to Vote Notices and excuses provided prior to notices being sent.⁵⁰ The VEC does not publish the data.

The Committee believes that publishing the data would give valuable context to the VEC's current reporting on turnout rates. It should be made public as part of the VEC's regular post-election reporting.

FINDING 8: The VEC does not regularly publish information relating to reasons non-voters provide for not voting at state elections.

RECOMMENDATION 5: That, in future post-election reporting, the VEC publish an analysis of the explanations given for not voting and what that indicates about why people did not vote.

2.3.3 VEC explanations for the drop in turnout at the 2018 election

At the 2018 election, 396,373 enrolled electors failed to vote, 130,212 more than in 2014. The VEC identified multiple possible reasons for this drop in turnout, including:

- dissatisfaction and disconnection with democracy and government in general
- high enrolment (created by direct enrolment and a surge in enrolment ahead of the 2017 Australian Marriage Law Postal Survey—see Sections 2.2.1 and 2.2.3)
- large numbers of Victorians travelling overseas
- low participation by young people
- low participation in areas with high proportions of residents who are not proficient in English and that have a degree of social disadvantage.⁵¹

An AEC report into voter turnout at the 2016 Commonwealth election notes that there are 'many factors that may result in lower levels of voter turnout and in many cases it is not possible to accurately quantify or even separately identify the impact of these factors.'⁵²

While acknowledging this, the Committee's view is that the explanations provided by the VEC for the drop in turnout at the 2018 election were lacking. While the reasons provided by the VEC were likely contributors to the drop in turnout, they were not

⁵⁰ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, pp. 3–4.

⁵¹ Victorian Electoral Commission, *Submission 92 (revised)*, pp. 71–3; Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 10; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, pp. 9, 13; Victorian Electoral Commission, *Annual report 2018–19*, Melbourne, 2019, p. 45.

⁵² Australian Electoral Commission, *Voter turnout—2016 House of Representatives and Senate elections*, (n.d.), <https://www.aec.gov.au/About_AEC/research/files/voter-turnout-2016.pdf> accessed 29 April 2020, p. 13.

explained or quantified to the Committee’s satisfaction. This makes it difficult to determine appropriate strategies to improve turnout at future elections. The sections below describe this in more detail.

Dissatisfaction with democracy

‘Satisfaction with democracy is currently at its lowest level since the constitutional crisis of the 1970s, following the dismissal of Gough Whitlam as prime minister.’⁵³

Voter disengagement with politics, government or democracy in general contributes to lower turnout. The VEC’s Director of Communication and Engagement told the Committee:

... there is a cohort there who are intentionally not voting. There has been lots of work done on this, because it is not just unique to Victoria, or any state of Australia or in fact any part of the world where young people are turning out to vote. It is a significant issue and it is usually more to do with their attitude towards the current system and how it is comprised, so it is a lot of factors. They do not relate to it and do not see that connection, which is why all of our education programs are around trying to get them to see that connection between the things that they care about—and that is a myriad of things—and the actual connection to their everyday lives and how that affects politics and why it is important to vote.⁵⁴

The Australian Election Study examines ‘citizen attitudes towards the standard of democratic politics in Australia’ across time.⁵⁵ The Study’s 2019 research shows that satisfaction with democracy is at its lowest level since the 1970s.⁵⁶ Satisfaction has dropped from 86% in 2007 to 59% in 2019.⁵⁷

The Committee recognises this as something the VEC can attempt to counteract, but the broader issue is outside its control.

FINDING 9: Satisfaction with democracy in Australia has fallen from 86% in 2007 to 59% in 2019, the lowest level since the 1970s. Low satisfaction can contribute to low voter turnout.

⁵³ Sarah Cameron and Ian McAllister, *The 2019 Australian Federal Election: Results from the Australian Election Study*, The Australian National University School of Politics and International Relations, Canberra, 2019, p. 15.

⁵⁴ Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 10.

⁵⁵ Sarah Cameron and Ian McAllister, *The 2019 Australian Federal Election: Results from the Australian Election Study*, The Australian National University School of Politics and International Relations, Canberra, 2019, p. 15.

⁵⁶ Sarah Cameron and Ian McAllister, *The 2019 Australian Federal Election: Results from the Australian Election Study*, The Australian National University School of Politics and International Relations, Canberra, 2019, p. 15.

⁵⁷ Sarah Cameron and Ian McAllister, *The 2019 Australian Federal Election: Results from the Australian Election Study*, The Australian National University School of Politics and International Relations, Canberra, 2019 pp. 3, 15.

High enrolment due to direct enrolment

‘The VEC’s own data shows that directly enrolled electors did not vote in the same proportions as Victorian electors in general, with only 72.22% of directly enrolled electors voting in the State election.’⁵⁸

The VEC considers one of the factors driving low turnout at the 2018 election was increased enrolment, and in particular direct enrolment:

... directly enrolled electors do not participate at the same rate as electors in general. Of the 324,501 electors who were directly enrolled from the start of 2017, only 234,347 voted at the 2018 State election – a turnout rate of 72.22%.⁵⁹

The same effect had been observed after the 2014 election. Overall turnout at the 2014 election was 93.0%. Turnout among directly enrolled electors was much lower—only 61.7% of those newly added to the roll through direct enrolment turned out to vote.⁶⁰

The Electoral Commissioner told the Committee:

... with the direct enrolment program we locate them, we find them, we put them on the roll ... They do not want to be there, they are reluctant to be there and that flows through to the compulsory voting component as well. There is that element to it.⁶¹

While there were directly enrolled electors at the 2014 election, the VEC stated in its submission that ‘their numbers were too small to make a material difference.’⁶² However, at the 2018 election the VEC reported that the larger number of directly enrolled electors exerted a significant impact on the turnout rate.⁶³

If the 324,501 electors who were directly enrolled since 2017 had turned out at the state average rate of 90.2% rather than 72.2%, a further 60,000 electors (approximately) would have voted. This represents 15% of the 396,373 non-voters at the 2018 election, and 46% of the 130,212 increase in non-voters between the 2014 and 2018 elections. This is a substantial portion and goes some way to accounting for the turnout rate at the 2018 election.

The Committee notes that other Australian jurisdictions have seen similar effects resulting from direct enrolment. The Commonwealth,⁶⁴ the Australian Capital Territory⁶⁵

⁵⁸ Victorian Electoral Commission, *Submission 92* (revised), p. 15.

⁵⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 72.

⁶⁰ Victorian Electoral Commission, *Direct Enrolment Report*, Melbourne, 2017, p. 11. A partial exception to this was 18-to-19-year-old electors. Their turnout rate was 79.4%—Victorian Electoral Commission, *Direct enrolment report*, Melbourne, 2017, p. 12.

⁶¹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 9.

⁶² Victorian Electoral Commission, *Submission 92* (revised), p. 72.

⁶³ Victorian Electoral Commission, *Submission 92* (revised), p. 72.

⁶⁴ Australian Electoral Commission, *Submission 66*, submission to the Parliament of Australia, Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2016 federal election and matters related thereto*, 2018, pp. 44–45.

⁶⁵ ACT Electoral Commission, *Report on the ACT Legislative Assembly election 2016*, Canberra, 2017, pp. 18–9.

South Australia⁶⁶ and Western Australia⁶⁷ identified increased enrolment through direct enrolment as a possible factor in their reduced turnout rates.

Directly enrolled electors represent a prime target group for the VEC's engagement activities. The VEC knows who they are, and knows they vote in low numbers. The VEC has the opportunity to engage with directly enrolled electors at the time of performing a direct enrolment transaction and again ahead of an election. While the VEC included directly enrolled electors as a target of its advertising campaign at the 2018 election⁶⁸ turnout among directly enrolled electors remained low. The Committee would like to see more done to engage with these electors.

FINDING 10: Low turnout among directly enrolled electors significantly impacted the overall turnout rate at the 2018 election. This effect is also present in other Australian jurisdictions. Low turnout among this specific, large and identifiable group of voters offers an opportunity for the VEC to target its efforts to increase overall turnout rates.

RECOMMENDATION 6: That the VEC identify directly enrolled electors as a priority group for its inclusion and participation efforts and implement engagement programs aimed specifically at increasing turnout among directly enrolled voters.

High enrolment due to 2017 Australian Marriage Law Postal Survey

'There was a surge in enrolments in the lead-up to the 2017 Australian Marriage Law Postal Survey. Observers wondered whether the mainly young people who enrolled for the survey would vote in following elections, and evidence from the Victorian election indicates that many of them did not vote.'⁶⁹

As discussed in Section 2.2.3, the Australian Marriage Law Postal Survey caused a number of people to enrol for the first time, many of them under 30 years old. The VEC reported that this increase in enrolments had a negative effect on 2018 election turnout:

Of the 35,730 electors who enrolled for the first time in August 2017 and were still enrolled at the time of the 2018 State election, only 24,245 voted – a turnout rate of only 67.86%.⁷⁰

This means that only approximately 10,000 of the 396,373 non-voters at the 2018 election can be attributed to this group.

⁶⁶ Electoral Commission of South Australia, *Election report: 2018 South Australian state election*, Adelaide, 2019, p. 48.

⁶⁷ Western Australian Electoral Commission, *2017 state general election—election report*, 2017, pp. 7, 19.

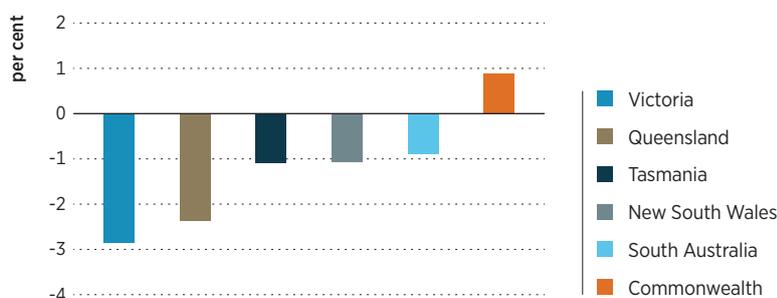
⁶⁸ Victorian Electoral Commission, *Submission 92* (revised), p. 15.

⁶⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 73.

⁷⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 73.

The Commonwealth, Queensland, New South Wales, Tasmania and South Australia have also held elections since the 2017 Australian Marriage Law Postal Survey. While most other jurisdictions have also seen decreased turnout since the Survey, none dropped as dramatically as Victoria (see Figure 2.2).

Figure 2.2 Turnout change at elections in Australia since the 2017 Australian Marriage Law Postal Survey



Note: Change in lower house turnout rate from the election immediately before the Survey to the election immediately after the Survey.

Source: Electoral Matters Committee, based on data from electoral commissions.⁷¹

FINDING 11: Voters who enrolled ahead of the 2017 Australian Marriage Law Postal Survey turned out at a low rate, but were only a small proportion of the overall electorate.

Victorians travelling overseas

The VEC cites overseas travel as a possible factor contributing to the low turnout at the 2018 election, noting an estimate of 240,000 Victorians returning from overseas travel in November 2018.⁷² The VEC did not provide a source for this figure or any particular details of its effect on turnout. There was no information regarding the extent to which Victorians travelling overseas contributed to overall non-voter numbers or the extent to which 2018 was different to previous election years.

Research by The Social Research Centre for the VEC on non-voters in Victorian state and local government elections identified being overseas as a reason people did not vote at the 2014 election. Almost one third of respondents cited being overseas as their reason for not voting.⁷³ The Social Research Centre recommended overseas and interstate voters be a priority at future elections.⁷⁴

⁷¹ The Electoral Commission of South Australia attributed the reduction in turnout in part to increased enrolment for the 2017 Australian Marriage Law Postal Survey. Other factors noted included increased enrolment through direct enrolment and younger voters not turning out—Electoral Commission of South Australia, *Election report: 2018 South Australian state election*, Adelaide, 2019, pp. 48, 84. Election reporting from the Commonwealth, Queensland, New South Wales, and Tasmania did not include any commentary on the effect of the Survey on turnout.

⁷² Victorian Electoral Commission, *Submission 92* (revised), p. 73.

⁷³ The Social Research Centre, *Understanding non-voters of Victorian state and council elections*, Melbourne, 2018, p. vii.

⁷⁴ The Social Research Centre, *Understanding non-voters of Victorian state and council elections*, Melbourne, 2018, p. 19.

The VEC provides postal voting, email voting and in-person voting (in selected cities overseas) to enable Victorians travelling overseas during the election period to vote (see Section 4.6).⁷⁵ Expanding and improving these services may help to increase turnout at future elections.

Younger people

The VEC reported that the greatest fall in participation from 2014 to 2018 by age was among 25-to-29-year-old electors (2.9 percentage points).⁷⁶ While this is true, the VEC's reporting lacks any deeper analysis into how this fall fits into longer trends.

The Committee looks in depth at age trends in turnout, and the VEC's inclusion and participation programs for younger people, in Chapter 3. In short, the Committee's analysis shows that:

- the drop among 25-to-29-year-old electors is in part the result of an out-of-trend jump in turnout among this age group at the 2014 election (see Section 3.2.2)
- 30-to-44-year-old electors showed the largest drop in turnout in 2018 compared to the average across the previous three elections (see Section 3.2.2).

Culturally and linguistically diverse (CALD) electors

The VEC's submission notes that some of the lowest turnout rates at both the 2018 and 2014 elections were in districts that have a high proportion of residents who are not proficient in English and a high degree of social disadvantage (such as Broadmeadows, Dandenong, Footscray and St Albans).⁷⁷

The VEC responded to questions regarding low turnout in these areas with details of its inclusion and participation outreach programs and how they are targeted, as well as the availability of translated material and advertising.⁷⁸

While the VEC has taken the first step to making improvements by recognising problem areas, the Committee would like to see more VEC reporting on election-to-election trends in turnout in districts with high proportions of CALD voters, along with measures of the effectiveness of the VEC's inclusion and participation programs. This would help improve future efforts.

In saying this, the Committee recognises that measuring participation among CALD Victorians is more difficult than measuring participation by age, as CALD attributes are not included in the electoral roll, resulting in a lack of statistical evidence.

⁷⁵ For the full list of overseas voting centres see Victorian Electoral Commission, *Submission 92* (revised), p. 95.

⁷⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 72.

⁷⁷ Victorian Electoral Commission, *Submission 92* (revised), p. 71.

⁷⁸ Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, pp. 11, 13; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 13. The Committee addresses the VEC's inclusion and participation programs aimed at CALD Victorians in Chapter 3.

The Committee attempted to gather further evidence about electoral participation from CALD Victorians directly through two community forums held in Box Hill and Melbourne (see Section 3.3.1).

2.3.4 Improving VEC reporting on turnout

The turnout result at the 2018 election was disappointing. As part of its post-election reporting, the VEC should account for the factors that lead to this result.

While the VEC acknowledged its responsibility and identified some factors affecting turnout, its reporting lacked the rigour this Committee expects. Some factors offered by the VEC (such as the 2017 Australian Marriage Law Postal Survey) were, on the Committee's analysis, minor. Others (such as electors travelling overseas) lacked any investigation of the degree of their effect on turnout. The VEC's analysis of younger voters and voters from CALD backgrounds lacked investigation of longer-term trends.

The VEC's future reporting can be improved by better explaining the specific effect various factors had at an election. When possible, each factor should be quantified and related to overall turnout figures and changes in turnout from election to election. This would provide a clearer understanding of how much effect various factors had on Victorians turning out to vote.

The Committee acknowledges that the VEC may only be able to explain a portion of non-voting at an election. The Committee's view is that the VEC should explain what it can and acknowledge the portion which is unexplained or requires further research. This is preferable to the uncertainty provided by the current approach.

Improved reporting will provide a stronger foundation for identifying and addressing areas for improvement, ultimately delivering more inclusive elections through greater participation.

The Committee notes that the VEC is planning multiple activities to improve turnout at future elections, including research into age effects on voting, an expansion of VoterAlert and building and enhancing its Passport to Democracy program.⁷⁹ Improved analysis of the reasons for people not voting will help with the development and evaluation of these activities.

FINDING 12: The VEC identified various factors as contributors to the drop in turnout at the 2018 election. While these factors likely contributed to the drop in turnout, the VEC's reporting generally lacked the explanations or quantifications to demonstrate how and to what extent each factor contributed. This resulted in uncertainty about what happened at the 2018 election and what actions should be taken in the future.

⁷⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 2.

RECOMMENDATION 7: That the VEC provide more detailed explanations of the factors affecting voter turnout at future elections. These explanations should, where possible, include quantifications of each factor’s contribution to overall turnout results and analyses of longer-term trends. The VEC should use this information to guide and evaluate its subsequent strategies and programs to increase turnout.

2.4 Formality

‘... the proportion of informal votes showing a preference ... has increased by more than 10 percentage points to over half of the total. There were more than 110,000 of these votes – 2.99% of all votes in the election.’⁸⁰

An informal vote is a ballot paper which does not meet all of the requirements for a completed ballot. Informal votes are not counted when calculating results. See Box 2.2 for formality rules at Victorian state elections.

BOX 2.2: Formality rules at Victorian state elections

In Victoria the Electoral Act ss 93, 93A, 112 and 112A determine the formality rules for ballot papers.

Lower House ballot papers—full preferential voting

Voters should number all boxes sequentially starting from one on their Lower House ballot paper.

Upper House ballot paper—optional preferential voting

Upper House ballot papers display a thick horizontal line with candidate groups/parties above and individual candidates below. Voters may vote either above the line, to allow the party/candidate group to determine their flow of preferences, or below the line if they wish to determine their own preferences.

Above the line—voters must place a 1 in the box of their preferred party/candidate group and no other numbers. Preferences will flow according to the group voting ticket of the candidate group/party.

Below the line—voters must place numbers 1 to 5 in boxes against their preferred candidates. They may continue giving preferences if they wish or may stop at any point after 5.

The Electoral Act includes savings provisions which allow ballot papers that do not completely meet the requirements above to be counted as formal in some circumstances.

⁸⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 67.

Formality, along with enrolment and turnout, is a measure of the health of an electoral system. As stated by the AEC:

Together with the enrolment rate and voter turnout, the informality rate is a key measure of democratic health in Australia as it provides an indication of elector understanding of, and engagement with, the electoral process.⁸¹

This section discusses the formality rate in both the Lower and Upper Houses, the VEC's analysis of the informal ballot papers for the Lower House and the causes of informality.

The Committee found that the VEC did not meet its formality targets for the Lower House or Upper House at the 2018 election. Further, Lower House informality has been increasing consistently for many years, with a sharp rise in accidental informality at the 2018 election. Further, the Committee found that Victoria has a high informality rate compared to other Australian jurisdictions. The Committee was not satisfied with the level of explanation around these issues in the VEC's reporting.

The Committee recognises that the VEC runs inclusion and participation programs with the aim of maximising formal voting, but the Committee is concerned these programs have not been sufficient.⁸² The Committee's recommendations in this section include that the VEC take measures to understand and address the high and rising informality rates at Victorian elections, as well as the increase in accidental informal voting at the 2018 election.

2.4.1 Lower House formality

'The informal voting rate for districts was 5.83% of total votes, which was the highest ever recorded for a Lower House election. The informal voting rate for districts has increased at every election since 1996, when it was 2.37% ...'⁸³

At the 2018 election, 94.2% of votes were formal and 5.8% were informal. This did not meet the VEC's target of informality being less than or equal to 5.22%.⁸⁴

The Lower House informal voting rate has been steadily increasing across multiple elections (see Table 2.5).

Table 2.5 Lower House informal voting—Victorian elections, 2002 to 2018

	2002	2006	2010	2014	2018
Percentage of votes	3.4	4.6	5.0	5.2	5.8

Source: Victorian Electoral Commission, *Submission 92* (revised), p. 66.

⁸¹ Australian Electoral Commission, *Informal voting: 2016 House of Representatives elections*, Canberra, (n.d.), p. 5.

⁸² Some of the VEC's inclusion and participation programs are discussed further in Chapter 3.

⁸³ Victorian Electoral Commission, *Submission 92* (revised), p. 66.

⁸⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 137.

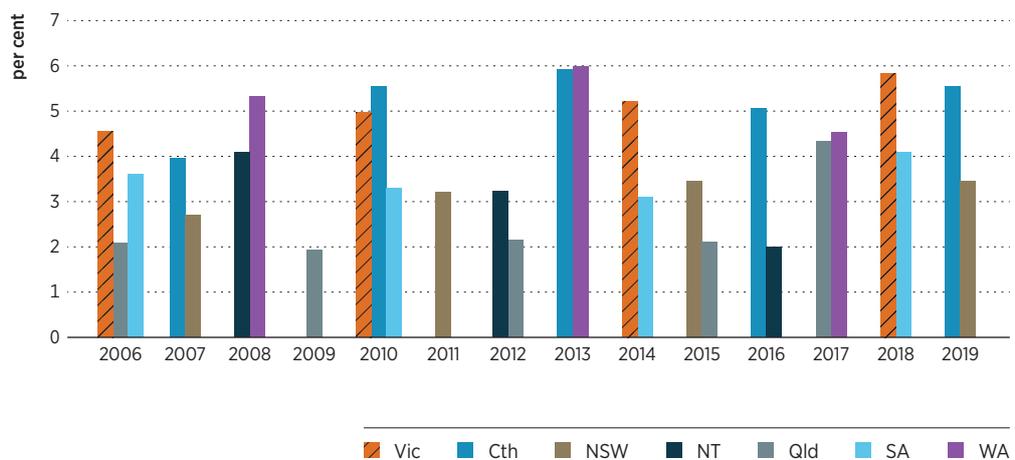
At the 2014 election, Frankston District had the highest district informality rate at 8.9%.⁸⁵ At that election, Frankston also had the most candidates (14), likely contributing to the higher informal vote.⁸⁶ In 2018 four districts had an informality rate greater than 8.9%:

- Thomastown—12.3%
- Broadmeadows—10.1%
- Melton—10.1%
- Dandenong—9.0%.⁸⁷

The Committee notes that Broadmeadows and Dandenong had only four candidates. Melton had 12, and Thomastown had nine.⁸⁸

At a public hearing, the Electoral Commissioner told the Committee that Victoria’s informality ‘is in line with national averages.’⁸⁹ However, the Committee notes that Victoria’s Lower House has consistently had one of the highest informality rates of Australian jurisdictions with lower houses with single-member electorates (see Figure 2.3).

Figure 2.3 Lower house informality in comparable Australian jurisdictions, 2006 to 2019



Source: Electoral Matters Committee, based on data from electoral commissions.

FINDING 13: Victoria’s Lower House informality rate has been increasing for many years and is consistently one of the highest rates among comparable Australian lower houses. With a Lower House informality rate of 5.8% in 2018, the VEC did not meet its target of less than or equal to 5.22%.

⁸⁵ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 54.

⁸⁶ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 54.

⁸⁷ Victorian Electoral Commission, *Submission 92* (revised), p. 104.

⁸⁸ Victorian Electoral Commission, *Submission 92* (revised), pp. 110–119.

⁸⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 1.

2.4.2 Upper House formality

At the 2018 election, 96.0% of Upper House votes were formal, and 4.0% were informal. This did not meet the VEC’s target of 3.3%.⁹⁰

Upper House informal voting rate dropped from 4.3% at the 2006 election (at which voters were using a new ballot paper following the introduction of proportional representation and above-the-line voting) to 3.4% at the 2010 election. It has since risen to 4.0% (see Table 2.6).⁹¹

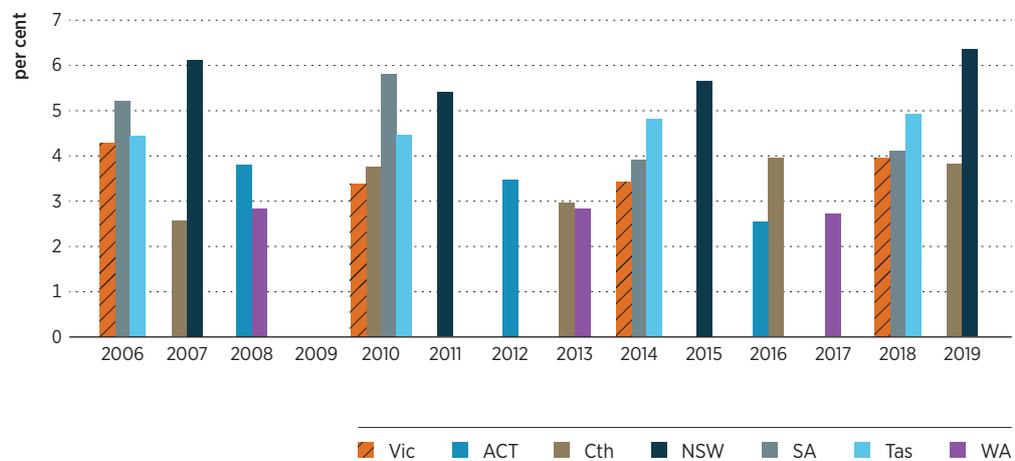
Table 2.6 Upper House informal voting—Victorian elections, 2006 to 2018

	2006	2010	2014	2018
Percentage of votes	4.3	3.4	3.4	4.0

Source: Victorian Electoral Commission, *Submission 92* (revised), p. 66.

When compared to other Australian houses of parliament using proportional representation, Victoria’s Upper House informality is in the middle of the range (see Figure 2.4).

Figure 2.4 Informality in Victoria’s Upper House and comparable Australian houses, 2006 to 2019



Note: Rates are for the upper house in all jurisdictions except Tasmania (lower house used instead) and the ACT (which is unicameral).

Source: Electoral Matters Committee, based on data from electoral commissions.

FINDING 14: With 4.0% of the Upper House votes being informal in 2018, the VEC did not meet its target of less than or equal to 3.3%. Victoria’s Upper House informality rate is in the middle of the range compared to other Australian houses using proportional representation.

⁹⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 137.

⁹¹ 2006 was the first Upper House election that used proportional representation and gave voters the option of above the line or below the line voting. The changed ballot paper likely contributed to the rise in informality.

2.4.3 The causes of informality

People may vote informally for a number of reasons. Determining and understanding these reasons is important to delivering effective programs to reduce informal voting. The Committee notes that the secret vote places a limitation on determining with certainty why a voter voted informally. However, there are ways to get some understanding of what is occurring and why.

The sections below explore informal voting in 2018, including the factors generally influencing informal voting and the rise in informal voting at the 2018 election. The Committee finds that the VEC's reporting on these topics could be improved and makes recommendations for further research and ongoing analysis of informality trends.

The Committee explores informal voting among CALD Victorians and the relationship between informality and age in Chapter 3.

Intentional and accidental informality

'It appears that the number of people deliberately throwing their vote away has decreased while the number of people making accidental mistakes has increased.'⁹²

When analysing informal votes, an important distinction is made between accidentally and intentionally informal votes. Accidentally informal votes occur when a voter attempts to cast a formal vote but makes a mistake, for example using ticks and crosses instead of numbers. Intentionally informal votes include blank ballot papers and those with markings that make it clear the voter intended their vote not to count.

Based on the VEC's analysis of Lower House ballot papers, the Committee has calculated that 3.5% of all votes were accidentally informal (see Table 2.7). This is a significant increase from the previous three elections, where 2.6–2.7% of votes were accidentally informal. In contrast, the proportion of votes that were intentionally informal or blank reduced between 2014 and 2018. The overall rise in informality at the 2018 election has therefore been driven by people trying to vote but failing, rather than people being disengaged.

Table 2.7 Lower House—intentionally and accidentally informal votes as a percentage of all votes—Victorian elections, 2006 to 2018

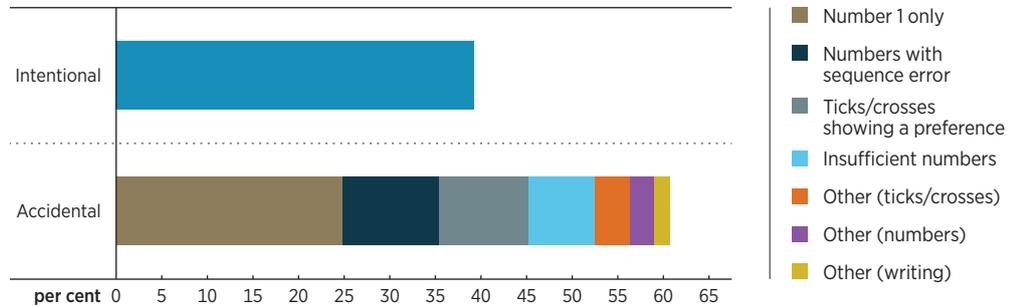
	2006	2010	2014	2018
Apparently intentional (including blanks)	1.9	2.4	2.6	2.3
Apparently accidental	2.7	2.6	2.6	3.5
Total informality	4.6	5.0	5.2	5.8

Source: Electoral Matters Committee calculations, based on VEC data.

⁹² Victorian Electoral Commission, *Submission 92* (revised), p. 67.

Figure 2.5 breaks down the various ways accidentally informal ballot papers were marked.

Figure 2.5 Informal votes by category, Victorian Lower House 2018



Source: Electoral Matters Committee, based on data from Victorian Electoral Commission, *Submission 92* (revised), p. 68.

In its submissions to this Committee and reports to the Parliament, the VEC does not provide apparently intentional and apparently accidental informal voting data in the format shown in Table 2.7 (that is, as a percentage of all votes). The Committee believes this presentation of the data is helpful when comparing informal voting trends over time and would like to see the VEC publish and discuss the data on this basis in the future.

FINDING 15: Apparently accidental informal votes for the Lower House rose from 2.6% to 3.5% of all votes between 2014 and 2018.

RECOMMENDATION 8: That the VEC publish apparently intentional and apparently accidental informal voting rates as a percentage of all votes in its post-election reporting. Reports should also discuss trends in these rates as a percentage of all votes over time.

The VEC did not conduct an analysis of Upper House informal ballot papers at the 2018 election, stating that:

The region informal votes were not examined as the low and stable informal vote in the Upper House suggests that the majority of Victorians have no difficulty in voting on these ballot papers.⁹³

However, the VEC did conduct surveys in 2006, 2010 and 2014 (see Table 2.8). The Committee notes that the 2006 election was the first election in which the current ballot paper design was used. This likely explains the higher proportion of accidentally informal ballot papers at that election.

⁹³ Victorian Electoral Commission, *Submission 92* (revised), p. 67.

Table 2.8 Upper House—intentionally and accidentally informal votes as a percentage of all votes—Victorian elections, 2006 to 2018

	2006	2010	2014	2018
Apparently intentional (including blanks)	2.1	2.4	2.5	n/a
Apparently accidental	2.2	1.0	0.9	n/a
Total informality	4.3	3.4	3.4	4.0

Source: Electoral Matters Committee calculations, based on VEC data.

While the Upper House informality rate is less than the Lower House rate, it has risen since 2014 and the VEC did not meet its Upper House informality target at the 2018 election. In this context, the Committee considers that an examination of the informal ballot papers would have been appropriate.

The previous Electoral Matters Committee, in its *Inquiry into the conduct of the 2014 Victorian state election*, recommended that the VEC continue its informal ballot analyses, and '[use] the information to develop targeted community education programs regarding formal voting and Victoria's electoral system.'⁹⁴

The Committee continues to believe that the information gained from an analysis of informal Upper House ballot papers would be valuable. The Committee does not support the VEC's decision to not analyse Upper House informal ballot papers in 2018.

In addition to an informal vote survey, the Committee also sees benefit in understanding how many ballot papers were completed with multiple preferences above the line, as is permitted for the Commonwealth Upper House. The Committee received anecdotal evidence from two submitters who acted as scrutineers in 2018 that a significant number of Victorian votes were marked this way in 2018.⁹⁵ These ballot papers were counted as formal votes, with the group voting ticket of the voter's first preference determining preference flows. These votes were not counted in the way voters expected, and it would be valuable to have information on how many ballot papers were marked in this way. In particular, this would enable the VEC to understand if there is a need for information or education campaigns to help voters understand the difference between Commonwealth and state voting.

FINDING 16: The VEC did not conduct an analysis of Upper House informal ballot papers at the 2018 election to identify the causes of informality.

RECOMMENDATION 9: That the VEC reinstate its analysis of informal Upper House ballot papers at future elections.

⁹⁴ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 19.

⁹⁵ Ben Ramcharan, *Submission 15*, p. 1; Timothy Burn, *Submission 21*, p. 1.

RECOMMENDATION 10: That the VEC conduct an analysis of Upper House ballot papers to estimate the number of votes that included multiple preferences above the line, to understand how much confusion is being caused by having different systems at Commonwealth and state levels and to inform future information and education campaigns.

General causes of informality

‘... it can be a number of matters. It can be the number of candidates. It can be the socioeconomic make-up of the district as well. It can be a general dissatisfaction with perhaps what has gone on previously or what is to come or government generally.’⁹⁶

There are a number of potential causes of informality, both accidental and intentional. The previous Electoral Matters Committee outlined these potential causes in its *Inquiry into civics and electoral participation in Victorian state parliamentary elections*. They can include:

- the number of candidates in a Lower House district—districts with more candidates have higher informality rates
- voter attitudes to politics and elections (which can affect intentional informality)
- the proportion of electors with a non-English-speaking background
- socioeconomic factors including social exclusion and disadvantage
- confusion about different electoral systems in state and Commonwealth elections.⁹⁷

The VEC’s submission noted correlations between informality at the 2018 election and the possible causes listed above, indicating that these general causes are present to some extent in Victorian elections.⁹⁸

The Electoral Commissioner told the Committee that the VEC is aware of these factors and considers them when targeting its outreach efforts.⁹⁹

It was also argued that the differing voting systems for the Lower and Upper Houses in Victoria contributed to the rise in Lower House informality. Mr Antony Green AO, ABC Election Analyst, noted in his submission that Lower House and Upper House informality were closely aligned until 2006, when a different system was introduced for the Upper House (see Figure 2.6) He also argued that recent changes to the Commonwealth Senate (Upper House) had similarly increased the level of informality for the Commonwealth Lower House.¹⁰⁰

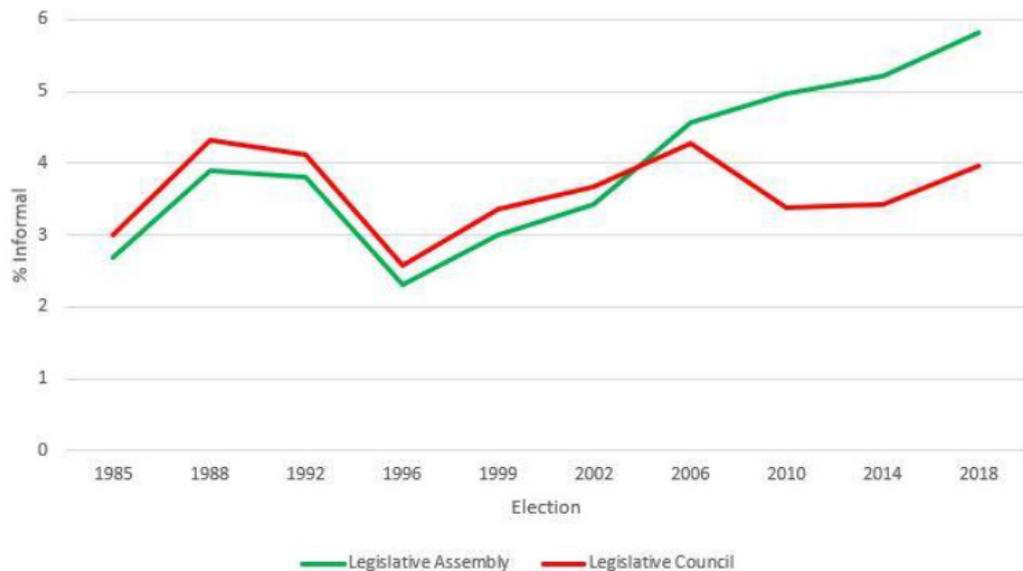
⁹⁶ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 13.

⁹⁷ Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, pp. 58–9, 61–3.

⁹⁸ Victorian Electoral Commission, *Submission 92* (revised), pp. 66–8.

⁹⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 13.

¹⁰⁰ Antony Green AO, *Submission 103*, p. 19.

Figure 2.6 Upper and Lower House informality—Victorian elections, 1985 to 2018

Source: Antony Green AO, *Submission 103*, p. 19.

VEC activities to reduce informality

The VEC's advertising and communication messages over the past 10 years have put various amounts of emphasis on how to vote formally. The VEC's post-election reporting has included summaries of the messages focused on in communication campaigns leading up to elections:

- the 2018 and 2014 election information campaigns both emphasised the 'importance of every single vote,' and the 2014 campaign also included 'how to correctly complete the ballot papers' as a 'key message'¹⁰¹
- the 2010 campaign included an objective to 'minimise the level of informal voting'¹⁰²
- the 2006 campaign's objectives included '[to] minimise the level of informal voting for the Legislative Council' and '[to] increase the formal vote for the Legislative Assembly.'¹⁰³

Ongoing programs such as Passport to Democracy (see Section 3.4.5) and the Be Heard! Democracy Ambassador program (see Section 3.4.3) also have formal voting components.

Despite these programs, the rate of informality has risen for both houses of Parliament.

¹⁰¹ Victorian Electoral Commission, *Submission 92* (revised), p. 15; *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 17.

¹⁰² Victorian Electoral Commission, *Report to the Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 33.

¹⁰³ Victorian Electoral Commission, *Report to the Parliament on the 2006 Victorian state election*, Melbourne, 2007, p. 32.

The rise in informality at the 2018 election

The informal voting rate for the Lower House rose from 5.2% at the 2014 election to 5.8% at the 2018 election. This continues the longer-term trend of rising informal Lower House voting (see Table 2.5). Upper House informal voting rose from 3.4% at the 2014 election to 4.0% at the 2018 election (see Table 2.6).

When reporting on the 2018 election, the VEC noted various aspects of the rise in informality, including:

- a rise in the proportion of apparently accidental informal votes
- correlations between areas with high informality and high proportions of residents speaking a language other than English, including marking ballot papers with ticks and crosses
- variations between deliberate and accidental informal voting in Melbourne versus regional districts.¹⁰⁴

However, the Committee notes a lack of direct explanation of what changed from 2014 to 2018 to account for the rise in informality, or what has been happening over the course of recent elections to account for continued rising informality.

The VEC's report that Lower House informality is at the highest level ever recorded¹⁰⁵ was not accompanied by the level of analysis and concern that the Committee would have expected.

Similarly, the VEC seemed to take a dismissive attitude towards informality in Upper House voting, stating that it has 'barely shifted in 22 years, rising from 2.58% in 1996 to 3.96% in 2018.'¹⁰⁶ The Committee notes that this is a rise of more than 50%. The Committee's view is that this is a rise which requires attention.

The Committee acknowledges that some drivers of informality, such as the number of candidates, the voting systems or a general dissatisfaction with politics, are outside the VEC's control. As the Electoral Commissioner noted:

... I cannot necessarily change the voters' attitude to either go and vote or not. If they intend to go there and vote informally, that is a matter for them. I cannot educate on that. We are all in this together—so the candidates, the parties and the Electoral Commissioner. It is not just solely the responsibility of one.¹⁰⁷

However, there are some drivers of informality which the VEC has some ability to influence, most notably voters' understanding of how to fill out ballot papers.

¹⁰⁴ Victorian Electoral Commission, *Submission 92* (revised), pp. 66, 68.

¹⁰⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 66.

¹⁰⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 66.

¹⁰⁷ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 1., p. 12. See also Australian Electoral Commission, *Analysis of informal voting: 2016 House of Representatives elections*, Canberra, (n.d.), pp. 53–4.

As discussed above, 2018 saw an increase in accidental informal voting, which is likely a result of voters not understanding how to fill in ballot papers correctly. In its submission to this Inquiry, the VEC recognised this, stating:

It appears that the number of people deliberately throwing their vote away has decreased while the number of people making accidental mistakes has increased. Whilst informal voting levels have risen, these trends indicate positive change as it is typically easier to teach someone how to vote than it is to change their attitudes towards democracy.¹⁰⁸

The Committee agrees that the VEC has more capacity to teach someone how to vote than to change their attitudes towards democracy. However, the Committee is reluctant to see this as a ‘positive change’. The VEC plays an important role in educating Victorians who do wish to vote so that they understand how to fill in a ballot paper formally. A rise in apparently accidental informality suggests that voter education efforts have been less effective at the 2018 election than they have been in the past. Chapter 3 includes an analysis of some of the VEC’s key programs aimed at reducing informality.

Reducing informality at future elections

The Committee finds the informality rate in Victoria concerning. In particular, the Committee notes:

- the continued gradual rise of informality for the Lower House over recent elections
- Victoria’s Lower House informality rate consistently being among the highest in the country
- the sharp increase in apparently accidental informality at the 2018 election.

The VEC, in its statutory reporting to Parliament and in evidence to this Committee, has not provided satisfactory explanations for the continued rise in informality. Nor has the VEC satisfactorily addressed the rise in apparently accidental informal voting.

The Committee sees room for improvement in the VEC’s reporting. Consistently high informality rates in particular districts may be better understood and addressed through increased efforts at identifying, analysing and reporting on election-to-election informality trends. Better analysis and reporting about events related to particular elections, such as the increase in accidental informality at the 2018 election, would also assist with the evaluation of the VEC’s programs.

Research is an important part of understanding the reasons behind the trends in Victoria’s informality rate.

108 Victorian Electoral Commission, *Submission 92* (revised), p. 67.

In correspondence to the Committee in early 2020, the VEC indicated it is sponsoring research into informality and why it occurs through a grant involving the University of Adelaide and the New South Wales Electoral Commission.¹⁰⁹ The Committee hopes that this will assist with reducing the accidental informality rate at future elections.

FINDING 17: The VEC has not provided satisfactory explanations for Victoria’s informality rates. This is particularly concerning given the trend of rising informality, Victoria’s Lower House informality rate being higher than most other Australian jurisdictions and the rise in apparently accidental informal voting at the 2018 election. The rise in the accidental informality rate combined with the VEC’s lack of explanation bring into question the effectiveness of the VEC’s programs to reduce informality.

RECOMMENDATION 11: That the VEC ensure the research it sponsors into informal voting includes an investigation of:

- the reasons for the continued increase in informal voting in Victorian Lower House elections
- the consistently high rate of informal voting in Victorian Lower House elections compared to other Australian jurisdictions
- the increase in apparently accidental informality at the 2018 election
- the reasons for informality in Upper House elections.

RECOMMENDATION 12: That the VEC increase the depth of its analysis and reporting on informality at Victorian state elections. This includes election-to-election trends and events specific to individual elections. This reporting should be informed by research into the reasons behind informality and should be used to better measure the effectiveness of the VEC’s programs aimed at decreasing informality and to improve those programs.

Several submitters to this Inquiry advocated for optional preferential voting for the Lower House (that is, for voters not having to put a preference in every box).¹¹⁰ It was argued that this would reduce informality as more votes could be counted. Mr Jeff Waddell noted that optional preferential voting is correlated with lower informality rates in other jurisdictions.¹¹¹ It was argued that optional preferential voting would make it easier for voters who are not familiar with all the candidates (especially voters from culturally and linguistically diverse backgrounds).¹¹²

¹⁰⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 6.

¹¹⁰ Ingrid Pezzoni, *Submission 2*, p. 1; Jeff Waddell, *Submission 11*, p. 5; newDemocracy Foundation, *Submission 79*, p. 4; Allen Hampton OAM, *Submission 105*, p. 6; Jeff Waddell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, pp. 23–4; see also Antony Green AO, *Submission 103*, p. 19 (not advocating for optional preferential voting but in favour of greater savings provisions).

¹¹¹ Jeff Waddell, *Submission 11*, p. 6.

¹¹² For more on the Committee’s community forums see Section 3.3.1.

While optional preferential voting would very likely reduce informality in Victoria, there may also be negative consequences. It may cause confusion when voting for the Commonwealth Lower House, where all boxes must include preferences. New South Wales has optional preferential voting at the state level and regularly has the highest rate of informality at Commonwealth Lower House elections.¹¹³ In addition, votes can exhaust in optional preferential voting. Votes are said to exhaust when all of the candidates given preferences by the voter are excluded. When a vote exhausts, the voter has no say in which of the final candidates is elected. In New South Wales, 11.6% of the total formal Lower House votes exhausted at the 2019 election. In five districts, over 20% of the formal votes exhausted.¹¹⁴ When Queensland had optional preferential voting at the 2009 state election, 63.0% of ballot papers gave a preference to only one candidate.¹¹⁵

The Committee recognises that this is a complex issue and has not explored the possibility of introducing optional preferential voting for the Lower House as part of this Inquiry.

113 See, for example, Australian Electoral Commission, *Informal votes by state*, 2019, <<https://results.aec.gov.au/24310/Website/HouseInformalByState-24310.htm>> accessed 13 May 2020.

114 Electoral Matters Committee calculations, based on New South Wales Electoral Commission data.

115 Parliament of Victoria, Electoral Matters Committee, *Inquiry into the future of Victoria's electoral administration*, March 2014, p. 57.

3 Including younger voters and voters from culturally and linguistically diverse (CALD) backgrounds

3.1 Introduction

To make elections inclusive, it is important to reduce the barriers that make it difficult for some people to participate. Chapter 2 examines inclusiveness at the 2018 election in general. This chapter focuses on two groups which have been identified as facing particular barriers—younger voters and voters from culturally and linguistically diverse (CALD) backgrounds. This chapter looks specifically at the turnout and formality results for these groups and the work done by the VEC attempting to help these Victorians participate.

A key part of the VEC's efforts to facilitate participation is its education and information program. In the VEC's words:

Informed citizens actively participating in free and fair elections is vital to any healthy, functioning democracy. Providing accessible, current electoral information and education services is a fundamental part of ensuring full electoral participation across the community.¹¹⁶

The Committee recognises that the VEC undertakes activities to assist multiple groups that face particular barriers to participation. In addition to younger voters and voters from CALD backgrounds, the VEC has programs aimed at people in prisons, people with disabilities (including intellectual disabilities), people with communication difficulties, people experiencing homelessness and Aboriginal and Torres Strait Islander peoples.¹¹⁷

CALD and younger Victorians are the largest groups specifically targeted by the VEC's participation programs. As a result, they yield more data, and the Committee can more easily analyse the effectiveness of the VEC's programs for these groups. Some of the Committee's conclusions are specifically targeted at CALD and younger Victorians. However, many lessons learned and recommendations should also be applicable to efforts aimed at other groups.

¹¹⁶ Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, p. 68.

¹¹⁷ Victorian Electoral Commission, *Annual report 2016–17*, Melbourne, 2017, pp. 53–4; Victorian Electoral Commission, *Annual report 2017–18*, Melbourne, 2018, p. 58; Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, pp. 68–70.

Section 3.2 looks at the participation of younger voters. Of all age groups, turnout was lowest among 20-to-39-year-old electors in 2018, with the lowest turnout being among 25-to-29-year-old electors. This continues a trend across multiple Victorian elections. Turnout dropped in 2018. This drop was seen across all age groups but was greatest in 30-to-44-year-old electors when compared to previous elections. The Committee has identified several data gaps in relation to participation by younger people and considers that additional research and reporting would assist with the development of appropriate strategies in the future.

Participation by CALD Victorians is more difficult to measure than participation by age. However, community forums held by the Committee noted a number of barriers to participating in elections that CALD Victorians face. These are discussed in Section 3.3.

Section 3.4 looks at the programs delivered by the VEC to reduce barriers and encourage participation among younger people and people from CALD communities. The main focus is the Be Heard! Democracy Ambassador Program. The Committee recognises that the VEC has done some good work in this area but notes the limitations to the scale of face-to-face outreach and the need to focus on not only the youngest voters but also on voters throughout their 20s and 30s.

The VEC has recently included some performance measures for its inclusion activities. In Section 3.5, the Committee identifies some areas where these could be expanded to further improve reporting and accountability.

3.2 Participation among younger Victorians

This section looks at the turnout of younger Victorians in 2018 and at previous Victorian elections. The Committee explores in particular:

- the consistently low turnout across multiple elections by 20-to-39-year-old electors (Section 3.2.1)
- a drop in turnout in 2018 by all electors, but particularly the 30-to-44-year-old cohort (Section 3.2.2).

The data suggest that these age groups may be worth additional focus as part of the VEC's inclusion and participation activities. The Committee recommends improved reporting and research as a starting point for developing a strategy to engage with people in these age brackets.

Section 3.2.3 notes that the relationship between age and formality was not extensively discussed by the VEC in its reports following the 2018 election. This is an area where improvement could be made after future elections. Research into the relationship between age and formality would also be beneficial.

Evaluations of the programs delivered by the VEC to assist these groups are discussed in Section 3.4.

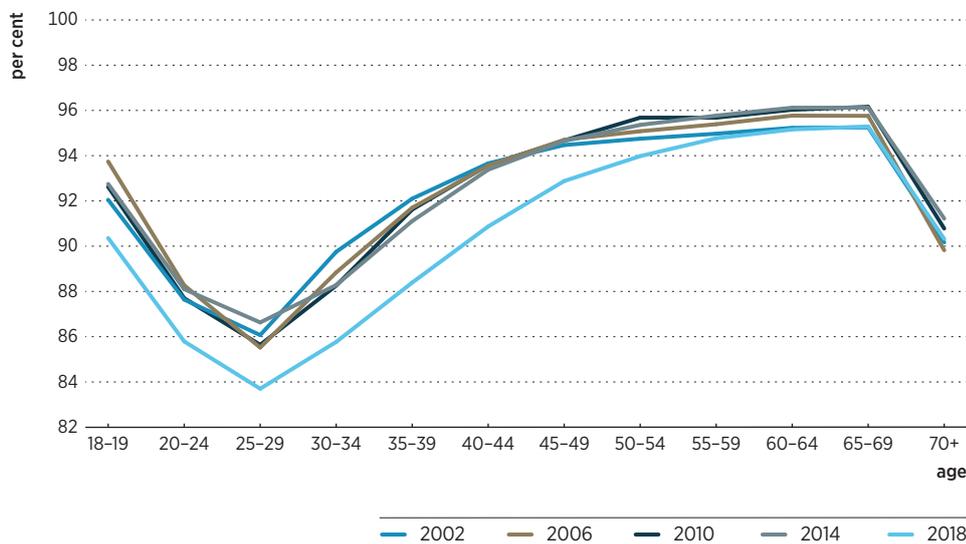
3.2.1 Consistently low turnout among 20-39-year-old electors

‘... young people when they are 18 and 19 are participating, and at quite a high rate, but then there is a drop-off afterwards. So that has usually got to do with it being the first time they have been able to vote, and it being a new experience for them. They vote the first time and then there is a drop-off, which comes back later on in the mid-30s.’¹¹⁸

The previous Electoral Matters Committee’s *Inquiry into civics and electoral participation in Victorian state parliamentary elections* summarised the association between age and voting generally described in political science literature—that the older a person is, the more likely they are to vote.¹¹⁹ That Committee heard that disengagement from formal politics and a lack of knowledge about formal political processes were major themes influencing the under-representation of younger voters in Australian and Victorian elections.¹²⁰

Voter turnout figures in Victoria show that it is younger voters, but not the youngest voters, that have the lowest turnout rate. Electors aged 18 and 19 turn out at around average levels but turnout drops after this, with 25-to-29-year-old electors having the lowest turnout rate. Turnout then increases with age until the 70+ group. Eighteen-to-19-year-old and 40-to-44-year-old electors turn out at around the same rate, with a 6–8 percentage point drop in turnout in between these two groups. This trend is consistent across multiple Victorian elections (see Figure 3.1).

Figure 3.1 Voter turnout by age—Victorian elections, 2002 to 2018



Source: Electoral Matters Committee, based on VEC data.

¹¹⁸ Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 10.

¹¹⁹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, p. 33.

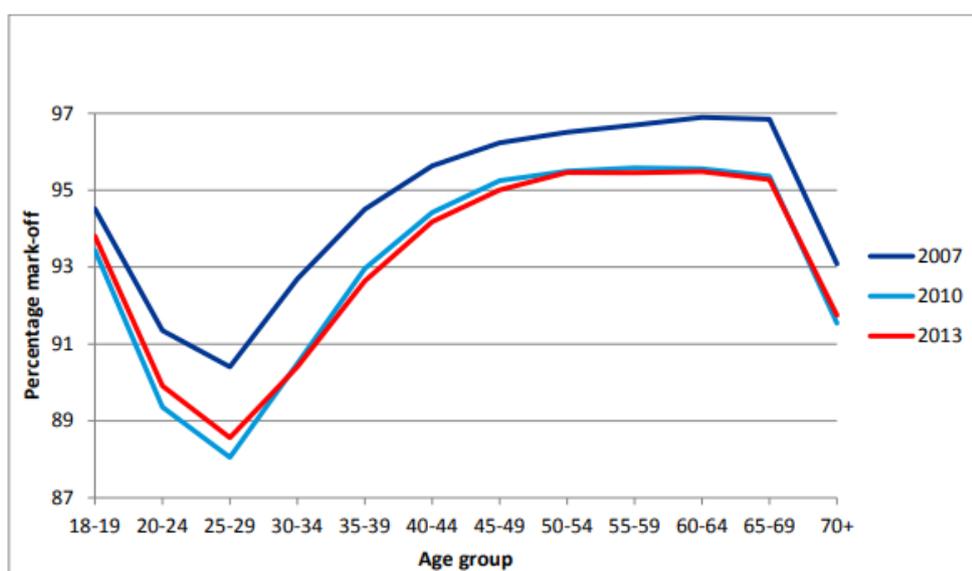
¹²⁰ Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, pp. 34–6.

The VEC’s submission recognises that 25-to-29-year-old voters turned out at the lowest rate of all age groups at the 2018 election:

There was a slight fall in participation in all age groups but the fall was greatest – and participation lowest – among 25-29 year olds, whose turnout dropped from 86.63% in 2014 to 83.70% in 2018 ... The VEC will need to consider how to better engage young people.¹²¹

This phenomenon is not unique to Victoria. Commonwealth elections show the same pattern (see Figure 3.2). Research into elections in Finland, Denmark and Texas also found similar relationships between age and turnout.¹²²

Figure 3.2 Voter turnout by age—Commonwealth elections, 2007 to 2013



Source: Samuel Hannan-Morrow and Michael Roden, ‘Gender, age and generational effects on turnout in Australian federal elections’, paper presented at the Australian Political Studies Association Conference, Sydney, 28 September to 1 October 2014, p. 13.

Research completed by the Australian Electoral Commission (AEC) indicates that this phenomenon is related to a person’s age, not their generation:

The relationship between turnout and age has been apparent for many years, with research indicating that this is a life-stage effect, not a generational effect. In other

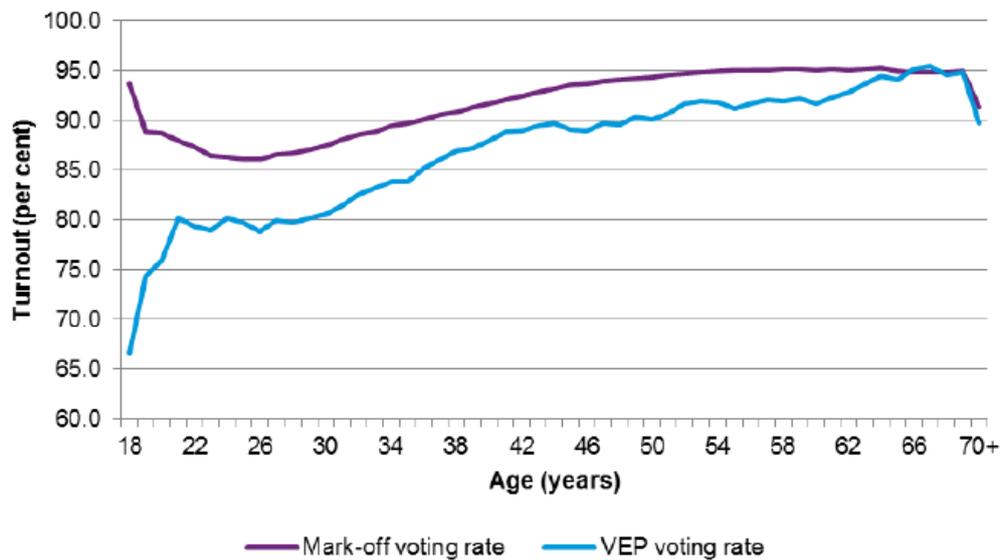
121 Victorian Electoral Commission, *Submission 92 (revised)*, pp. 72–3. The *Inquiry into civics and electoral participation in Victorian state parliamentary elections* by the Electoral Matters Committee in the 58th Parliament highlighted research identifying 25 as the age at which turnout was lowest: Samuel Hannan-Morrow and Michael Roden, ‘Gender, Age and Generational Effects on Turnout in Australian Federal Elections’, paper presented at the Australian Political Science Conference, Sydney, September 2014, p. 19. See Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, pp. 33–4 for discussion.

122 Yosef Bhatti, Kasper M Hansen, and Hanna Wass, ‘The relationship between age and turnout: A roller-coaster ride’, *Electoral Studies*, vol. 31, 2012, pp. 262–72.

words, turnout is more closely related to the age of an elector at the time of the election, not the year in which they were born.¹²³

To some extent, the higher turnout rate of 18-to-19-year-old electors may be a result of the way that turnout is calculated. Turnout looks at the number of people who vote as a proportion of the people in an age bracket who are enrolled, not as a proportion of the total population. AEC research into Commonwealth election results shows that, when taking into account lower enrolment rates among 18-to-19-year-olds, people in this age bracket vote at much lower rates. Figure 3.3 shows turnout as a proportion of enrolled voters ('mark-off voting rate') and as a proportion of the total voter eligible population ('VEP voting rate') at the 2016 Commonwealth election.

Figure 3.3 Voter turnout by age, and voting rate as a proportion of the eligible population—2016 Commonwealth election



Source: Australian Electoral Commission, *Voter turnout—2016 House of Representatives and Senate elections*, (n.d.), <https://www.aec.gov.au/About_AEC/research/files/voter-turnout-2016.pdf> accessed 29 April 2020, p. 14.

While the turnout ('mark-off voting rate') follows a similar pattern to Victoria, the voting rate as a proportion of the total eligible population shows a more straight-forward relationship between age and participation. It is not clear whether the same situation applies in Victoria, as the VEC has not published the relevant data.

123 Australian Electoral Commission, *Voter turnout—2016 House of Representatives and Senate elections*, (n.d.), <https://www.aec.gov.au/About_AEC/research/files/voter-turnout-2016.pdf> accessed 29 April 2020, p. 15. Academic literature acknowledges the difficulty of disentangling life-cycle, period and generational effects when investigating the influence voter age has on turnout. See for example Andre Blais, Elisabeth Gidengil & Neil Nevitte, 'Where does turnout decline come from?', *European Journal of Political Research*, vol. 43, no. 2, 2004, pp. 221–36; Aina Gallego, 'Where Else Does Turnout Decline Come From? Education, Age, Generation and Period Effects in Three European Countries', *Scandinavian Political Studies*, vol. 32, no. 1, 2009, p. 31.

The Committee recommended that the VEC publish enrolment rates by age cohort in Section 2.2.4. The Committee would also like to see the VEC publish turnout rates by age cohort in terms of total eligible population, as seen for the 2016 Commonwealth election in Figure 3.3.¹²⁴ This would enable the VEC, this Committee and the public to better understand the participation patterns of younger Victorians and respond appropriately.

FINDING 18: Electors in the 20-to-39-year-old age group have consistently exhibited low turnout at Victorian elections. Similar patterns exist across Australia and internationally.

FINDING 19: The lowest turnout rate in Victoria is for 25-to-29-year-old electors. However, an analysis of 2016 data at the Commonwealth level suggests that 18-to-24-year-olds have lower enrolment rates. When this is taken into account, 18-to-24-year-olds may actually be participating in lower numbers than the turnout rate suggests. It is not clear whether this is also the case in Victoria, as the VEC does not publish statistics about the enrolment rate of eligible Victorian electors by age bracket. Publishing and analysing these statistics would allow the VEC and stakeholders to better understand participation patterns and what interventions are needed.

RECOMMENDATION 13: That the VEC publish and discuss turnout by age cohorts in terms of the eligible population in its future reports on state elections.

3.2.2 The 2018 drop in turnout among 30-to-44-year-old electors

As discussed in Section 2.3, there was an overall drop in turnout between the 2014 and 2018 elections. According to VEC data, the age group with the greatest drop was 25-to-29-year-old electors. Turnout for this group dropped 2.9 percentage points—from 86.6% to 83.7%.¹²⁵

The Committee notes that one reason for the large drop in turnout among this age group was a jump in turnout for this cohort at the 2014 election. Turnout for this group rose 1.0 percentage point from 2010 to 2014, more than twice the rise in turnout of any other age group, many of which fell over the same period. See Table 3.1.

¹²⁴ The previous Electoral Matters Committee made similar arguments in relation to 18-to-24-year-old electors—Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, pp. 28–32.

¹²⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 72. The data used for turnout by age cohort are different to the data used to calculate overall turnout and the numbers are therefore not directly comparable.

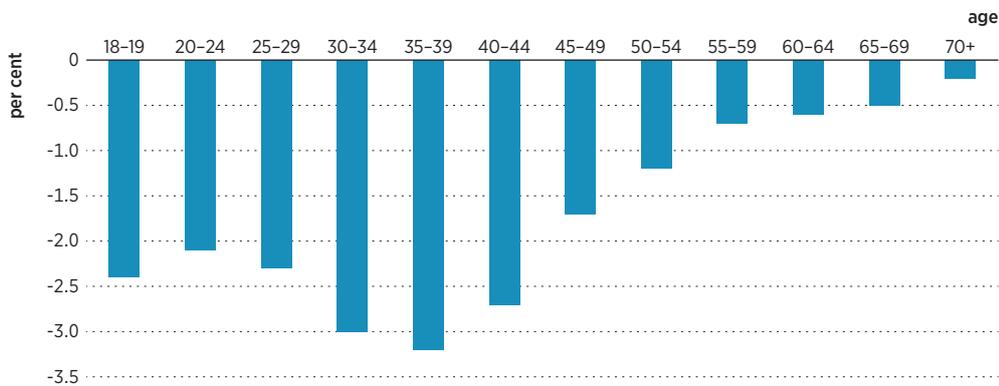
Table 3.1 25-to-29-year-old elector turnout—Victorian elections, 2002 to 2018

	2002	2006	2010	2014	2018
Turnout (percentage of enrolled voters)	86.1	85.5	85.6	86.6	83.7

Source: Electoral Matters Committee, based on VEC data.

To correct for this, Figure 3.4 compares the 2018 turnout to the average turnout between the 2002 and 2014 elections.

Figure 3.4 Change in voter turnout by age—Victorian elections (average 2002–2014 compared to 2018)



Source: Electoral Matters Committee, based on VEC data.

The age groups that showed the largest drop in turnout in 2018 were the 30-to-34, 35-to-39, and 40-to-44-year-old age groups. The Committee has not been presented with any information about what may have driven the drop in the turnout of these electors.

The Committee believes that one step in the VEC’s efforts to ensure greater turnout at future state elections is understanding why turnout dropped to such a great extent among 30-to-44-year-old electors at the 2018 election. In early 2020, the VEC indicated that it will undertake research into age effects on voting behaviour, including reasons for not voting and attitudes toward voting among 25-to-44-year-old electors.¹²⁶ The Committee welcomes this and notes that data from Apparent Failure to Vote Notices and excuses otherwise provided by non-voters may be a valuable source of information for this research (see Section 2.3.2).

FINDING 20: Turnout among 30-to-44-year-old electors at the 2018 election dropped the most of all age groups when compared to previous elections.

126 Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 3.

RECOMMENDATION 14: That, in its research into reasons for not voting and attitudes toward voting among the 25-to-44-year-old age group, the VEC include a focus on the drop in turnout among 30-to-44-year-old electors at the 2018 election. This research should include data already gathered by the VEC, such as responses to Apparent Failure to Vote Notices and excuses provided prior to notices being sent, which the VEC should be able to break down by electors' ages to understand differences between age brackets. The VEC should publish the results of its research and use the information to inform efforts to improve participation at future elections.

3.2.3 The relationship between formality and age

The previous Electoral Matters Committee looked at participation by younger voters in more detail in its *Inquiry into civics and electoral participation in Victorian state parliamentary elections*. The final report for that inquiry was tabled in August 2018, too close to the 2018 election for the VEC to implement the report's recommendations at that election.

During the current Inquiry, the Committee asked the VEC what it is doing to respond to those recommendations. Recommendation 9 was that the VEC:

... conduct further research into the relationship between age and informal voting at Victorian state elections, focusing on electoral Districts identified by the VEC as requiring particular attention. The VEC should benchmark its performance in relation to encouraging young people to cast formal votes in the VEC's annual report to Parliament.¹²⁷

The VEC's response stated, in part, that:

It is virtually impossible to examine the relationship between age and informality due to the fact that voting is secret. Even if the VEC could trace this back, a voter who had accidentally voted informally would not be aware of it.¹²⁸

The Committee finds this response to be inadequate. While the secret vote prevents establishing whether individual voters have cast an informal ballot, it does not prevent research into age effects through other methods.

The VEC has informality rates per district and it has the age distribution of voters within each district. It may be possible to identify some correlations with this information. The VEC could commission a survey which tests a sample of Victorian electors' ability to correctly complete a ballot paper, with the results analysed for age effects. At the Commonwealth level, data from the Australian Electoral Commission, Census and Australian Election Study¹²⁹ have been used to investigate the relationship between

¹²⁷ Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, August 2018, p. 66.

¹²⁸ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 16.

¹²⁹ For more see Australian National University, *The Australian Election Study*, 2019, <<https://australianelectionstudy.org>> accessed 25 February 2020.

younger voters and intentionally informal voting.¹³⁰ While each of these approaches has limitations, they may provide some insight into the nature and extent of the problem. Other approaches may also prove useful.

The Committee notes that the VEC has committed to sponsoring research into informality and why it occurs.¹³¹ The Committee does not believe that the secret vote prevents the examination of the relationship between age and informality and stresses the importance of including this aspect of voter behaviour in the research the VEC sponsors.

FINDING 21: The relationship between age and formal voting is an area of potentially valuable research. Although the VEC has stated that this is virtually impossible to examine, the Committee believes that there are ways to conduct research on this topic.

RECOMMENDATION 15: That the VEC ensure its research program includes research into the relationship between age and formal voting at Victorian state elections.

3.3 Participation among Victorians from CALD backgrounds

‘... we are certainly trying ... We can invite them [CALD groups] to have us down and run sessions. We are certainly doing that ... We had posters and electronic direct mail going out to those networks, which was how we sent on invites to those sessions. We had translated advertising in language. We had translated media placement in language. We had the EasyVote guide.’¹³²

Statistics like those explored in Section 3.2 in relation to age and participation are not available for voters from CALD backgrounds, as CALD attributes are not on the electoral roll. However, the Committee has received evidence repeatedly in previous inquiries that CALD Victorians face barriers to electoral participation that result in decreased turnout and increased informal voting.¹³³

¹³⁰ Lisa Hill and Serrin Rutledge-Prior, ‘Young people and intentional informal voting in Australia’, *Australian Journal of Political Science*, vol 51, no. 3, 2016, pp. 400–17.

¹³¹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 6.

¹³² Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 11.

¹³³ See for example: Victorian Electoral Commission, *Submission 12a*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, p. 24; ALP Victorian Branch, *Submission 20*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, p. 1; Ethnic Communities’ Council of Victoria Inc., *Submission 24*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, pp. 1–3; Ethnic Communities’ Council of Victoria Inc., *Submission 51 Part A2*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into the conduct of the 2014 Victorian state election, 2016, p. 2; Ethnic Communities’ Council of Victoria Inc., *Submission 7*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into the impact of social media on Victorian elections and Victoria’s electoral administration, 2014, pp. 1–3.

The VEC's submission to this Inquiry notes that some of the lowest turnout rates at the 2018 and 2014 elections were in districts with high proportions of residents who are not proficient in English and with a degree of social disadvantage (Broadmeadows, Dandenong, Footscray and St Albans).¹³⁴ The VEC also noted correlations between informal voting and districts with high proportions of residents who speak a language other than English in 2018.¹³⁵

The VEC has commissioned research into the barriers to electoral participation among CALD Victorians. Focus group research on participation by Arabic-speaking and Turkish communities in 2012 found that lower proficiency in English, lower literacy rates and not understanding the electoral system were the main barriers to voting among these groups. Additional barriers included queueing, mobility and access to transport.¹³⁶ Participant knowledge of electronically assisted voting, early voting and absentee voting was low.¹³⁷ Previous research by the VEC into barriers to participation among Chinese and Vietnamese communities identified proficiency in English as a barrier to formal voting.¹³⁸

Noting the lack of statistical measures of CALD turnout and formality, the Committee sought experiential evidence from CALD Victorians in areas with low electoral participation. The Committee supplemented this information through online meetings with several organisations in Canberra and Sydney associated with CALD communities.

3.3.1 CALD community forums

The Committee held two community forums exploring electoral participation issues with CALD Victorians from various backgrounds.

The Committee recognises the limitations of this kind of evidence. The Committee spoke to a small sample of Victorians from CALD communities which may not have been representative of the broader population. The Committee's aim was not to reach conclusions based on hard data but to increase the Committee's understanding and gain a further perspective on electoral participation by CALD Victorians.

The Committee held these community forums at the Box Hill Town Hall and at one of AMES Australia's Melbourne offices in March 2020. The Committee invited members of different CALD communities through AMES Australia and the Eastern Community Legal Centre.

¹³⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 71.

¹³⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 66.

¹³⁶ Cultural & Indigenous Research Centre Australia, *Barriers to enrolment and voting, and electronic voting, among Arabic-speaking and Turkish communities*, report for the Victorian Electoral Commission, Melbourne, 2012, pp. 3–4.

¹³⁷ Cultural & Indigenous Research Centre Australia, *Barriers to enrolment and voting, and electronic voting, among Arabic-speaking and Turkish communities*, report for the Victorian Electoral Commission, Melbourne, 2012, p. 4.

¹³⁸ Cultural & Indigenous Research Centre Australia, *Barriers to enrolment & voting within the Chinese & Vietnamese communities: Qualitative & quantitative research*, report for the Victorian Electoral Commission, Sydney, 2009, p. 28.

Thirty-three people participated in the forums, including people from Afghan, Arabic, Baha'i, Bangladeshi, Bhutanese, Burmese, Filipino, Hazara, Indian, Lebanese, Sri Lankan, Sudanese and Zoroastrian communities. The Committee asked participants to share their views on three topics in particular:

- why some people from their communities do not vote
- why some people from their communities vote informally
- any experience they have had with the VEC.

Forum participants raised and discussed a range of issues. The major themes that emerged included:

- the complexity of filling out ballot papers—especially the Upper House ballot paper—and a desire for information on how to vote formally to be provided well before voting
- suggestions about ways that the VEC could better engage with community groups
- a desire for more information about candidates, from a trusted and unbiased source.

Participants also noted that voter disengagement plays a role in low turnout among CALD electors, caused by factors like a lack of issues that communities feel passionate about, a dislike of politicians in general or a lack of candidates from their communities. They indicated that it was important to explain to people *why* they should vote as well as *how* and to emphasise that voting is a right and a privilege. They also suggested communicating the integrity of Victoria's elections, which may be different from elections in countries that some migrants have come from.

Some participants emphasised the value of CALD media as a communication tool, especially CALD radio and SBS television. Having community members or people speaking languages other than English in voting centres was also seen as important.

In addition, participants noted the importance of candidates using CALD media and providing information in languages other than English to engage people from CALD backgrounds.

The Committee notes that stakeholders it spoke with in Sydney and Canberra raised some similar issues in relation to New South Wales and Commonwealth elections. For example, the Ethnic Communities' Council of NSW also emphasised the importance of CALD media, telling the Committee that ethnic radio stations have a steady audience, and that voice, rather than text, can be an effective method of communicating with many CALD electors. The Federation of Ethnic Communities' Councils of Australia also echoed the importance of radio communication for CALD communities.¹³⁹

¹³⁹ Ethnic Communities' Council of NSW, private meeting, 26 May 2020; Federation of Ethnic Communities' Councils of Australia, private meeting, 27 May 2020 (see Appendix 1).

The Committee recognises that the VEC already provides a variety of services aimed at addressing some of the issues raised at the forums. The VEC runs voter information sessions, has in-language assistance at voting centres and includes some information on its website. However, the forums suggest that there is scope for some of these services to be improved and the Committee hopes that the VEC will note and consider the suggestions made at the forums.

The Committee also understands that some of the concerns relate to matters that the VEC has no control over (such as the form of ballot papers) and that the VEC's impartiality may limit the way it can provide information about candidates.

Ballot paper complexity and voting instructions

Participants raised concerns that many people were unsure about how to fill out ballot papers. When presented with sample Upper House ballot papers, some participants noted that the size and amount of material on the ballot papers could be overwhelming. Participants also noted confusion about above-the-line and below-the-line voting, confusion about the meaning of 'ungrouped' candidates and confusion about why parties listed more than one candidate.

The Committee provided participants with copies of the instructions in multiple languages which are displayed in voting booths. In undertaking the post-election evaluation, consulting firm Colmar Brunton had asked voters whose first language was not English about information in voting centres. Of the people interviewed who saw information in their first language, 81% considered it to be helpful and 16% not helpful at all.¹⁴⁰

Participants in the Committee's community forums raised a number of concerns about the non-English instructions, including that the information took some time to digest, that the instructions in some languages were unclear or poorly translated and that the diagrams explaining how to vote were not reproduced for each language. Some people suggested that these issues, combined with feeling time pressure at the ballot box due to long queues and an awareness that people are queueing behind them, may be contributing to informal voting.

Participants also recommended providing information about how to vote much earlier, before arriving at the voting centre. This would allow people to take their time reading and considering the information. The importance of providing information early was also emphasised by the Multicultural Disability Advocacy Association of NSW in its meeting with the Committee.¹⁴¹

¹⁴⁰ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 67.

¹⁴¹ Multicultural Disability Advocacy Association of NSW, private meeting, 27 May 2020 (see Appendix 1).

Suggestions made at the Committee's community forums for providing information earlier included:

- information on how to fill out ballot papers on the VEC's website in multiple languages
- an email to electors including information about how to fill out ballot papers
- video demonstrations (for example on YouTube) in multiple languages (or in English with subtitles in different languages) demonstrating how to fill out ballot papers
- information sessions on how to fill out ballot papers
- a website or app in which voters can view their ballot papers in advance, work out how they want to fill the ballot papers out (allowing them to take as much time as they need and to seek help if they need it), enter their preferences, get feedback about whether or not the options they have entered make a formal vote and then print the resultant ballot paper out with their preferences on it. Voters could then take the print-out with them and use it like a how-to-vote card.

Participants indicated that it could be useful to distribute information about how to fill out ballot papers through community venues, such as local councils, doctors' clinics, religious venues, 'mums and bubs' classes, community hubs and sporting venues. It was also suggested that voting booth instructions in each language could be provided in booklet format or separate sheets in different languages to allow for clearer language and diagrams. One participant noted that the information about voting provided in the citizenship course is vague and brief and could be improved with details about how to fill in ballot papers.

Other concerns about people's ability to understand the Upper House ballot paper are discussed in Chapter 11.

Engaging with community groups

As part of its efforts to engage with electors from CALD backgrounds, the VEC offers to come to community groups to talk about various matters related to elections. As discussed in Section 3.4.3, the VEC has noted that there has been a low uptake of these offers. Forum participants suggested that sessions need to be set up through trusted relationships, not generic letters, that they need to be at convenient times and that incentives such as a meal or reimbursement of transport costs could be important for people on low incomes. Participants indicated that it was important for sessions to be offered in languages other than English or in plain English and by people from within communities.

There was some disagreement between participants about the value of working through community leaders. While some considered it important to work with community leaders to gain trust amongst a community, others were concerned that community leaders may have their own agendas and recommended trying to engage with communities directly. The Ethnic Communities' Council of NSW emphasised the

importance of selecting the right people, who can act impartially, as part of its Vote Talk program (see below) and the importance of providing those people with proper training and assessment to perform their role.¹⁴²

It was also suggested at the Committee's community forums that information sessions need to be regular and ongoing and not just one-off events.

Several participants raised the 2016 Census community engagement program as a positive example. Participants recalled morning, afternoon and evening information sessions being provided in a variety of languages. They noted that the program made use of SBS and community radio, as well as existing community events such as local council vaccination sessions and celebrations surrounding Divali and Eid.

The Australian Bureau of Statistics (ABS), who runs the Census, uses specific engagement strategies to help it collect information from certain population groups, including people from CALD backgrounds.¹⁴³ In 2016 this strategy included 'community engagement, ethnic media and public relations, Census supporters, in-language advertising, videos, digital media and print materials.'¹⁴⁴ The ABS also employed local engagement managers for a range of target communities¹⁴⁵ as well as CALD strategy managers in each state.¹⁴⁶

The overall response rate for the 2016 Census was 95.1%.¹⁴⁷ The VEC may benefit from exploring the CALD engagement program used by the ABS.

Information about candidates

A major barrier identified by the forum participants was a lack of information about candidates. Many noted that not knowing who each candidate was and what they stood for made it difficult to fill out ballot papers.

Participants suggested that an unbiased source, such as the VEC, could:

- email information about the candidates in advance of the election
- facilitate debates between candidates
- use the internet or an app to help people understand who their candidates are
- visit religious venues or community centres to talk about the candidates.

¹⁴² Ethnic Communities' Council of NSW, private meeting, 26 May 2020 (see Appendix 1)

¹⁴³ See for the 2011 Census: Australian Bureau of Statistics, 2911.0.55.004 - *Information paper: 2011 Census special enumeration strategies, 2011, 2012*, <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/2911.0.55.004Main+Features12011>> accessed 8 April 2020.

¹⁴⁴ Australian Bureau of Statistics, *How we're reaching everyone*, 2016, <<https://www.abs.gov.au/websitedbs/censushome.nsf/home/reaching>> accessed 8 April 2020.

¹⁴⁵ Australian Bureau of Statistics, 2900.0 - *Census of population and housing: understanding the Census and Census data, Australia, 2016, 2017*, <<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2900.0-2016-Main%20Features-How%20we%20collected%20your%20information-2>> accessed 8 April 2020.

¹⁴⁶ Australian Bureau of Statistics, *Annual report 2016-17*, Belconnen, 2017, p. 65.

¹⁴⁷ Australian Bureau of Statistics, *Annual report 2016-17*, Belconnen, 2017, p. 3.

Similar calls for information about candidates were noted in the evaluation of the VEC's Be Heard! Democracy Ambassador Program (see Section 3.4.3 on that program), though the evaluation report also notes concerns about the VEC's ability to provide this sort of information without compromising its impartiality.¹⁴⁸ However, the VEC does provide candidate information (supplied by candidates) as part of local government elections without compromising its impartiality. A similar system could be considered for state elections.

Electoral commissions in other jurisdictions have explored alternative approaches. Electoral Commission New Zealand has supported online tools.¹⁴⁹ The Australian National University has developed an online tool called smartvote Australia, based on similar programs used in Europe. This allows electors to determine which candidates' policies align with their own views, based on answers the candidates and electors provide to a series of questions.¹⁵⁰ Professor Patrick Dumont noted that equivalent tools in other countries had been made multilingual, so that they could be a way to help CALD communities to engage with elections.¹⁵¹

In meetings with the Committee, the Ethnic Communities' Council of NSW and the AEC spoke positively of a program that they had developed together with the NSW Electoral Commission called Vote Talk.¹⁵² This program included podcasts and radio interviews about voting and election processes in a variety of languages. Along with the importance of voting and information on how to vote, one of the key messages of the program was encouraging people to learn more about candidates' policies.¹⁵³ The program received positive feedback from its facilitators and radio hosts.¹⁵⁴ The Ethnic Communities' Council of NSW recommended to the NSW Parliament that Vote Talk be extended, including adding more languages.¹⁵⁵

¹⁴⁸ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 32.

¹⁴⁹ Electoral Commission New Zealand, *Report of the Electoral Commission on the 2017 general election*, Wellington, 2018, p. 21.

¹⁵⁰ For more, see Australian National University, *smartvote Australia*, (n.d.), <<https://australia.smartvote.org/en/about-us>> accessed 27 May 2020. The ABC's *Vote Compass* provides a similar service, though only at the level of political parties, not individual candidates.

¹⁵¹ Patrick Dumont, private meeting, 27 May 2020 (see Appendix 1).

¹⁵² Australian Electoral Commission, private meeting, 26 May 2020; Ethnic Communities' Council of NSW, private meeting, 26 May 2020 (see Appendix 1).

¹⁵³ Ethnic Communities' Council of NSW, *Submission 3*, submission to the Parliament of New South Wales, Joint Standing Committee on Electoral Matters, Inquiry into the administration of the 2019 NSW state election, 2019, p. 12. Vote Talk bilingual facilitators were trained and required to be impartial and not discuss their personal views regarding candidates and policies—Ethnic Communities' Council of NSW, *Submission 3*, submission to the Parliament of New South Wales, Joint Standing Committee on Electoral Matters, Inquiry into the administration of the 2019 NSW state election, 2019, pp. 10–12.

¹⁵⁴ Ethnic Communities' Council of NSW, *Submission 3*, submission to the Parliament of New South Wales, Joint Standing Committee on Electoral Matters, Inquiry into the administration of the 2019 NSW state election, 2019, pp. 13–15.

¹⁵⁵ Ethnic Communities' Council of NSW, *Submission 3*, submission to the Parliament of New South Wales, Joint Standing Committee on Electoral Matters, Inquiry into the administration of the 2019 NSW state election, 2019, p. 7.

FINDING 22: The Committee ran two community forums with people from CALD backgrounds to understand the barriers that make it difficult for CALD communities to vote or to vote formally. Key suggestions from participants included:

- providing more information about how to fill out ballot papers (especially Upper House ballot papers) and providing it before people get to the voting centre
- following the CALD engagement model used by the Australian Bureau of Statistics for the 2016 Census
- providing information about candidates and their policies.

RECOMMENDATION 16: That the VEC consider the suggestions from the Committee's CALD community forums as part of developing future plans for engaging with CALD communities.

3.4 VEC inclusion and participation activities leading up to the 2018 election

The VEC delivered a variety of activities designed to promote inclusion and participation for the 2018 election. These programs were delivered within the VEC's wider inclusion and participation framework (see Section 3.4.1), with input from community advisory groups (see Section 3.4.2).

The Committee recognises that the VEC has expanded its engagement efforts in recent years. However, as discussed in Chapter 2, turnout and formality rates dropped between 2014 and 2018. Particularly worrying to the Committee is that there was an increase in the number of people apparently voting informally by accident (see Section 2.4.3). In this context, the Committee asked the VEC about the effectiveness of its communication and education programs. The VEC responded that:

It is difficult to say what this may indicate about the VEC's communication and education programs; it is not apparent at this point as to whether this was a 'one-off' occurrence or the beginning of a trend.¹⁵⁶

The Be Heard! Democracy Ambassador Program is the VEC's key program for enhancing inclusivity and participation. The Program and its effectiveness are discussed in Section 3.4.3. Other programs targeted at younger voters and CALD voters are discussed in Sections 3.4.4 and 3.4.5.

¹⁵⁶ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 6.

3.4.1 Inclusion and participation framework

‘The Victorian Electoral Commission (VEC) Education and Inclusion Services Program delivers a suite of initiatives aimed at communities and population cohorts facing barriers to electoral participation. These groups include people experiencing homelessness, young people, Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse (CALD) communities, and people in prisons.’¹⁵⁷

The VEC’s *Enduring framework for the design, implementation and evaluation of electoral education and awareness programs (2014-2018)* outlined its public awareness work prior to the 2018 election.¹⁵⁸ This was further defined through the *Community education and electoral inclusion strategy 2017-2019*, which was ‘based on a best practice public participation approach’¹⁵⁹ and included the following five objectives:

1. increase informed electoral participation through the provision of electoral outreach and targeted information resources
2. encourage the early formation of positive voting behaviour by developing young people’s civic knowledge and skills
3. gain access to priority communities by engaging in meaningful partnerships with relevant organisations
4. extend the reach of the VEC’s electoral inclusion work by building the capacity of community organisations and workers
5. create a culture of inclusion within the VEC by building staff capability during 2018-19.¹⁶⁰

The Committee notes that the VEC commenced a review of its education and inclusion strategy in 2019, as the existing strategy had reached the end of its implementation period.¹⁶¹

The VEC delivers its inclusion and participation activities based on the stage of the electoral cycle, with face-to-face outreach emphasised in the lead-up to an election.¹⁶² The VEC’s 2018 election initiatives focused on the following groups:

- people experiencing homelessness
- young people

¹⁵⁷ Victorian Electoral Commission, *Submission 92* (revised), p. 23.

¹⁵⁸ Victorian Electoral Commission, *Submission 12a*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, p. 2.

¹⁵⁹ Victorian Electoral Commission, *Submission 12a*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, p. 2.

¹⁶⁰ Victorian Electoral Commission, *Submission 12a*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, p. 2; Victorian Electoral Commission, *Annual report 2018-19*, Melbourne, 2019, p. 68.

¹⁶¹ Victorian Electoral Commission, *Annual report 2018-19*, Melbourne, 2019, pp. 15, 19.

¹⁶² Victorian Electoral Commission, *Submission 12a*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, p. 2.

- Aboriginal and Torres Strait Islander communities
- CALD communities
- people in prisons.¹⁶³

The VEC also performs research to support its inclusion and participation activities and provides general election information through its broader advertising and communication program.¹⁶⁴

3.4.2 Community advisory groups

The VEC's current advisory groups

The VEC has three community advisory groups:

- Culturally and Linguistically Diverse Advisory Group
- Electoral Access Advisory Group (which focuses on Victorians living with a disability)
- Homelessness Advisory Group.¹⁶⁵

The Electoral Commissioner explained that:

The VEC established these committees after it recognised the value of working with community networks and experts to access community knowledge, build worker capacity and further expand its community networks. The contributions members have made have enabled the VEC to develop excellent inroads to community and a number have resulted in major projects e.g. Voters Voice app.¹⁶⁶

The groups consist of representatives and professionals from each community.¹⁶⁷ The CALD Advisory Group membership, for example, is a result of 'direct invitation resulting from networking within community, nomination by sector peak bodies and from a biennial survey asking existing members to identify any perceived gaps.'¹⁶⁸ The VEC has also invited people with lived experiences to join its advisory groups.¹⁶⁹

¹⁶³ Victorian Electoral Commission, *Submission 92* (revised), p. 23.

¹⁶⁴ Victorian Electoral Commission, *Submission 92* (revised), pp 15–22.

¹⁶⁵ Victorian Electoral Commission, *Annual report 2017–18*, Melbourne, 2018, p. 29; Victorian Electoral Commission, *Annual report 2018–19*, Melbourne, 2019, p. 31.

¹⁶⁶ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 11.

¹⁶⁷ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, pp. 11–12.

¹⁶⁸ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 7 October 2019, p. 3. Current membership includes Department of Premier and Cabinet—Multicultural Affairs and Social Cohesion Division, AMES Australia, Migrant Information Centre (Eastern Melbourne), Victorian Local Government Multicultural Issues Network, Ethnic Communities' Council of Victoria, Victoria University, Centre for Multicultural Youth, Carringbush Adult Education, Islamic Council of Victoria, Australian Bureau of Statistics, a female community member from Iran and a male community member from South Sudan.

¹⁶⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 12.

These groups are involved in the design of the VEC's outreach initiatives.¹⁷⁰ Group members were able to give feedback on the 2018 *State election service plan* and helped develop the Be Heard! Democracy Ambassador Program.¹⁷¹ In a 2016 audit, the Auditor-General noted that the 'VEC's advisory groups provide valuable input into these programs.'¹⁷²

The same audit noted that:

... due to staffing issues these groups have been managed inconsistently. Until recently, only two of the groups had terms of reference. VEC also had no set process for evaluating the groups.¹⁷³

The Electoral Commissioner told the Committee that all three groups now have terms of reference and that the effectiveness of the groups is measured through various forms of feedback from group members.¹⁷⁴

The Committee considers that feedback from group members is not a particularly robust way to measure the effectiveness of a group. Outcomes-based measures which look at the participation of relevant communities or assessments of the groups by people who are not members of the groups would provide more meaningful information. The VEC has noted that it does measure the satisfaction of some relevant stakeholders as part of the post-election evaluations,¹⁷⁵ though it may be difficult to link election evaluation at that level with the work of the advisory groups.

The Committee considers that it would be appropriate for the VEC to try to find more meaningful ways to evaluate whether or not its advisory groups are an effective way for it to reduce the barriers faced by stakeholders. This is particularly important, given the falling turnout and formality rates.

FINDING 23: The VEC has community advisory groups to provide advice about engaging with people from CALD backgrounds, people with disabilities and people experiencing homelessness. The effectiveness of these groups is primarily measured by feedback from members of the groups.

RECOMMENDATION 17: That the VEC explore ways to more objectively measure the effectiveness of its advisory groups as a means of addressing the challenges faced by certain groups of voters. The results of these measures should be included in future reports on state elections.

¹⁷⁰ Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 10.

¹⁷¹ Victorian Electoral Commission, *Annual report 2017-18*, Melbourne, 2018, p. 29.

¹⁷² Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. vii.

¹⁷³ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 24.

¹⁷⁴ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, pp. 12-13.

¹⁷⁵ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 13.

The Aboriginal and Torres Strait Islander Advisory Group

The VEC previously had an Aboriginal and Torres Strait Islander Advisory Group which it struggled to staff and convene. The Group did not meet from 2011 to 2016, or in 2017–18.¹⁷⁶ The VEC reported in 2019 that it ‘has not managed to maintain an ongoing [Aboriginal and Torres Strait Islander] Advisory Committee.’¹⁷⁷

The VEC’s outreach to Aboriginal and Torres Strait Islander communities has been negatively impacted by its struggles to convene an advisory group and to staff its engagement efforts for this community.¹⁷⁸

The VEC stated in 2019 that it has begun working with the University of Melbourne to find more culturally inclusive ways to ‘seek advice and input from this [Aboriginal and Torres Strait Islander] community’.¹⁷⁹ The VEC informed the Committee that it is consulting with the Aboriginal and Torres Strait Islander community on a new engagement plan.¹⁸⁰

The Committee agrees that it is time for the VEC to consider a new approach to Aboriginal and Torres Strait Islander inclusion and participation and supports the VEC’s decision to research the best way forward.

FINDING 24: The VEC has consistently struggled to staff and convene its Aboriginal and Torres Strait Islander Advisory Group. The VEC is now working toward a new approach to Aboriginal and Torres Strait Islander engagement.

3.4.3 Be Heard! Democracy Ambassador Program

‘The Be Heard! Democracy Ambassador Program was scaled up for the 2018 State election after a successful pilot in 2014 with Horn of Africa communities. The program aims to increase electoral literacy, encourage more people to use electoral access services, and increase meaningful and informed electoral participation across Victoria.’¹⁸¹

The VEC’s ‘foundation program for the 2018 State election featured peer-based information delivery through the Be Heard! Democracy Ambassador Program.’¹⁸² The Program involved VEC staff training and supporting community members as

¹⁷⁶ Victorian Electoral Commission, *Annual report 2017–18*, Melbourne, 2018, p. 29; Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 24.

¹⁷⁷ Victorian Electoral Commission, *Annual report 2018–19*, Melbourne, 2019, p. 73.

¹⁷⁸ Victorian Electoral Commission, *Submission 92* (revised), p. 25; Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 20.

¹⁷⁹ Victorian Electoral Commission, *Annual report 2018–19*, Melbourne, 2019, p. 32.

¹⁸⁰ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 19.

¹⁸¹ Victorian Electoral Commission, *Submission 92* (revised), p. 23.

¹⁸² Victorian Electoral Commission, *Submission 92* (revised), p. 23.

Democracy Ambassadors ‘to deliver electoral information and enrolment services through existing services and community events.’¹⁸³

The aim of the Program

The Program was targeted at four particular communities, while also having a focus on youth across all groups:

- people with disabilities (especially people with intellectual disabilities)
- people experiencing homelessness
- Aboriginal and Torres Strait Islander communities
- CALD communities.¹⁸⁴

Members of the VEC’s advisory groups (see Section 3.4.2) were involved in workshops to develop the Program.¹⁸⁵

The Program’s desired impact was:

In the long-term, the program increases ‘formal voting with intention’ by:

- Informing and educating the people who come to information sessions
- Engaging community leaders to shift community values
- And building the capacity of service providers to support clients to exercise their democratic rights¹⁸⁶

The VEC recruited Democracy Ambassadors through its existing networks of community members and service providers. An initial plan to recruit 40 people was extended when interest was higher than expected.¹⁸⁷ When a lack of Aboriginal and Torres Strait Islander representation was identified, the VEC engaged an Aboriginal and Torres Strait Islander consultancy to recruit more candidates.¹⁸⁸

The Democracy Ambassadors underwent a combination of online and face-to-face training (over four days in Melbourne for most, over two days in Shepparton for a smaller group). This was followed by online training based on needs identified in the face-to-face sessions. Five Democracy Ambassadors were given a co-presenter to give additional support at all sessions they facilitated.¹⁸⁹

¹⁸³ Victorian Electoral Commission, *Submission 92* (revised), p. 23.

¹⁸⁴ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 10.

¹⁸⁵ Victorian Electoral Commission, *Annual report 2017–18*, Melbourne, 2018, p. 29.

¹⁸⁶ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 12.

¹⁸⁷ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, pp. 13–15.

¹⁸⁸ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 15.

¹⁸⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 15.

BOX 3.1: Targeting the Be Heard! Democracy Ambassador Program

The VEC targeted its outreach work at the 2018 election based on districts that had low turnout and high informality at the 2014 election, along with Census data on ‘areas with the lowest levels of English proficiency, and the highest levels of disadvantage, homelessness, and populations of Aboriginal and Torres Strait Islander peoples.’

This resulted in the VEC identifying 14 priority areas in which the VEC recruited Democracy Ambassadors and coordinated outreach sessions with local service providers and community leaders. The priority areas at the 2018 election were: Frankston, Melton, Mildura, Moe, Moorabool, Noble Park, Orbost, Pakenham, Robinvale, St Albans, Reservoir, Shepparton, Werribee and Wendouree.

Source: Victorian Electoral Commission, *Submission 92* (revised), p. 23; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 7 October 2019, p. 3.

The VEC employed 57 Democracy Ambassadors, 47 of whom delivered 335 outreach sessions to a total of 8,246 participants across the Program’s target groups (see Table 3.2).¹⁹⁰ Democracy Ambassadors were also present as part of the VEC’s Democracy Live Program¹⁹¹ and were a source for election staff.¹⁹²

Table 3.2 Be Heard! Democracy Ambassador Program participants

	CALD communities	People with a disability	People experiencing homelessness	Aboriginal and Torres Strait Islander communities	Multiple/other	Total
Voter education session	3,086	979	182	373	136	4,756
Enrolment outreach session	105	50	319	47	41	562
Community event	1,416	437	770	100	157	2,880
Other e.g. meeting, library stall	0	0	10	23	15	48
Total	4,607	1,466	1,281	543	349	8,246
Youth reached across target communities	271	534	74	110	16	1,005

Source: Victorian Electoral Commission, *Submission 92* (revised), p. 24.

¹⁹⁰ Victorian Electoral Commission, *Submission 92* (revised), pp. 23–4; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 7 October 2019, pp. 1–2.

¹⁹¹ Victorian Electoral Commission, *Submission 92* (revised), p. 27.

¹⁹² Victorian Electoral Commission, *Submission 92* (revised), p. 32.

The voter education sessions were formal presentations to community groups aimed at teaching people to vote correctly (among other things).¹⁹³ The other activities were less structured and less likely to influence vote formality. Enrolment sessions were run at organisations that run drop-in services and were aimed at answering questions and helping people enrol. Stands at community events (which accounted for 34.9% of participants) are inherently less immersive and therefore less likely to influence behaviour than education sessions.¹⁹⁴

The VEC identified 14 priority geographical areas in which to target the Program, based on Census data and 2014 turnout and informality rates (see Box 3.1). The VEC then drew on the knowledge of its CALD Advisory Group to establish contacts with local service providers and leaders within these target areas, as well as using Facebook advertising, to identify community groups interested in hosting outreach sessions.¹⁹⁵ However, as noted below, the VEC had limited success with that approach.

Independent evaluation of the Be Heard! Democracy Ambassador Program

The VEC engaged SVA Consulting to evaluate the Be Heard! Democracy Ambassador Program following the 2018 election. The evaluation included a review of the Program's implementation and outcomes based on VEC data, a survey of Democracy Ambassadors and interviews with key stakeholders. The Committee notes that only 50 participants were interviewed, limiting the significance of parts of the evaluation based on interview data.¹⁹⁶

The Electoral Commissioner described the results of the evaluation:

The independent evaluation found that more time and resources are required if delivering at scale, community groups found the sessions informative and worthwhile and the VEC recruited the 'right' people. However, its ability to influence change in voting behaviours (i.e. vote with intent) was not proven.¹⁹⁷

¹⁹³ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 16.

¹⁹⁴ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, pp. 16, 29.

¹⁹⁵ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 7 October 2019, pp. 1–2; Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 14.

¹⁹⁶ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 8. The VEC has previously tracked whether inclusion and participation program participants go on to vote—see Section 3.5.3.

¹⁹⁷ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 19.

The evaluation identified ten priority outcomes and found that the Program largely achieved six of those outcomes, though with qualifications.¹⁹⁸ Four outcomes were not achieved:

- participants believe it is important to vote
- participants inform themselves about candidates before voting
- participants turn out to vote
- increase in no-fixed-address (homeless) enrolment.¹⁹⁹

The evaluation found that participants already believed it was important to vote before participating in the Program, and that, while there was evidence that participants informed themselves about candidates before voting, it was difficult to attribute this to the Program. There was limited evidence about the effect on no-fixed-address enrolments.²⁰⁰

The evaluation also found that Aboriginal and Torres Strait Islander participation was low, that more could be done to reach younger people and that most of the sessions were held in Melbourne, limiting regional impact.²⁰¹

Fewer than 60% of participants from CALD communities or with a disability interviewed by the consultants went on to vote in the 2018 election. Many of those that did vote had voted previously, making it difficult to attribute their voting to the Program. Those participants from CALD communities who did not vote said that it was because they were not citizens, and therefore were ineligible.²⁰² It is not clear how many of the total Program participants were not citizens.

While it is not a negative thing that possible future citizens receive education about voting in Victoria, it does not contribute to the goal of participants turning out to vote at the 2018 election.

FINDING 25: Independent evaluation of the Be Heard! Democracy Ambassador Program found that six of ten Program outcomes were achieved, with some qualifications. The Program's ability to influence change in voting behaviours was not proven.

¹⁹⁸ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, pp. 26–7.

¹⁹⁹ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, pp. 26–7.

²⁰⁰ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, pp. 26–7.

²⁰¹ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 26.

²⁰² SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, pp. 33–4.

Effectiveness of the face-to-face outreach model

The end result of the Be Heard! Democracy Ambassador Program was 335 outreach sessions attended by 8,246 people (of which 4,756 attended the more formal voter education sessions). This small number relative to the voting population means any effect the Program may have had on overall electoral participation would be minimal and hard to measure, something recognised by the VEC:

Independent evaluation of the Democracy Ambassador Program revealed significant improvements in participants' understanding of how to vote correctly. However, the 8,246 participants comprised only some 3% of the voters in the target areas. As the proportion was small, it is difficult to distinguish the effects of the Democracy Ambassador Program from other factors affecting informal voting in those areas.²⁰³

In fact, the VEC reported that the informal vote in target areas increased more than the state-wide informal vote:

The informal vote in the target areas increased by 0.95 percentage points – slightly above the statewide increase of 0.61 percentage points. However, in 10 of the 14 target areas the increase in the informal vote was less than that for the State as a whole.²⁰⁴

While face-to-face outreach may offer a greater chance of engagement and behavioural change than mass communication, the barriers to voting for some of the VEC's target groups are likely still too great to be overcome by a single outreach session. The VEC noted that:

... many participants face significant systemic barriers to voting, which a single voter education session or enrolment outreach session cannot overcome. Unless these barriers are addressed, they are unlikely to enrol and vote. For example, support workers at one youth homelessness organisation said while the Democracy Ambassador session was beneficial, they didn't think the young people who attended that session would have voted in the election because their lives were simply "too chaotic" now. They hoped the education session would lead to these young people voting in the next state election once their lives were more stable.²⁰⁵

This was echoed by the independent evaluation, which found that the Program's effectiveness was limited by various structural barriers. These included the VEC's impartiality and election timelines limiting its ability to provide information on candidates and parties. Voter cynicism and apathy towards current politicians were also noted, as were long-term barriers which cannot be addressed by one-time interventions.²⁰⁶

²⁰³ Victorian Electoral Commission, *Submission 92* (revised), p. 24.

²⁰⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 24.

²⁰⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 24.

²⁰⁶ SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019, p. 36.

‘We cannot force ourselves on groups. We can invite them to have us down and run sessions. We are certainly doing that.’²⁰⁷

A particular challenge the VEC faced was poor uptake of its invitations to run outreach sessions with community groups in target communities. As examples of this problem, the Electoral Commissioner noted:

The VEC made direct contact with 109 community services within Footscray District with an offer to conduct a session and provide interpreters if required. A total of 28 organisations responded and sessions were delivered to 678 participants. Some 23 of the 28 sessions involved CALD participants (466).

Direct invites were also sent to 50 community services within Pascoe Vale District, with four organisations responding and 73 participants attending. Three of the four sessions involved CALD participants (46).²⁰⁸

The Committee heard that engaging with CALD voters is a struggle for political parties, in much the same way it is for the VEC:

I think as political parties we struggle with that challenge ourselves, and that is to communicate complex political messages to people who are linguistically challenged, who, because they come from another country, have got minimal English skills. So I think that there is still a lot of room for improvement in that space, yes.²⁰⁹

The Committee’s community forums with members of CALD communities included a number of comments about ways that the VEC might approach community groups (see Section 3.3.1).

The Committee is concerned that the limited scale of face-to-face outreach limits the effectiveness of the Be Heard! Democracy Ambassador Program as a ‘foundation’ for the VEC’s strategy. The Committee notes that the VEC also recognises this limitation, and responds by seeking to increase inclusion and participation through a range of other methods, alongside face-to-face outreach:

Now, even though we had 47 people going out and running those 335 sessions, you cannot cover the entire state. So we have to rely on a multipronged approach, which is that campaign, plus other communications, plus them seeing the television campaign.²¹⁰

While face-to-face outreach certainly has a place, the turnout and formality results at the 2018 election indicate that a wider-scale approach may be needed.²¹¹

²⁰⁷ Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 11.

²⁰⁸ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 7 October 2019, p. 2.

²⁰⁹ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 3.

²¹⁰ Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 11.

²¹¹ See Chapter 2 for overall turnout and formality figures at the 2018 election. See Section 3.2 for figures for younger Victorians.

The Committee believes there is a need to continue investigating whether there are more effective ways to improve electoral participation.

FINDING 26: Outreach programs based on face-to-face delivery, such as the VEC's Be Heard! Democracy Ambassador Program, are inherently limited in scale. This reduces the impact they can have on electoral participation.

RECOMMENDATION 18: That the VEC consider the effectiveness of face-to-face outreach as a foundation for efforts to increase electoral participation, taking into account its inherent scale limitations, and consider alternative models that can provide greater reach and are more cost-effective as potential foundations for future outreach programs.

3.4.4 Other programs aimed at CALD communities

The Be Heard! Democracy Ambassador Program (see Section 3.4.3) was the VEC's 'foundation' outreach program for the 2018 election. As shown in Table 3.2, more than half of the participants (4,607) were from CALD communities.

In addition to the Be Heard! Democracy Ambassador Program, the VEC provided a range of services aimed at facilitating inclusion and participation among CALD Victorians, including:

- in-language assistance at voting centres through staff who speak languages other than English, translated voting instructions on voting booths and telephone interpreter services
- an Easy English Guide for electors whose first language is not English or who have low literacy
- the Voters Voice app, whose target audience included electors with English language difficulties and low literacy
- the Talking Democracy civic education kit for people studying English as an additional language
- CALD media advertising
- radio interviews in a variety of languages
- translated materials on the VEC website
- media releases translated into a variety of languages.²¹²

212 Victorian Electoral Commission, *Submission 92* (revised), pp. 15, 19, 21-2, 25, 34.

The VEC told the Committee that:

In recognition of the cultural diversity of Victorian electors, the VEC spent 10% of the total media placement on culturally and linguistically diverse (CALD) media advertising – double the minimum amount required by the State Government.²¹³

The Committee notes in this context that the VEC's overall expenditure on advertising at the election increased from \$2.9 million in 2014 to \$3.8 million in 2018.²¹⁴

In addition to products specifically targeted at people from CALD backgrounds, CALD voters often rely on products designed for the whole population for information. As part of its post-election evaluation, Colmar Brunton found that:

Two thirds of CALD voters had not seen any communications from the VEC in a language other than English prior to election day (67%), while a further fifth are unsure if they did (18%).²¹⁵

It is therefore important that all information products be designed with CALD voters in mind. The Committee is pleased to see that CALD voters were more likely than the general population to find the VEC's communication at the 2018 election to be effective.²¹⁶ CALD voters were more likely to have read the Election Guide and 97% who read it found it useful.²¹⁷

The Committee acknowledges that the VEC is doing some good work for CALD Victorians and that its programs have increased over time.

Nonetheless, the Committee is concerned about the ability of these programs to improve participation. Turnout remains low in districts with a high proportion of residents who are not proficient in English (see Section 3.3). Informality in the districts targeted by the Be Heard! Democracy Ambassador Program rose more than the state-wide average (see Section 3.4.3). Apparently accidental informality rose in a number of districts with high proportions of people from CALD backgrounds, indicating more voters tried but failed to cast a formal ballot in 2018 (see Section 2.4.3).

The Committee's broader concern is that, despite an increase in VEC programs aimed at increasing CALD participation over time, electoral participation measures continue to fall. The VEC will need to continue looking for new ways to assist and engage people from CALD backgrounds.

²¹³ Victorian Electoral Commission, *Submission 92* (revised), p. 15.

²¹⁴ Victorian Electoral Commission, *Annual report 2014–15*, Melbourne, 2015, p. 37; Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, p. 38. Note: these figures only cover state-election-related advertising in the financial year of the election.

²¹⁵ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 66; see also Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 11.

²¹⁶ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 14.

²¹⁷ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, pp. 16–17.

FINDING 27: While the VEC has increased its CALD engagement activities over time, it is not clear whether these activities had a positive impact on CALD participation at the 2018 election. Though CALD voters are among the most satisfied with the VEC's general information products, there remain problems with low turnout and high informality in areas with high proportions of people from CALD backgrounds.

3.4.5 Other programs aimed at younger people

'... there were a number of people aged 18 to 29 that we tracked in a longitudinal survey ... 90 per cent of them were aware that the election was on, they were aware of the date of the election and they were also aware of the importance of voting. Yet the intention to vote still stayed static right throughout that period ...'²¹⁸

The Be Heard! Democracy Ambassador Program included young people as one of its target groups and reached 1,005 young Victorians ahead of the 2018 election (see Table 3.2).²¹⁹ The VEC also offered other programs which sought to increase the participation of younger Victorians.

Passport to Democracy seeks to engage and inform school students. This program provides extensive material for teachers on the VEC's website, including lesson plans, mock election materials and assessment resources. Teachers can also book a VEC education officer to visit their school and deliver information.²²⁰

In the lead up to the 2018 election, the VEC did not actively contact schools to offer them 2018 election information. However, some schools requested state election information or sessions, and the VEC conducted workshops and mock elections at 44 schools from July 2018 to election day (out of 2,254 schools in Victoria²²¹). Sixteen of these schools requested information for students around enrolment/voting age.²²²

Other youth engagement activities included delivering youth workshops on active citizenship with the Centre for Multicultural Youth and Office for Youth, facilitating an active citizenship workshop at the Banyule City Council Youth Summit, encouraging schools to apply for Youth Parliament and providing scholarships for students to attend Youth Parliament.²²³

²¹⁸ Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 10.

²¹⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 24.

²²⁰ Passport to Democracy, *Teachers*, 2016, <<https://passport.vec.vic.gov.au/teachers>> accessed 2 March 2020.

²²¹ As at February 2019—Department of Education and Training, *Victorian schools summary statistics*, 2019, <<https://www.education.vic.gov.au/Documents/about/department/summarystatssnapshot.pdf>> accessed 2 March 2020.

²²² Victorian Electoral Commission, *Submission 92* (revised), p. 26. The 58th Parliament Electoral Matters Committee's *Inquiry into civics and electoral participation in Victorian state parliamentary elections* addressed civics and electoral education in Victoria, Australia, and overseas, including the VEC's programs for school students.

²²³ Victorian Electoral Commission, *Annual report 2016–17*, Melbourne, 2017, p. 55; Victorian Electoral Commission, *Annual report 2017–18*, Melbourne, 2018, p. 58.

VEC efforts to engage young people also included identifying 18-to-24-year-old electors as an advertising campaign focus.²²⁴ However, research performed by Colmar Brunton for the VEC showed that:

... although younger people's awareness of the election and of VEC communications increased over the election, this had no apparent effect on their attitude to the election or their intention to vote.²²⁵

BOX 3.2: Research into reasons younger people do not vote in Victoria

Research prepared by the Social Research Centre for the VEC in 2018 found that reasons for not voting differed between younger and older voters. The researchers surveyed non-voters at the 2014 state election and 2016 local council elections. They found that 18-to-34-year-old non-voters were more likely than older non-voters to give the following reasons for not voting:

- they thought their vote would not make a difference
- they lack knowledge of the election itself, as well as the candidates and issues.

The Social Research Centre asked younger (under 45) non-voters what would assist them to vote and based on this information recommended that the VEC could use 'digital and online channels such as online voting, SMS reminders, an election app, and social media to inform and engage this group.'

The Committee notes the VEC is planning further research into how voting behaviour is affected by age, and reasons for non-voting among 25-to-44-year-old electors.

Sources: The Social Research Centre, *Understanding non-voters of Victorian state and council elections*, Melbourne, 2018; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 3.

While recognising the VEC's efforts, the Committee notes that the VEC's current inclusion and participation programs are primarily focused on school children and people aged 18 to 24. This concerns the Committee because, as discussed in Section 3.2.1, turnout is low throughout the 20-to-39-year-old age bracket, with the lowest turnout being for people between 25 and 29.

The VEC provided evidence to the *Inquiry into civics and electoral participation in Victorian state parliamentary elections* that engaging with school students can lead to increased electoral, civic, and political involvement in later life.²²⁶ However, such effects

²²⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 15.

²²⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 65. This tracking survey focused on 18-to-29-year-old electors—Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 81.

²²⁶ Victorian Electoral Commission, *Submission 12a*, Submission to the Parliament of Victoria, Electoral Matters Committee, *Inquiry into civics and electoral participation in Victorian state parliamentary elections*, 2018, pp. 5–8.

do not appear to be translating to Victorian turnout rates, which remain consistently low among 20-to-39-year-old electors,²²⁷ despite the Passport to Democracy Program having run since 2008.

The Committee notes that the VEC used SMS reminders and a social media campaign with a focus on 18-to-24-year-old electors at the 2018 election.²²⁸ The VEC's advertising program also featured a focus on 18-to-24-year-old electors.²²⁹ However, a focus on 18-to-24-year-old electors leaves out the majority of 20-to-39-year-old electors. It also misses the age cohort with the lowest turnout—25-to-29-year-old electors.

The VEC acknowledged that it 'will need to consider how to encourage greater participation by younger Victorians in future State elections'²³⁰ and is developing a Young People's Action Plan.²³¹ The VEC also told the Committee that it is developing research into the relationship between age and voting behaviour.²³² The Committee welcomes these steps but notes that there is a need to expand the focus from the youngest voters to voters throughout their 20s and 30s (as discussed in Section 3.2).

The Committee notes that the VEC does not have an advisory group focusing on younger people. Establishing such a group could benefit the VEC's efforts to create programs that effectively engage younger voters.

FINDING 28: The VEC's inclusion and participation programs do not appear to have had an effect on the low turnout among 20-to-39-year-old electors. They are also largely focused on school children and people in the 18-to-24-year-old age bracket, despite the fact that the lowest turnout rate is seen among 25-to-29-year-olds and turnout remains low for people in their 30s. The VEC's advertising targeted at younger voters did not increase their likeliness to vote.

RECOMMENDATION 19: That the VEC develop and trial measures within its inclusion and participation efforts to increase turnout among electors across the entire 20-to-39-year-old age cohort and not just the youngest electors.

RECOMMENDATION 20: That the VEC establish an advisory group aimed at advising on engagement programs for voters from 20 to 39 years old, a cohort which consistently shows low turnout.

²²⁷ See Section 3.2.1.

²²⁸ Victorian Electoral Commission, *Submission 92* (revised), pp. 16–18.

²²⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 15.

²³⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 65.

²³¹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 4.

²³² Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 3.

3.5 Limitations of the VEC's performance reporting

'It is vital the VEC is able to demonstrate the impact of activities aimed at improving participation for those traditionally under-represented in the electoral system.'²³³

The aim of the VEC's inclusion and participation programs is to increase electoral participation, i.e. achieve high rates of enrolment, turnout and formal voting. Many programs are particularly aimed at increasing participation among the VEC's priority groups (see Section 3.4.1).

To determine if its programs are effective and to identify any changes that are necessary, the VEC needs to evaluate what effect they are having on electoral participation.

The VEC has improved in this area since an Auditor-General's report in 2016 but could still do more. This includes reporting data on whether outreach program participants go on to enrol and vote, and increasing transparency by publishing its plans, strategies and evaluations.

Other aspects of the VEC's performance measurement and reporting are discussed elsewhere in this report, especially Chapter 6.

3.5.1 VEC reporting and performance measurement

The VEC uses a range of methods to measure the performance of its inclusion and participation programs. Some of these are publicly available, including:

- performance indicators outlined in the VEC's *State election service plan* (for more, see Section 6.2)
- general descriptions of inclusion and participation programs, including outreach session and participant numbers, in annual and post-election reports
- commissioning an independent research company to conduct questionnaires with voters, candidates and political party representatives after each election
- evaluating specific programs on an occasional basis²³⁴
- publishing research and position papers on particular aspects of electoral inclusion on an occasional basis²³⁵
- reporting to and getting feedback from the VEC's advisory groups (see Section 3.4.2 for more on the advisory groups).

²³³ Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 11.

²³⁴ For example, see Monash University Faculty of Education, *Evaluation of the Richmond Emerging Aboriginal Leadership (REAL) Program Final Report*, Melbourne, 2016; SVA Consulting, *Be Heard Democracy Ambassadors Program: Evaluation Report*, report for the Victorian Electoral Commission, 2019.

²³⁵ Victorian Electoral Commission, *Research & position papers*, 2019, <<https://www.vec.vic.gov.au/Publications/ResearchAndPositionPapers.html>> accessed 7 January 2020.

3.5.2 Election performance indicators on inclusion and participation

‘In order to evaluate the overall success of the election and to determine whether the VEC’s intent has been met, key performance indicators have been adopted. By utilising a set of indicators, the VEC’s performance can be assessed, and future performance improvements identified.’²³⁶

The VEC introduced performance indicators relating to inclusion and participation for the first time at the 2018 election (see Table 3.3). This followed an Auditor-General’s recommendation that the VEC ‘further develops and publishes election performance indicators for activities aimed at improving participation among those traditionally under-represented in the electoral system.’²³⁷

The Auditor-General’s 2016 audit report highlighted the difficulty of measuring the effect of VEC outreach programs on voter participation:

It is difficult to assess the impact of VEC’s engagement projects on voter participation, as the electoral roll does not contain indicators for the target groups—apart from the age of the voter.²³⁸

The VEC’s performance measures therefore focus on actions and outcomes *before* voters reach the ballot box, such as outreach session participation numbers and participant understanding. The Committee is pleased to see measures attempting to assess likely outcomes at the ballot box by looking at participants’ knowledge of how to fill out ballot papers, knowledge of assistance available and knowledge of how to find out who to vote for.

²³⁶ Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 2.

²³⁷ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 17.

²³⁸ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 23.

Table 3.3 VEC performance indicators aimed at removing barriers to participation

Indicator	Measure	Target	Outcome
Objective: Increase the participation and inclusion of those traditionally underrepresented in the electoral process.			
People with a lived experience or connection to homelessness, disability, CALD and/or Aboriginal and Torres Strait and young people recruited, trained and work as Democracy Ambassadors leading up to the election	Number of people recruited as Democracy Ambassadors	40	57
People reached through the Be Heard! Democracy Ambassador Program	Number of people reached through the program	7,500	8,246
People experiencing homelessness complete a 'no-fixed-address' enrolment form	Increase in the number of people enrolled as 'no fixed address'	Increase on roll of people enrolled as no-fixed-address	361 new no-fixed-address enrolments received May to November 2018
Supported mobile voting offered to homelessness services and prisons within Victoria	Number of supported mobile voting sessions held at homelessness services and prisons	20	32 ^(a)
Participants know how to correctly fill out a ballot paper	Percentage of participants who fill out a ballot paper correctly	70	94
Participants know they can get assistance to vote	Percentage of people who know they can get assistance to vote	50 ^(b)	79
Participants know how to find out who to vote for	Percentage of people who know how to find out who to vote for	80 ^(b)	78

a. Includes five prisons.

b. The targets for these indicators in the VEC's State election service plan were 70%—Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 11.

Source: Victorian Electoral Commission, *Submission 92* (revised), p. 137.

3.5.3 Additional reporting on outreach programs

'Some initiatives resulted in new enrolments and votes—but their true impact is unclear, due to the challenges in collecting relevant data and a lack of outcome evaluation of some of these promising initiatives.'²³⁹

While there is value in reporting on the numbers of outreach sessions, numbers of participants and what they learnt, the ultimate measure of the effectiveness of outreach sessions is electoral participation. The VEC does not publish data on whether those people that attend their outreach sessions go on to enrol and vote.²⁴⁰

²³⁹ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 19.

²⁴⁰ The secret ballot prevents any measurement of formality on a voter by voter basis.

The 2016 Auditor-General's audit reported that the VEC had started 'flagging voters who have enrolled after attending VEC engagement activities, so that they can determine whether they also voted.'²⁴¹ The Auditor-General published the relevant figures for 2014, showing the number of participants who enrolled after participating in an outreach session and the number who went on to vote at the 2014 election.²⁴²

The VEC has not continued the practice of flagging voters at its engagement activities, telling the Committee that accurate tracking has been prevented by participants completing enrolment forms after the outreach session and sending them to the VEC (rather than completing forms on the spot) or later updating their enrolled address. The VEC has included the ability to track enrolments as a result of outreach sessions as a requirement of a new Roll Management System it is developing.²⁴³

The Committee believes that continuing to gather and report this information would help with measuring the effectiveness of the VEC's outreach programs.

Section 6.4 of this report notes various plans and strategies that the VEC is developing, which are aimed at enhancing participation and inclusion among particular groups. As recommended in that section, the Committee would like to see robust evaluation criteria made public for each of the VEC's redeveloped plans and strategies (including performance measures and quantified targets).

The VEC has indicated that it has procured independent evaluations of the Be Heard! Democracy Ambassador Program and the Passport to Democracy Program.²⁴⁴ This is an encouraging development, but these evaluations have not been made public.²⁴⁵ To enhance transparency and accountability, the results of these and similar evaluations should be factored into the VEC's performance measurement and reporting systems.

FINDING 29: The VEC has improved its accountability by introducing election performance indicators for its inclusion and participation programs. These could be enhanced by measuring the enrolment and turnout of people participating in the VEC's programs and by establishing robust performance measurement systems for future plans and strategies.

²⁴¹ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 23.

²⁴² Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 24.

²⁴³ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 20. The Committee notes that whether votes cast by outreach participants are formal cannot be determined as measures to ensure a secret ballot, rightly, do not allow a particular vote to be connected with a particular elector.

²⁴⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 24; Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 14. The VEC has also indicated it has developed benchmarks and targets for the Passport to Democracy program—Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 15.

²⁴⁵ The VEC provided the evaluation of the Be Heard! Democracy Ambassador Program to the Committee on request.

4 Inclusive voting options

4.1 Introduction

For an election to be inclusive, it is important for all electors to have the opportunity to vote. Most electors vote in person at a voting centre on election day. However, for some voters, this can be challenging. The VEC therefore provides a variety of different ways for people to vote at each election.

This aligns with international thinking on inclusivity as an important element of democratic elections. The Deepening Democracy strategy is a joint initiative of the Kofi Annan Foundation and the International Institute for Democracy and Electoral Assistance (International IDEA) aimed at addressing instability around elections worldwide. It lists ‘... removing barriers—legal, administrative, political, economic, and social—to universal and equal political participation ...’ as one of the major elements of conducting an election with integrity.²⁴⁶

Similarly, the Organization of American States outlines four key questions reflecting the necessary conditions for people to be able to vote in inclusive elections (see Section 2.1). These questions include:

- Are there significant legal or other hurdles to get to a polling station or otherwise cast a vote?
- Are all eligible and willing voters able to cast their vote and do so as intended?²⁴⁷

With these questions in mind, this chapter looks at the various voting methods available at the 2018 election. The chapter explores the services offered by the VEC, how these have changed over time and the extent to which they meet voters’ needs.

Section 4.2 outlines the different ways of voting that were offered in 2018.

Sections 4.3 to 4.4 look at early voting. Early voting continues to rise in popularity. The Committee heard a variety of opinions on early voting, with particular debate about the length of the early voting period. The Committee concluded that the length of the early voting period should be kept at two weeks. However, to increase voters’ opportunity to vote, the Committee recommends more days with extended early voting hours for future elections.

²⁴⁶ Global Commission on Election, Democracy and Security: *Deepening democracy: A strategy for improving the integrity of elections worldwide*, Geneva/Stockholm, 2012, p. 6.

²⁴⁷ General Secretariat of the Organization of American States, *Methods for election observation: A manual for OAS electoral observation missions*, report prepared by Gerardo L. Munck, Washington DC, 2007, p. 8.

Section 4.5 looks at voters' experience at election-day and early voting centres. A number of submitters to this Inquiry raised concerns about the appropriateness of the venues selected as voting centres. Issues raised included voting centre location, accessibility and safety for voters, voter interactions with campaigners and queueing. The Committee found that, apart from simply improving these venues, the VEC could be more transparent in its selection of venues. The Committee's recommendations include improved public reporting to increase accountability and to facilitate better voting centres at future elections.

In Section 4.6, the Committee explores issues relevant to voting methods other than in-person early and election-day voting. These include postal and email voting, telephone assisted voting and interstate/overseas voting.

Finally, in Section 4.7, the Committee addresses evidence concerning voting in rural and regional Victoria.

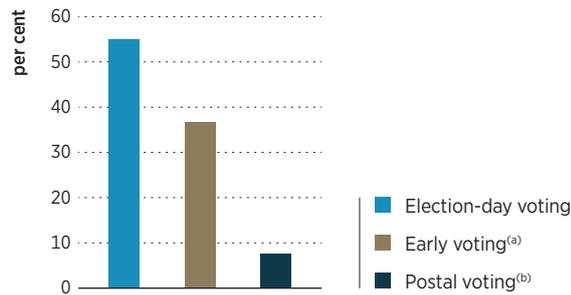
4.2 Voting options at the 2018 election

At the 2018 election, voters had access to:

- election-day voting—attending a voting centre on election day, either within or outside a voter's electorate
- early voting—attending one of 103 early voting centres in Victoria in the two weeks prior to election day
- postal voting—ballot papers were posted to voters, who filled them in and returned them by post
- email voting—ballot papers were emailed to voters, who printed them, filled them in and posted them to the VEC
- telephone assisted voting—voters in certain categories could vote by telephone, making two calls (one to register for telephone assisted voting and one to cast their vote)
- mobile voting—teams of election officials visited 1,131 locations (such as nursing homes, hostels, prisons, homelessness agencies and hospitals) to enable electors to vote at those venues
- interstate and overseas voting—voting in person at 45 locations around Australia and internationally.

Figure 4.1 illustrates the proportion of voters using various methods of voting at the 2018 election.

Figure 4.1 Use of different voting options, 2018 election



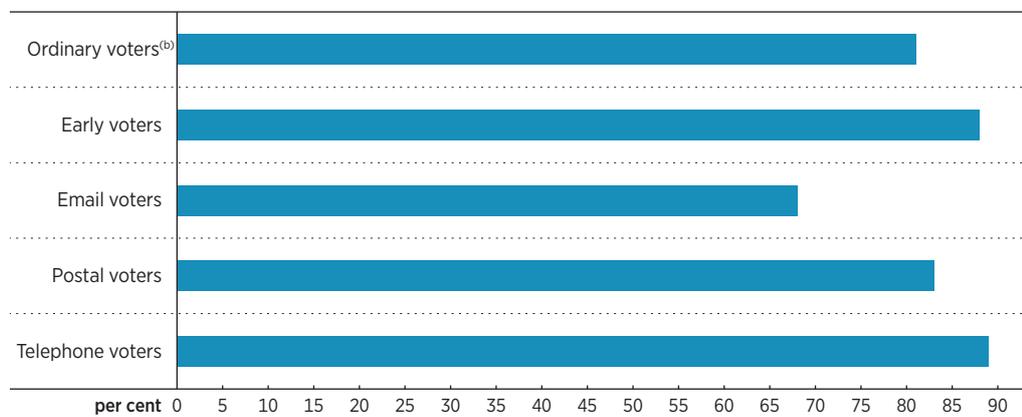
- a. Includes in-person voting at early voting centres, mobile voting, telephone assisted voting and interstate/overseas voting.
- b. Includes postal and email voting.

Source: Electoral Matters Committee, based on VEC data.

The VEC commissioned Colmar Brunton to conduct an evaluation of its services at the 2018 election, which included a voter survey. Colmar Brunton’s questionnaire asked voters how satisfied they were with their overall voting experience. Most respondents (84%) were satisfied with their experience.²⁴⁸ This was less than the VEC’s target of 93%.²⁴⁹

Similar levels of satisfaction were experienced regardless of the way people voted, with the exception of email voting (see Figure 4.2).²⁵⁰ The issues with email voting are discussed in Section 4.6.1.

Figure 4.2 Proportion of voters satisfied with their overall voting experience, 2018^(a)



- a. Satisfaction is defined as a rating of 7 or more out of 10.
- b. Includes absentee and provisional voters.

Source: Electoral Matters Committee, based on Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 7.

²⁴⁸ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 7. Satisfaction is defined by Colmar Brunton as a rating of 7 or more out of 10.

²⁴⁹ Victorian Electoral Commission, *Submission 92 (revised)*, p. 136.

²⁵⁰ More detailed information on satisfaction levels for various voter groups, as measured by Colmar Brunton, is included throughout this chapter.

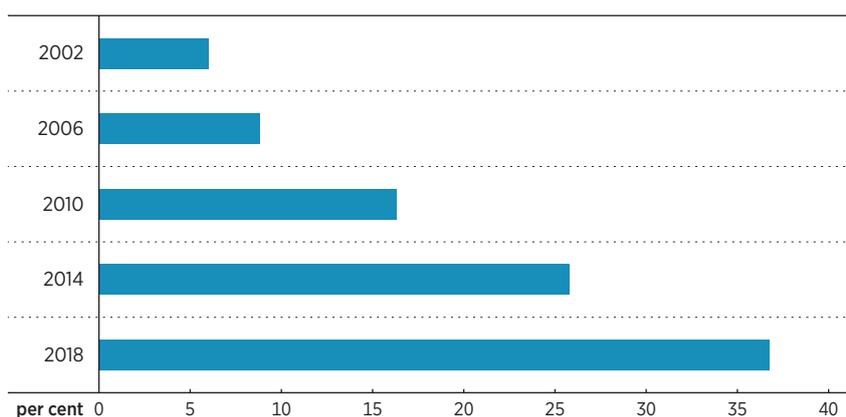
4.3 The continued rise of early voting

‘Early voting was again popular, with 36.77% of voters choosing to vote early in person in the two weeks before election day. Specifically, 1.37 million electors, including those interstate and overseas, took up the early voting option ...’²⁵¹

The most striking trend in voting methods at the 2018 election was the continued rise in people choosing to vote early at an early voting centre. At the 2018 election, 36.8% of all votes were early votes (predominantly at early voting centres²⁵²), up from 25.8% in 2014, and 16.3% in 2010 (see Figure 4.3).

The rise in early voting comes with a consequent drop in voting at voting centres on election day, which decreased from 64.8% of votes in 2014 to 55.0% in 2018. Mr Warwick Gately AM, Electoral Commissioner, told the Committee at a public hearing that the rise in early voting will likely continue: ‘Early voting continues to grow in popularity across Australia generally and will likely overtake ordinary election day voting at the 2022 state election.’²⁵³

Figure 4.3 Proportion of voters voting early, 2002 to 2018



Note: Includes mobile voting, electronic assisted voting (via telephone assisted voting in 2018, see Section 4.6.2) and interstate/overseas voting.

Source: Electoral Matters Committee, based on VEC data.

As part of its evaluation of the 2018 election, Colmar Brunton asked early voters why they voted early. The majority (63%) indicated that their reason for voting early was that ‘it was more convenient for me to vote early instead of on election day’. The second most common response (13%) was ‘I did not want to be rushed/pressured’. Smaller numbers of people indicated that they voted early because they were unable to attend a voting centre on election day due to work, travel or health reasons.²⁵⁴

²⁵¹ Victorian Electoral Commission, *Submission 92* (revised), Foreword.

²⁵² This figure also includes mobile voting, telephone assisted voting and interstate/overseas voting.

²⁵³ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commissioner, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 1.

²⁵⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 44.

BOX 4.1: Early voting eligibility changes at the 2018 election

As a result of a legislative change, all electors were automatically eligible to vote early in 2018. At the 2014, 2010 and 2006 elections, electors had been required to make a verbal application to vote early by stating that they would be unable to vote on election day. Prior to that there were more criteria. The VEC noted that the change in legislation ‘may have contributed to the increase in the number of early voters.’

Sources: Victorian Electoral Commission, *Submission 92* (revised), p. 73; Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 25.

The rise in early voting is not unique to Victoria. Elections across Australia and New Zealand have seen a rise in early voting.²⁵⁵

As the number of people voting early increases, early voting plays a larger role in the electoral system. Early voting is now an established part of Victorian elections and is clearly more popular with voters than ever before. Early voting provides a method of voting that increases the inclusivity of Victorian elections, and the Committee recognises its value. However, submitters and witnesses raised two concerns about early voting:

- some wanted to change the length of the early voting period (both the number of days and the hours in each day)—see Section 4.4
- some considered that a number of the venues used as early voting centres were unsuitable—see Section 4.5.

FINDING 30: Early votes accounted for 36.8% of all votes at the 2018 election. This continues the increase in early voting over recent Victorian elections. This trend is also evident in other Australian jurisdictions and New Zealand.

4.4 Length of the early voting period

Witnesses and submitters held differing views on the appropriateness of the current two-week early voting period. Some argued that it should be shorter, while others wanted to keep it as it is. There was also some confusion about the length of the early voting period, with some thinking that it was three weeks long (as in Commonwealth elections).

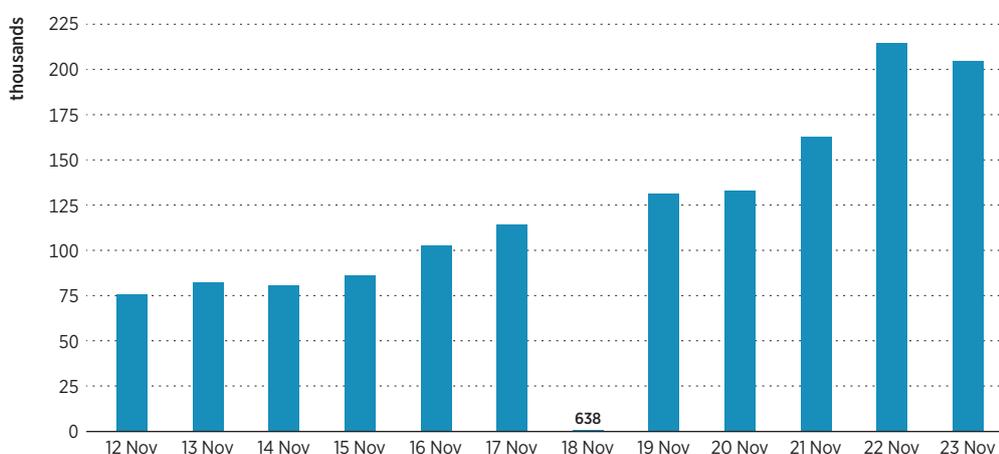
The Committee explored these views and the idea of extending the hours early voting centres are open.

²⁵⁵ Electoral Commission SA, *Election report – 2018 state election*, Adelaide, 2019, p. 55.

Early voting at the 2018 election was available for two weeks, from Monday 12 November to Friday 23 November 2018, including Saturday 17 November (but not Sunday 18 November). Extended hours (until 8 pm) were offered on Thursday 22 November.²⁵⁶ In addition, the Melbourne Airport early voting centre operated extended hours 'to meet major flight departure times.'²⁵⁷

Early voting activity increased throughout the early voting period (see Figure 4.4). Around 30.8% of votes were cast in the first week of early voting (Monday 12 to Friday 16 November), 8.2% were cast on Saturday 17 November and 60.9% were cast in the second week (from Monday 19 to Friday 23 November). The most votes were cast on the Thursday before election day, when early voting centres were open until 8 pm.

Figure 4.4 Early voting period—votes returned per day



Source: Electoral Matters Committee, based on data from Victorian Electoral Commission, *Postal and early voting summary*, 2018, <https://www.vec.vic.gov.au/Elections/Files/VotingServices_PostalAndEarlyVotingSummary241118.xls> accessed 26 November 2019.

4.4.1 The number of days for early voting

'... we are increasingly seeing an elongated election and voting period where political parties and their candidates are focused on early voting centres and not campaigning in the community. This has the added disadvantage of precluding some electors from casting a vote in full awareness of the plans and policies of candidates they are voting for.'²⁵⁸

While acknowledging that voting should be convenient for voters, the Liberal Party and The Nationals both argued that a two-week early voting period is excessive.²⁵⁹

²⁵⁶ Prior to the 2018 election early voting had been available from 4 pm on the final nomination day. The *Electoral Legislation Amendment Act 2018* changed this so that early voting begins at 9 am the Monday after the final nomination day—*Electoral Act 2002* s 99.

²⁵⁷ Victorian Electoral Commission, *Submission 92* (revised), p. 36.

²⁵⁸ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11.

²⁵⁹ The Nationals, *Submission 86*, p. 2; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 19–20; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11.

Mr Matthew Harris, State Director of The Nationals, told the Committee that a two-week early voting period risks electors casting their votes with incomplete information, as candidates and parties often do not release their full policies and costings until just before election day:

... people who are voting two weeks before election day do not necessarily know what they are voting for. Parties and candidates do not announce their policies in many instances until the Thursday or Friday before the election, so it is very difficult for people to make an informed choice about what they are voting for if policies have not been announced, and the earlier we make the early voting period the more likely it is going to be that 40 per cent of people perhaps are voting without knowing what they are actually getting.²⁶⁰

Other arguments for shortening the early voting period included that:

- it can be difficult to organise volunteers to hand out how-to-vote cards and campaign at early voting centres throughout the period (especially for smaller parties and non-party-aligned candidates)²⁶¹
- the availability of postal voting reduces the need for early voting in person²⁶²
- fixed-term elections make it easier for Victorians to plan their voting²⁶³
- candidates campaign less within their communities during the early voting period, as they instead focus on campaigning at early voting centres²⁶⁴
- shortening the early voting period would provide time for how-to-vote cards to be authorised and would therefore allow candidates to use the same cards in early voting and on election day, eliminating the need for candidates to print two versions of their how-to-vote cards²⁶⁵
- a shorter period would allow cost savings through reduced staffing costs²⁶⁶
- the two-week early voting period increases the risk of electoral fraud by having votes stored for longer before counting (this is discussed further in Section 5.2)²⁶⁷

²⁶⁰ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 22. See also Liberal Party of Australia (Victorian Division), *Submission 69*, p. 6; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11.

²⁶¹ Stawell ALP Branch, *Submission 74*, pp. 1–2; see also Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, pp. 11–12.

²⁶² Stawell ALP Branch, *Submission 74*, p. 2; Sue Pennicuik, *Submission 100*, p. 5.

²⁶³ The Nationals, *Submission 86*, p. 2.

²⁶⁴ Liberal Party of Australia (Victorian Division), *Submission 69*, p. 6; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11.

²⁶⁵ Liberal Party of Australia (Victorian Division), *Submission 69*, p. 6.

²⁶⁶ The Nationals, *Submission 86*, p. 2; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 19. It was also suggested that there may be reduced rental costs, though the Committee notes that early voting centres are currently leased for three months, so reducing the early voting period will not affect the cost of the lease—Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 2.

²⁶⁷ Rohan Leppert, Acting State Director, and Michael Butler, Victorian Campaign Convener, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 31–2.

- the early voting period reduces the efficacy of the media blackout required by legislation.²⁶⁸

Some considered that, if the early voting period were shortened, it would be appropriate to increase the hours early voting centres are open each day (see further discussion of this in Section 4.4.2).²⁶⁹

‘VTHC [Victorian Trades Hall Council] strongly supports the early voting options available as it enfranchises shift workers, people whose work takes place on the weekend, emergency services, health care workers, as well as parents, and people with disabilities.’²⁷⁰

Others supported the current two-week early voting period.²⁷¹ The Victorian Trades Hall Council’s arguments centred around the hours people work, and the ability a two-week period gives for more Victorians to cast their vote.²⁷² Ms Wil Stracke, Assistant Secretary of the Victorian Trades Hall Council, outlined her organisation’s concerns around reducing the early voting period:

... there are workers who do seven-day rostering arrangements. They have to balance out their work commitments as well as getting the kids to school, picking the kids up and participating where they can in family and other community activities. They have to find the time to then also vote within that. So our view is seven days is not enough. I think the two-week period is a good period of time to allow for people who work those non-standard working arrangements, shift workers and others to get down to a polling station and participate in pre-poll.²⁷³

The Labor Party cited modern work practices as a reason for retaining the two-week early voting period:

It is our view that early voting and the period that is currently allocated to it is important. The manner in which Victorians are working today in 2019 is very different than it was 30 years ago ... We do not support any shortening of that period, as in the two-week period. We think that as the years roll on there will be a greater demand for Victorians to have more flexibility in terms of when they can vote because that will align with their work practices.²⁷⁴

²⁶⁸ The Nationals, *Submission 86*, p. 2.

²⁶⁹ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 21; Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 12; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 12.

²⁷⁰ Victorian Trades Hall Council, *Submission 82*, p. 4.

²⁷¹ Victorian Trades Hall Council, *Submission 82*, p. 4; Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 2.

²⁷² Victorian Trades Hall Council, *Submission 82*, p. 4.

²⁷³ Wil Stracke, Assistant Secretary, Victorian Trades Hall Council, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 37.

²⁷⁴ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 2.

The Hon. Russell Northe MLA and Mr Rohan Leppert from the Greens recognised the burden the two-week period places on campaigners but believed that the aim of facilitating voter participation should be the primary concern.²⁷⁵

Previous Electoral Matters Committees have considered the length of the early voting period, hearing some of the same arguments for shortening the early voting period that were raised in this Inquiry.²⁷⁶ Those committees concluded that keeping the two-week early voting period was the right course of action. The 2014 committee examined the early voting period as part of its *Inquiry into the future of Victoria's electoral administration* and determined that shortening the early voting period could disenfranchise voters:

Given changing social conditions related to work and how people spend their weekends, the Committee determined that many Victorian electors would find it more difficult to participate at election time if early voting services were curtailed, i.e., if the early voting period was shortened to one week. Deliberately restricting access to early voting could thus have the effect, in the Committee's view, of disenfranchising many Victorian electors and discouraging electoral participation. Accordingly, the Committee does not support shortening the two-week early voting period for Victorian elections.²⁷⁷

The committee in 2016 noted that early voting was becoming more popular, and concluded that it 'makes little sense to try and fit an increasing number of electors into a smaller voting window.'²⁷⁸ Problems currently experienced at voting centres, such as parking, queueing and disrupting neighbouring businesses (discussed in Sections 4.5.1 and 4.5.2) would likely be exacerbated by reducing the early voting period to one week.

The Committee believes that the points made by previous committees remain true. The Committee therefore does not support any reduction in the early voting period. While recognising the concerns of the people supporting a shorter early voting period, these concerns do not outweigh the benefits early voting provides to voter participation.

FINDING 31: The two-week early voting period places pressure on parties and candidates, and means that some people vote before all policies have been released. However, reducing the early voting period could make it harder for some Victorians to vote and could exacerbate problems currently experienced at early voting centres, such as queueing, difficulty parking and disrupting neighbouring businesses. The Committee supports retaining the existing two-week early voting period.

²⁷⁵ Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 11; Rohan Leppert, Acting State Director, and Michael Butler, Victorian Campaign Convener, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 33.

²⁷⁶ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the future of Victoria's electoral administration*, March 2014, pp. 28–30; Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2010 Victorian state election*, May 2012, p. 80.

²⁷⁷ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the future of Victoria's electoral administration*, March 2014, p. 32.

²⁷⁸ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 35.

4.4.2 Extended early voting hours

‘Many people would probably benefit if early voting was extended in terms of times—as in the time allocated each day to be able to attend. I think the 6.00 pm close-off time is problematic. Most Victorians who are working during the day will not get home until about 7.00 pm, especially if you live in the outer suburbs. And of course a lot of people now work shift work, casual work. The nature or the way Victorians are working is quite fragmented, and I think there is a need for this Committee to consider at least recommending that the times allocated for early voting are extended.’²⁷⁹

The Committee heard evidence that early voting centres should be open for more hours in a day. This proposal was supported both by people wanting to retain the two-week early voting period and by people wanting to reduce the early voting period to one week.²⁸⁰ Mr Rohan Leppert of the Greens cited the changing nature of work as a reason to consider providing early voting before 8 am and after 6 pm:

We note that the nature of work is changing, such that the case for before 8 and after 6 voting is going to keep on becoming greater and greater. It does then become a significant resourcing issue for all parties. It is difficult to have someone stationed at polling booths at all times. But that is secondary to what should be the primary concern, which is: do all voters have access to exercise their democratic right?²⁸¹

Ms Stracke of the Victorian Trades Hall Council noted that the extended early voting hours available on the Thursday before election day in 2018 were popular, and advocated expanding this facility:

The Thursday night before, from memory, runs through till 8 o’clock. I do know that that 5 ‘til 8 period is very popular, so an extension of hours might be an appropriate thing to do. I think prepoll [early voting] is only going to increase. I mean, it had a huge increase this last election, and I think we are seeing an upward trend for that. I think that is a good thing.²⁸²

The Committee supports efforts to increase voter participation. Offering extended hours on more days during the early voting period would help more Victorians access voting more easily. This is especially so in light of changes to the way we work.

The Committee recognises that extending voting hours on additional days will necessarily put an imposition on the VEC and its casual election workforce. As such, the Committee is not recommending which days should have extended voting hours.

²⁷⁹ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 2.

²⁸⁰ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 21; Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 12; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 12.

²⁸¹ Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 33.

²⁸² Wil Stracke, Assistant Secretary, Victorian Trades Hall Council, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 38.

The Committee believes that the VEC should undertake an analysis to determine which days would be most appropriate, considering what would be most beneficial to voters, balanced against its own obligations to its staff and other constraints.

FINDING 32: Some Victorians find it difficult to vote between the hours of 8 am and 6 pm during the early voting period. Providing early voting outside these hours could help these Victorians to vote more easily and could increase electoral participation. Currently, the VEC only provides late-night voting on one day during the early voting period.

RECOMMENDATION 21: That the VEC provide extended voting hours on more days during the early voting period. The VEC should determine which days should have extended hours based on balancing the benefits to voters, the resource implications for the VEC and the impact on people campaigning. The Committee would not consider it appropriate for extended hours to apply on every day of the early voting period.

4.5 The voting centre experience for voters

'... [voting centres] should be suitable for every person who is engaged in the process, so from the volunteers at the polling place to the voters, to the VEC officials and staff. It should be suitable for everyone. Especially they should be accessible to all voters as well.'²⁸³

While Victorian elections include a range of methods of voting, the vast majority of voters cast their vote at a voting centre, either during the early voting period or on election day. For an election to be inclusive, it is important for these centres to be safe, accessible and efficient. Table 4.1 shows voter satisfaction with voting centres.

Table 4.1 Proportion of voters satisfied with election-day voting centres and early voting centres, 2014 to 2018

	2014 (%)	2018 (%)
Election-day voting centres	77	78
Early voting centres	n/a	87

Note: The data in this table were gathered through online surveys. Data for all voters in 2006 and 2010, and for early voters in 2014, were collected via in-person surveys undertaken at voting centres, but the different methods appear to have had a significant impact on the result for this question. The earlier figures therefore cannot be compared with the 2018 results.

Source: Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, pp. 38, 85.

²⁸³ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 15.

Unsatisfied voters most commonly cited waiting times or queues as a reason for their dissatisfaction (43% of unsatisfied voters). Unhelpful/incompetent staff (10%) and unwanted harassment from campaign volunteers (8%) were the next most commonly cited reasons for dissatisfaction.²⁸⁴

The Committee heard a range of concerns from submitters and witnesses about early and election-day voting centres. This section addresses these concerns, with a focus on three major themes:

- the appropriateness of voting centre venues—including voting centre numbers, locations, voter safety, parking, public transport and access for voters with limited mobility (see Section 4.5.1)
- queueing at voting centres (see Section 4.5.2)
- voter interaction with campaigners—including voters ‘running the gauntlet’ of how-to-vote card distributors, and voter perceptions of waste created by how-to-vote cards (see Section 4.5.3).

The Committee found that there is a need for more early voting centres, that voting centres (particularly early voting centres) were not always in appropriate venues or locations and that there continues to be a lack of accessible voting centres for those with limited mobility. These concerns were recognised by the VEC.

To address these concerns, the VEC will need to explore new ways of finding voting centres and operating early voting at future elections. It will be important for the VEC to be transparent about its goals and achievements for the Committee, Parliament and the community to track the VEC’s progress in tackling these issues. The Committee’s recommendations include improved transparency and performance measurement around the selection of voting centres.

4.5.1 Voting centre venues

‘Almost 80% of candidates were satisfied with the operation of voting centres on election day – a figure that has not changed significantly since 2014. However, there was less satisfaction with the accessibility of voting centres (67%) and still less with their location (54%). Candidates observed that some voting centres were located in busy areas that could be dangerous, had poor access for elderly voters and those with a disability, and had no shade or toilet facilities for volunteers. Similarly, while most candidates (70%) were satisfied with the efficiency and effectiveness of early voting centres, there was some criticism of their location and of the harassment of voters by volunteers.’²⁸⁵

Voting centres are the most tangible aspect of the election for most voters and the ability to safely access a voting centre is an important part of an inclusive election. The Committee heard evidence from a range of stakeholders about voting centre numbers,

²⁸⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 39.

²⁸⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 64.

locations, transport options, appropriateness for people with limited mobility and safety for voters. This section discusses that evidence and strategies to improve voting centre venues in the future.

The Committee also heard concerns about the suitability of venues for candidates and other people campaigning at voting centres. These issues are discussed in Section 8.5 of this report.

Voting centre numbers

The VEC operated 1,794 voting centres on election day and 103 early voting centres in Victoria at the 2018 election, similar numbers to the 2010 and 2014 elections (see Table 4.2). There was at least one early voting centre in each district, with additional centres in districts with large geographical areas and large anticipated early voting numbers.²⁸⁶

The Committee notes that the number of early voting centres has barely changed over the last three elections, despite the significant growth in early voting (see Section 4.3).

Table 4.2 Number of voting centres, 2002 to 2018

	2002	2006	2010	2014	2018
Early voting centres	79	77	101	100	103
Election-day voting centres	1,655	1,808	1,839	1,786	1,794

Sources: Victorian Electoral Commission, *Submission 92* (revised), p. 35; Victorian Electoral Commission, *Report to Parliament on the 2002 Victorian state election*, Melbourne, 2003, pp. 27, 30.

Concerns expressed to the Committee about the number of voting centres included that:

- there was a need for larger districts to have more early voting centres²⁸⁷
- there were too many early voting centres in some districts, making it difficult for candidates to organise volunteers to hand out how-to-vote cards and to campaign (especially for non-party-aligned candidates)²⁸⁸
- there were too many voting centres on election day, resulting in few votes cast at some centres²⁸⁹
- there was a poor balance of voting centres within an electorate, resulting in some centres being busy and others quiet.²⁹⁰

²⁸⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 36.

²⁸⁷ Australian Labor Party Victorian Branch, *Submission 80*, p. 4. See also Section 4.7 for a discussion of early voting centres in regional districts.

²⁸⁸ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 8.

²⁸⁹ Mike Deam, *Submission 22*, p. 1.

²⁹⁰ Tim McCurdy MLA, *Submission 8*, p. 1.

The VEC recognised in its submission that it needs to consider the appropriateness of the number and location of early voting centres following the 2018 election.²⁹¹ However, the Electoral Commissioner told the Committee that he would be reluctant to start reducing the number of election-day voting centres, given population growth.²⁹²

Voting centre locations

‘... early voting centres ... [were] selected that offered poor accessibility, due to issues around access via public transport, location in congested shopping precincts, no shelter, and limited car parking.’²⁹³

Voters need to be able to find, get to and use voting centres to exercise their democratic rights. The Committee heard a number of concerns regarding voting centre locations at the 2018 election, especially early voting centres. These included:

- locations (such as on high streets) which disrupted local businesses and passers-by²⁹⁴
- risks to voter safety due to vehicles operating near the voting centre entrance or a need to cross a busy road²⁹⁵
- poor parking and/or poor access to public transport²⁹⁶
- venues that were not accessible for voters with limited mobility.²⁹⁷

The Committee heard particularly negative feedback about early voting centres established in industrial parks. Multiple witnesses and submitters told the Committee that these types of locations were difficult to access through a lack of parking and/or public transport, provided poor access for voters with limited mobility, presented risks to the safety of voters and others and disrupted neighbouring businesses.²⁹⁸

²⁹¹ Victorian Electoral Commission, *Submission 92* (revised), Foreword, p. 36.

²⁹² Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 5.

²⁹³ Australian Labor Party Victorian Branch, *Submission 80*, p. 2;

²⁹⁴ Australian Labor Party Victorian Branch, *Submission 80*, p. 2; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 20, 22.

²⁹⁵ Trish Crossin, *Submission 106*; Kallista Kaval, *Submission 48*, p. 1.

²⁹⁶ Margaret Downie, *Submission 27*, p. 1; Australian Labor Party Victorian Branch, *Submission 80*, p. 3; The Nationals, *Submission 86*, p. 2; Trish Crossin, *Submission 106*, p. 3; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 20; Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 9; Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 1.

²⁹⁷ Victorian Trades Hall Council, *Submission 82*, p. 4; Rohan Leppert, Acting State Director, and Michael Butler, Victorian Campaign Convener, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 32; Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 9. See also Victorian Electoral Commission, *Submission 92* (revised), pp. 62, 64.

²⁹⁸ See, for example, Trish Crossin, *Submission 106*; Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 9; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 20, 22; Adam Wojtonis, Acting State Director, Liberal Party of Australia Victorian Division, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 15; Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 1.

Figure 4.5 shows the early voting centre in an industrial park in Hoppers Crossing. Ms Trish Crossin told the Committee that voters at that centre were endangered by forklifts, delivery trucks and other vehicles operating near the entrance.²⁹⁹

Figure 4.5 Hoppers Crossing early voting centre



Source: Trish Crossin, *Submission 106*, p. 4.

Finding venues which are accessible for voters with limited mobility has been an ongoing issue.³⁰⁰ The VEC, in its submission, described its efforts to secure appropriate venues, and its continued disappointment at their lack of availability:

Election Managers conducted an accessibility audit of all selected venues in order to classify each according to recognised national accessibility standards. Whilst the number of fully accessible venues increased compared to the 2014 State election, the VEC continues to be disappointed with the lack of wheelchair-accessible venues available for use as voting centres – particularly given that most of the venues are State Government-owned.³⁰¹

The VEC increased the number of election-day Independent Wheelchair Access (IWA) venues by 80 at the 2018 election. However, it did not meet its target for IWA venues (25% of all voting centres) and it received 23 complaints about this issue.³⁰² Further, while the number of IWA venues increased, the number of Assisted Wheelchair Access (AWA) venues decreased, resulting in 259 fewer venues with some degree of wheelchair access (see Table 4.3).

²⁹⁹ Trish Crossin, *Submission 106*.

³⁰⁰ See, for example, Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 112.

³⁰¹ Victorian Electoral Commission, *Submission 92* (revised), p. 34.

³⁰² Victorian Electoral Commission, *Submission 92* (revised), p. 51. The VEC's target was for election offices, election-day voting centres and early voting centres—Victorian Electoral Commission, *Submission 92* (revised), p. 135.

Table 4.3 Wheelchair accessible election-day voting centres, 2006 to 2018

	2006	2010	2014	2018
Total election-day voting centres	1,808	1,839	1,786	1,794
Independent Wheelchair Access (IWA) voting centres	178	286	299	379
Assisted Wheelchair Access (AWA) voting centres	816	975	1,072	733
Total IWA and AWA voting centres	994	1,261	1,371	1,112
Limited or no wheelchair access voting centres	658	416	415	682

Note: The total of figures published by the VEC for various levels of wheelchair-accessible election-day voting centres at the 2006 and 2010 elections do not equal the figures provided for the total number of voting centres.

Source: Victorian Electoral Commission, *Submission 92* (revised), pp. 34–5.

FINDING 33: The number of Independent Wheelchair Access voting centres increased by 80 at the 2018 election. However, the VEC did not meet its target and a fall in the number of Assisted Wheelchair Access voting centres resulted in the total number of wheelchair-accessible voting centres decreasing by 259.

Voting centre venues in the future

The Committee recognises the challenge the VEC faces in sourcing appropriate voting centre venues and does not suggest that it is a straight-forward task. Ms Glenda Frazer, VEC Director of Elections, outlined some of the challenges that the VEC faces in finding early voting centre venues that meet its criteria:

... the difficulty we have is to get somewhere to lease of the size we need for a three-month window. We do try to get the venues as well placed as we can across the whole of Victoria, and it is a difficulty. We experienced more of a difficulty in 2018 just due to the lack of places for lease of the size we needed at that point in time.

... When we ask election managers to go out and look for venues, we ask them to find at least three options. We give them a checklist of the sorts of things that it must have, and high on the priority is accessibility, close to public transport where possible. There is a whole raft of things that we do ask that they check when they recommend a venue to us. Some people were not able to find three venues. Some were lucky to find one venue as an option.³⁰³

Ms Frazer told the Committee that the VEC is considering different options for securing early voting centre venues at future elections, including securing longer leases, or separating voting and backend operations (many early voting centres are also election

³⁰³ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, pp. 2–3.

offices).³⁰⁴ Submitters suggested that community halls, church halls, buildings attached to schools or venues owned by local councils might be more appropriate as early voting centres.³⁰⁵ The Committee recognises that some of these venues might not be available for the whole two-week early voting period.

Other jurisdictions in Australia and New Zealand have taken more flexible approaches to early voting, which may improve voter access. In both the Northern Territory and Tasmania, where the general early voting period is two weeks, early voting centres were established at remote locations for the final two days before the election.³⁰⁶ In New Zealand, shopping centres and supermarkets have been popular early voting centres (see Box 4.2).

BOX 4.2: Early voting centres in New Zealand

New Zealand saw an increase in early voting from 15% in 2011 to 29% in 2014 and 47% in 2017. At the 2017 general election, the early voting period was reduced from 17 to 12 days. However, the total hours of early voting was increased from 20,000 to 30,000 hours through:

- more early voting centres staying open into the evening
- early voting being made available on the Sunday before the election for the first time
- an increase in the number of early voting centres from 295 in 2014 to 485 in 2017.

Electoral Commission New Zealand established early voting centres in supermarkets for the first time in 2017 and increased the number of early voting centres in shopping centres. The Commission's analysis showed that these early voting centres were the most popular in terms of votes per hour.

The Commission noted that the accessible parking provided at supermarkets was appreciated by disabled and elderly voters, with some voters saying the supermarket was their only chance to vote. The Commission also noted that the open nature of shopping centres required them to develop 'different approaches to managing voter flows and ensuring voter privacy.'

Campaigning and handing out how-to-vote cards at election-day voting centres are prohibited in New Zealand, and there are limitations on campaigning at early voting centres. This enables New Zealand to use types of venues as voting centres that may not be suitable in Victoria.

Source: Electoral Commission New Zealand, *Report of the Electoral Commission on the 2017 general election*, Wellington, 2018 pp. 10, 13, 19; *Electoral Act 1993* (New Zealand) ss 197 and 197A.

³⁰⁴ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 2.

³⁰⁵ Trish Crossin, *Submission 106*, p. 3; Australian Labor Party Victorian Branch, *Submission 80*, p. 4.

³⁰⁶ Northern Territory Electoral Commission, *2016 Territory election report*, Darwin, 2017, pp. 108–9; Tasmanian Electoral Commission, *Annual report 2017–18*, Hobart, 2019, p. 19.

The VEC has also acknowledged the ongoing challenge of finding fully accessible venues³⁰⁷ and has committed to working with its Electoral Access Advisory Group and relevant government departments, consulting broadly and investigating all venue options to do better in the future.³⁰⁸

The VEC discussed the criteria by which it assesses possible venues for voting centres at a public hearing.³⁰⁹ It is the Committee's view that providing a public account of how well its venues meet these criteria would allow stakeholders to better understand the VEC's reasoning behind selecting venues, as well as providing a basis from which to recommend and measure improvements. This is discussed further in Section 6.2.3.

The Committee also notes that, while the VEC has set a target for Independent Wheelchair Access venues, it does not have a target for Assisted Wheelchair Access venues. The Committee considers that setting a target for this and reporting on it after each election would assist with tracking the VEC's progress in this area.

FINDING 34: Most voters were satisfied with their experience at voting centres at the 2018 election. However, concerns were raised about some voting centres due to risks to voter safety, a lack of adequate parking, poor public transport access and the continued struggle to secure appropriate venues for voters with limited mobility.

RECOMMENDATION 22: That the VEC continue to explore new ways to find more suitable early voting and election-day voting centres, including learning from the approaches in other jurisdictions where appropriate.

RECOMMENDATION 23: That the VEC establish an election performance target for the number of Assisted Wheelchair Access voting centres at future elections.

³⁰⁷ Victorian Electoral Commission, *Disability access and inclusion plan 2019–2023*, Melbourne, 2019, Foreword.

³⁰⁸ Victorian Electoral Commission, *Submission 92* (revised), pp. 51, 141.

³⁰⁹ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 3; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 4.

4.5.2 Queueing at voting centres

‘I did hear a handful of people say they were prepared to take the fine rather than line up for so long. Some just had to go to work, they didn’t have a choice.’³¹⁰

Around 43% of surveyed voters who were dissatisfied with their experience at their voting centre cited queues or waiting times as a reason.³¹¹ The Committee also received evidence regarding queues at election-day and early voting centres. Ms Vanessa Bosanquet, who handed out how-to-vote cards at the Alkira Secondary College voting centre, told the Committee:

The wait to get into the booth did not drop to under an hour and a half for a majority of the day. The people first thing in the morning were the only ones to get through fairly quickly. After the first couple of hours, we barely saw any VEC employees. I was helping people with lining up for the absentee votes and certainly helping the pregnant and unwell to not have to line up for anything up to 2 and a half hours to vote. There were several people who tried their luck at other local polling booths, but I was told later on that they were just as busy.³¹²

Mr Tim McCurdy MLA, Member for Ovens Valley, told the Committee that in his district some voting centres were busy, and others quiet:

Cobram seems to be under resourced and Yarrawonga over resourced. Cobram has a queue all day on election day, while Yarrawonga are fairly quiet all day.³¹³

The Committee notes evidence that long queues impact not only voters but businesses and others near voting centres as well.³¹⁴

The VEC gathers information on queue times through voter surveys following each election, though the methodology used to collect the data changed in 2014.

The data indicate that the proportion of voters having to queue on election day was higher at the 2018 election than at previous elections, with the number of people queueing for 11 or more minutes growing to 29% (see Table 4.4).

³¹⁰ Vanessa Bosanquet, *Submission 18*, p. 1.

³¹¹ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 39.

³¹² Vanessa Bosanquet, *Submission 18*, p. 1.

³¹³ Tim McCurdy MLA, *Submission 8*, p. 1.

³¹⁴ The Nationals, *Submission 86*, p. 2.

Table 4.4 Queue times for election-day voters, 2002 to 2018

	2002 (%)	2006 (%)	2010 (%)	2014 (%)	2018 (%)
No queue	53	33	46	36	28
1-10 minutes	n/a	53	46	42	42
11-20 minutes	n/a	12	6	17	17
More than 21 minutes	n/a	2	2	6	12

Note: The data for 2002, 2006 and 2010 are based on in-person surveys undertaken at voting centres, while the 2014 and 2018 data were gathered through online surveys, meaning that differences may be partly a result of the change in methodology.

Source: Electoral Matters Committee calculations, based on Colmar Brunton and Sweeney Research survey data.

Early voting queue times show no strong trend over elections since 2002 (see Table 4.5), though the number of early voting centres and the number of people using them have varied considerably over time. Early voters have consistently experienced less queuing than election-day voters.

Table 4.5 Queue times for early voters, 2002 to 2018

	2002 (%)	2006 (%)	2010 (%)	2014 (%)	2018 (%)
No queue	88	53	90	30	51
1-10 minutes	n/a	40	9	56	36
11-20 minutes	n/a	6 ^(a)	0	10	6
More than 21 minutes	n/a		1	4	5

a. The 2006 survey did not break this category down.

Note: The data for 2002, 2006, 2010 and 2014 are based on in-person surveys undertaken at early voting centres, while the 2018 data were gathered through online surveys, meaning that differences may be partly a result of the change in methodology.

Source: Electoral Matters Committee calculations, based on Colmar Brunton and Sweeney Research survey data.

The VEC's submission notes that the VEC was less successful at estimating how many votes would be issued at each voting centre in 2018 compared to previous years (the accuracy of its estimates decreased from 99.8% in 2014 to 91.6% in 2018).³¹⁵ This may have contributed to the increased proportion of people needing to queue at some voting centres.

Complaints to the VEC and evidence to this Inquiry show that queuing remains an issue for some voters. This includes evidence that some voting centres experienced long queues for almost the whole of election day. The Committee encourages the VEC to find ways to better respond to voting centres that are experiencing long queue

³¹⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 52.

times, both during an election and from one election to the next. The Committee notes that the Australian Electoral Commission has worked with Deakin University, using computer-based simulation models to improve queueing at voting centres.³¹⁶

The previous Electoral Matters Committee recommended that the VEC establish a performance target around queueing time.³¹⁷ The Committee does not believe the VEC has addressed this recommendation. The Committee also notes that the VEC's approach to publishing queue time figures on a whole-of-Victoria basis limits the ability to identify and address outlying voting centres that may be performing poorly. For more discussion and the Committee's recommendation on this issue, see Section 6.2.3.³¹⁸

FINDING 35: The proportion of voters queueing on election day has increased significantly since 2010. While the VEC publishes information regarding queue times on a Victoria-wide basis, this does not provide a good indication of whether particular voting centres experienced long queue times.

FINDING 36: The VEC has not established a performance target for queue times, as recommended by the Electoral Matters Committee in the 58th Parliament.

4.5.3 Voter interaction with campaigners

'... the exclusion zone around the early voting centres was successful in my experience and the feedback that I received. What I will say is, again the feedback that I get from people, generally people do not like, obviously, having material and how-to-vote cards thrust in their faces.'³¹⁹

Candidates and their supporters are permitted to campaign and hand out how-to-vote cards outside voting centres, as long as they remain at least six metres away from the entrance (see Box 4.3 for more details). However, the Committee received evidence from people concerned at voters having to 'run the gauntlet' of campaigners handing out how-to-vote cards outside voting centres.³²⁰ Submitters described this as intimidating and daunting for voters,³²¹ or even saw it as harassment,³²² and noted a rise

³¹⁶ Deakin researchers work with AEC to improve the voting process, media release, Deakin University, Waurin Ponds, 18 April 2019.

³¹⁷ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 45.

³¹⁸ For the Committee's assessment of the implementation of this and other previous recommendations, see Chapter 10.

³¹⁹ Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 11.

³²⁰ Jill Briggs, *Submission 1*, p. 2; Mike Deam, *Submission 22*, p. 2; Nyssa Sims, *Submission 76*, p. 1; Jacqui Hawkins, *Submission 81*, p. 1; Roma Haley, *Submission 95*, p. 1; Ann Birrell, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 45; Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 11.

³²¹ See for example Mike Deam, *Submission 22*, p. 2 and Jacqui Hawkins, *Submission 81*, p. 1.

³²² Australian Labor Party Victorian Branch, *Submission 80*, p. 6.

in voters who appeared to feel unsafe.³²³ This included reports that some campaigners continually crossed into the six-metre exclusion zone.³²⁴ Ms Jill Briggs, campaign manager for a non-party-aligned candidate in Benambra, said in her submission:

At the major centres the “gauntlet” that is formed by the candidates and volunteers handing out HTV [how-to-vote] Cards can, in some cases, be completely daunting. I witnessed a number of voters visibly distressed and in one instance heard the story from an individual who suffered from anxiety and found the whole “running the gauntlet” completely overwhelming to the point of suffering the fine rather than vote.³²⁵

BOX 4.3: The law regulating conduct near voting centres

The Electoral Act regulates conduct near voting centres. Various activities are prohibited near the entrance of, or within, a building used as a voting centre, including:

- canvassing for or soliciting votes
- inducing any elector not to vote for a particular candidate or not to vote at all
- exhibiting any notice or sign (other than an official one) relating to the election
- conducting an exit poll
- if the person is an election official or a scrutineer, wearing any badge or slogan of a candidate or political party.

Ahead of the 2018 election, the space in which the above activities are prohibited was extended from three metres to six metres from the entrance of a voting centre (with the Commissioner having discretion to reduce the distance if practically necessary).

Source: *Electoral Act 2002* s 158.

The Committee heard various proposals to reduce voters feeling that they are ‘running a gauntlet’ of campaigners. These are discussed in Section 8.4 of this report.

The Committee recognises the concerns raised in this Inquiry. However, candidates and volunteers at voting centres serve an important role in assisting voters to make an informed decision about their vote. Expressing support for a candidate is also an important democratic right. The Committee considers that the current arrangements provide an appropriate balance between all considerations.

Miss Jacqui Hawkins suggested that candidates be given additional information to make them more aware of the anxieties that voters might experience when approaching a

³²³ Rohan Leppert, Acting State Director, and Michael Butler, Victorian Campaign Convener, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 29.

³²⁴ Australian Labor Party Victorian Branch, *Submission 80*, p. 6.

³²⁵ Jill Briggs, *Submission 1*, p. 2.

voting centre, so that they can be more sensitive when providing how-to-vote cards. She believed that some of the distress caused to voters was unintentional and a result of enthusiasm and a lack of understanding.³²⁶

The Committee believes that the existence of an exclusion zone around the entrance to voting centres is an important part of ensuring access to voting for all eligible Victorians. Providing physically and psychologically safe access to voting contributes to high turnout and legitimate elections. The Committee agrees that additional information for candidates and parties may help to provide a better experience for voters at future elections.

FINDING 37: Candidates and volunteers who campaign and hand out how-to-vote cards at voting centres serve an important role in informing voters. The six-metre exclusion zone, in which people are restricted from campaigning and handing out how-to-vote cards near the entrance to a voting centre, helps maintain a balance between the needs of candidates and voters, contributing to high turnout and inclusive elections. However, even with this provision, voters may feel intimidated by campaigners at times.

RECOMMENDATION 24: That the VEC, in its briefings, proactively engage candidates and parties around the need to minimise the anxiety that some voters may experience when approaching campaigners at a voting centre, with the aim of increasing campaigner sensitivity and reducing the anxiety some voters experience.

4.6 Additional ways to vote

‘The VEC offers many voting services, including voting in person on election day or in the two weeks prior, mobile voting, voting by post and secure email link, interstate and overseas voting, and telephone assisted voting. These services are designed to provide every elector with a quality and convenient service in which to exercise their democratic rights.’³²⁷

As outlined in Section 4.2, the VEC provides a variety of voting methods beyond in-person voting. This section addresses recent changes to legislation and the evidence the Committee received about the following voting methods:

- postal and email voting
- telephone assisted voting (electronic assisted voting)
- interstate/overseas voting.

³²⁶ Jacqui Hawkins, public hearing, Melbourne, 25 November 2019, *Transcript of evidence*, p. 2.

³²⁷ Victorian Electoral Commission, *Submission 92* (revised), p. 34.

4.6.1 Postal voting and email voting

‘I think in our more rural communities a lot of people choose to vote by post and the changes that were put in last year where people could apply for those postal votes online—the process was made much more straightforward.’³²⁸

Any Victorian elector may apply to the VEC for a postal vote.³²⁹ With a postal vote, the VEC sends ballot papers to postal voters, which they must complete and return to the VEC. Electors in remote areas and overseas can apply for an email vote. With an email vote, electors are emailed a link to the ballot papers, which they must print off, fill in and post back to the VEC.

Postal voting

Postal votes comprised 7.6% of all votes at the 2018 election, down from 8.3% in 2014, after having risen from 4.3% in 2002 (see Table 4.6).

Table 4.6 Postal voting rates, 2002 to 2018

	2002	2006	2010	2014	2018
Percentage of total votes	4.3	6.3	7.4	8.3	7.6
Total number of postal votes	129,384	194,615	247,642	294,571	281,823

Note: includes postal and email voting.

Source: Electoral Matters Committee, based on VEC data.

In response to a survey conducted by Colmar Brunton for the VEC, postal voters cited convenience as the main reason for using a postal vote:

As for early voters, convenience was the main reason why Victorians voted by post in 2018 (42% compared to 26% in 2014). A further 27% were away from home, either on holiday or for work. Only 9% of respondents voted by post for health reasons – a sharp decline from 33% in 2014.³³⁰

Most postal voters (83%) reported that they were satisfied with their voting experience (see Table 4.7). Those who were dissatisfied primarily noted preferring to receive ballot papers and information earlier.³³¹ The majority of complaints (60 of 119) to the VEC about postal voting were about voting packs not arriving in time, or at all.³³²

³²⁸ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 21.

³²⁹ *Electoral Act 2002* ss 101–106.

³³⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 60.

³³¹ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 59.

³³² Victorian Electoral Commission, *Submission 92* (revised), p. 51.

The VEC, in its submission, stated that once ‘the initial backlog of applications was cleared (within two working days of the roll being available)’³³³ 100% of postal vote applications were ‘processed on the day of receipt.’³³⁴

Table 4.7 Overall satisfaction by voter type, 2018

Voter type	Voters satisfied (%)
Ordinary voters (includes absent and provisional voters)	81
Early voters	88
Email voters	68
Postal voters	83
Telephone assisted voters	89

Source: Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 7.

Electors were able to apply online for a postal vote for the first time at the 2018 election. A majority of postal voters took up this option, with 63% of all postal vote applications completed online. Sixteen per cent used an application that was sent to them by a political party and 5% used a postal vote application from the post office (compared to 31% in 2014).³³⁵ These changes may partly be a result of amendments to the Electoral Act in 2018. These amendments required the VEC to provide the names and addresses of people who successfully applied for postal votes to parties and candidates on request (with certain conditions).³³⁶ This reduced the incentive for parties to distribute postal vote applications.³³⁷

FINDING 38: The postal voting rate decreased at the 2018 election, after rising at each election since 1999. Electors could apply for postal voting online for the first time in 2018, and the majority of all postal voting applications were made online.

³³³ Victorian Electoral Commission, *Submission 92* (revised), p. 38.

³³⁴ Victorian Electoral Commission, *Submission 92* (revised), p. 136. The Committee notes that the VEC uses Express Post to deliver postal ballots in the week prior to election day. Australia Post claims that Express Post delivers throughout Victoria within one business day, meaning that with the deadline for postal vote applications now the Wednesday before election day, all postal vote ballot packs should be able to be sent by the Thursday, and received by the Friday before election day. Victorian Electoral Commission, *Submission 92* (revised), p. 38; Australia Post, *Delivery speeds & coverage*, (n.d.), <<https://auspost.com.au/sending/send-within-australia/delivery-speeds-and-coverage>> accessed 4 December 2019; Australia Post, *Express Post Domestic Delivery Estimator 2017*, (n.d.), <https://auspost.com.au/content/dam/auspost_corp/media/documents/express-post-domestic-delivery-estimator-2017.pdf> accessed 4 December 2019, p. 1.

³³⁵ Victorian Electoral Commission, *Submission 92* (revised), 61.

³³⁶ *Electoral Act 2002* s 104A.

³³⁷ Postal vote applications were often distributed by parties with reply-paid envelopes that sent the application to the parties, so that the parties could record applicants’ details before sending the form to the VEC.

Email voting

‘The VEC again established an email ballot material service for the 2018 State election. This facility was only available to electors in remote areas or overseas who would experience difficulty in accessing postal facilities.’³³⁸

Email voting allows electors who would experience difficulty in accessing postal facilities to receive their ballot papers electronically. The voter must then print, complete, and return physical ballot papers to the VEC.

BOX 4.4: Email voting procedure

To use email voting, a voter follows these steps:

- the voter submits a postal vote application online and provides an email address to receive their ballot papers
- the voter is given verification information when they apply online
- the VEC sends a secure link to the voter, through which the voter can access their ballot pack, using their verification information
- the voter prints their ballot papers and a declaration form
- from this point, the voter follows the same procedure as postal voters, completing and posting their ballot pack to the VEC.

The VEC distributed 12,268 ballot packs by email at the 2018 election, almost 10,000 more than the 2,603 distributed in 2014.³³⁹ Of the email voters responding to Colmar Brunton’s questionnaire, 49% indicated that they voted in this way due to being outside of Victoria and 22% indicated that they did so for convenience.³⁴⁰ Around 68% of email voters were satisfied, the lowest among all categories evaluated (see Table 4.8).³⁴¹

³³⁸ Victorian Electoral Commission, *Submission 92* (revised), p. 37.

³³⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 38.

³⁴⁰ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 46.

³⁴¹ Victorian Electoral Commission, *Submission 92* (revised), p. 60.

Table 4.8 Overall satisfaction by voter type, 2018

Voter type	Voters satisfied (%)
Ordinary voters (includes absent and provisional voters)	81
Early voters	88
Email voters	68
Postal voters	83
Telephone assisted voters	89

Source: Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 7.

Email voters were generally satisfied with the process of applying for an email vote and receiving the ballot material. However, they were less satisfied with the process of folding and posting the material back to the VEC, which 29% considered unsatisfactory. When asked what could be done to improve email voting, 24% of respondents would like to vote entirely online and 16% called for easier printing or assembling of ballot papers.³⁴²

The Committee acknowledges the concerns voters have raised about the email voting process and hopes this feedback will inform the VEC's approach to providing email voting options at future elections. Electronic voting is discussed further in Section 4.6.2.

FINDING 39: Email voters were the least satisfied of all voter groups surveyed. Having to print, fold and post ballot papers back to the VEC was a major source of dissatisfaction. Some email voters would prefer to vote entirely online.

Responding to changing postal services

Several submitters and witnesses raised concerns about the speed of Australia Post deliveries. Slow mail delivery can mean that people are unable to complete the postal or email voting process within the legislated timeframe. Mr Matthew Harris of The Nationals told the Committee that postal services in rural Victoria 'leave a lot to be desired.'³⁴³ Mr Rohan Leppert of the Greens echoed this sentiment, and added that voting options should respond to such changes:

... we note as well that with changing performance standards in Australia Post and generally that postal voting is not as reliable as it once was. So, as always, we need to constantly review whether all of the voting options that are being provided to voters are fit for purpose and will result in a high level of guarantee that the voter's vote will be counted.³⁴⁴

³⁴² Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, pp. 47–8.

³⁴³ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 21.

³⁴⁴ Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 36.

Mr Adam Wojtonis of the Liberal Party noted similar limitations and encouraged the VEC to work with Australia Post to overcome them:

I think that obviously the Victorian Electoral Commission is limited by what Australia Post actually provides for those services to those regional areas in relation to postage. I think that obviously the VEC should engage more closely with Australia Post and select other modes of delivery, if necessary, to actually provide those postal vote ballot papers to voters to enable them to actually participate in the process.³⁴⁵

The Committee shares these concerns about changes in Australia Post's services making it more difficult for some postal voters, especially in rural areas, to have their votes counted. The Committee welcomes the introduction of online postal vote applications (first offered in 2018) and email voting (offered in 2010, 2014 and 2018) as ways to make voting faster and more accessible for Victorians. However, changes to Australia Post's services mean that the VEC needs to continue exploring potential improvements and new services to ensure all Victorians can cast a vote.

FINDING 40: Changes to Australia Post's services may make it more difficult for some voters, especially in rural areas, to have their votes counted.

RECOMMENDATION 25: That the VEC investigate and develop ways to ensure postal voting and other voting methods remain viable options for Victorians who cannot attend a voting centre. This includes assessing whether changes need to be implemented in response to changes to Australia Post's services.

4.6.2 Telephone assisted voting (electronic assisted voting)

'By way of innovation, the VEC provided a Telephone Assisted Voting option as a replacement of vVote [kiosk-based electronic voting at voting centres] for electors declaring a difficulty in voting due to blindness, low vision, or a motor impairment. While over 1,000 electors used this service, the preferred VEC solution remains an internet voting channel as part of a national internet voting service.'³⁴⁶

At the 2006, 2010 and 2014 elections, the VEC provided electronic voting kiosks at certain voting centres for voters with vision impairments, motor impairments or difficulties with English.³⁴⁷ Electronic voting at kiosks was also offered to interstate

³⁴⁵ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 17.

³⁴⁶ Victorian Electoral Commission, *Submission 92* (revised), Foreword.

³⁴⁷ Voters could also use a telephone at a voting centre in 2010—Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 14.

and UK voters in 2010, and to UK voters in 2014.³⁴⁸ Few voters used the electronic voting kiosks in Victoria (see Table 4.9). Larger numbers used the kiosks interstate and overseas.³⁴⁹

Table 4.9 Electronic votes at state elections, 2006 to 2018

	2006 ^(a)	2010 ^(a)	2014 ^(a)	2018 ^(b)
Votes cast in Victoria ^(c)	199	258	148	1,199

- a. Kiosk-based voting
- b. Telephone assisted voting
- c. Additional votes were cast electronically interstate and overseas in 2010 and 2014.

Sources: Victorian Electoral Commission, *Submission 21: Part B*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into electronic voting, 2016, p. 7; Victorian Electoral Commission, *Submission 92* (revised), p. 39.

Legislative change ahead of the 2018 election allowed ‘electronic assisted voting for a prescribed eligible class of electors, without requiring them to vote in person at a voting centre.’³⁵⁰

At the 2018 election, in the place of electronic kiosk voting, the VEC provided telephone assisted voting (TAV):

To access TAV, electors were required to make two telephone calls: the first call was to register for a Telephone Assisted Vote and receive a unique registration ID and PIN; and the second call was to cast their vote. At no point during the second call was the elector identified by name or address.³⁵¹

Only 7% of TAV voters reported having used electronic voting previously. Far more had previously used ordinary voting (48%), postal voting (36%) or early voting (13%).³⁵²

BOX 4.5: Independent, expert panel review regarding electronic assisted voting

The 2018 amendments to the Electoral Act included adding a requirement for an independent, expert panel review of those amendments after the 2022 election. One of the issues the expert panel will be required to examine is ‘the effectiveness of the 2018 amendments so far as they relate to electronic assisted voting.’

Source: *Electoral Act 2002* s 222DB(3)(d).

³⁴⁸ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, pp. 31–2; Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, pp. 30–1.

³⁴⁹ Victorian Electoral Commission, *Submission 21: Part B*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into electronic voting, 2016, p. 7.

³⁵⁰ Victorian Electoral Commission, *Submission 92* (revised), p. 38.

³⁵¹ Victorian Electoral Commission, *Submission 92* (revised), p. 38.

³⁵² Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 51.

Around 89% of voters who used TAV were satisfied with their overall voting experience.³⁵³ Around 93% were satisfied with the TAV system itself and 96% would recommend the service and use it again.³⁵⁴ However, TAV voters were the most likely to report that they would have liked additional information relating to voting in the election.³⁵⁵ In line with this, TAV voters were the most likely to use the Election Hotline, at 34%.³⁵⁶

Table 4.10 Overall satisfaction by voter type, 2018

Voter type	Voters satisfied (%)
Ordinary voters (includes absent and provisional voters)	81
Early voters	88
Email voters	68
Postal voters	83
Telephone assisted voters	89

Source: Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 7.

Since the 2018 election, the VEC has recommended expanding the eligibility for electronic assisted voting (which was delivered via TAV at the 2018 election) to include 'electors who are experiencing homelessness, those with mobility issues, Antarctic electors, and those affected by a declared emergency situation during the voting period.'³⁵⁷ The Committee recognises the benefit this expansion would have for these electors and supports the recommendation.

FINDING 41: At the 2018 election, 1,199 voters used electronic (telephone) assisted voting. Most voters who used the service were satisfied with it. The VEC has called for expanding the categories of people eligible to use electronic assisted voting.

Some submitters to this Inquiry advocated for some form of internet-based voting.³⁵⁸ Others expressed concerns around privacy and the integrity of elections conducted online³⁵⁹ and questioned whether there is any good reason to introduce internet voting.³⁶⁰

³⁵³ Victorian Electoral Commission, *Submission 92* (revised), p. 60.

³⁵⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, pp. 52–3.

³⁵⁵ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 24.

³⁵⁶ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 36.

³⁵⁷ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, p. 109.

³⁵⁸ newDemocracy Foundation, *Submission 79*, p. 3; ScytI Australia, *Submission 93*.

³⁵⁹ Gary Pitts, *Submission 51*, p. 1; Chris Culnane and Vanessa Teague, *Submission 63*.

³⁶⁰ Brad Vann, *Submission 43*, p. 1.

The Electoral Commissioner has stated that:

... there is an inevitability about remote electronic voting over the internet as traditional mail services decline, voter conduct changes, the desire for fast results increases, and the number of electors with special circumstances or needs increases and the ability to recruit specialist casual staff decreases.³⁶¹

The VEC has indicated that its preferred solution is ‘an internet voting channel as part of a national internet voting service’.³⁶² The VEC reported that the concept has been noted by the Council of Australian Governments:

In February 2018 as a first, ECANZ [the Electoral Council of Australia and New Zealand] was successful in putting before the Council of Australian Governments (COAG) the concept of developing an internet voting system at the national level, distinct from single jurisdiction systems. This was noted by COAG along with the need to consider cyber security for national election systems and physical security at elections.³⁶³

The Committee recognises that there are many complex issues involved with internet-based voting and supports this combined and cautious approach.³⁶⁴

4.6.3 Interstate and overseas voting

The VEC offered early voting at 11 interstate voting centres and 34 overseas voting centres for the 2018 election.³⁶⁵ There was no election-day voting available at these locations. Some overseas electors were unable to vote due to discrepancies between the opening hours of overseas voting centres published on the VEC’s website and the actual opening hours.³⁶⁶ A submission to this Inquiry detailed one such instance.³⁶⁷ The VEC told the elector in question it had updated the information on its website and would consider the issue in its 2018 election evaluation.³⁶⁸

FINDING 42: Some overseas electors were unable to vote due to incorrect information regarding voting times on the VEC website.

³⁶¹ Warwick Gately, ‘Trust is hard earned but easily lost: Carefully but resolutely moving towards using digital technology to conduct elections’, *The Mandarin*, 19 August 2019, <<https://www.themandarin.com.au/114120-trust-is-hard-earned-but-easily-lost-carefully-but-resolutely-moving-towards-using-digital-technology-to-conduct-elections/>>, accessed 20 April 2020.

³⁶² Victorian Electoral Commission, *Submission 92* (revised), Foreword.

³⁶³ Victorian Electoral Commission, *Annual report 2017–18*, Melbourne, 2018, p. 64.

³⁶⁴ The Electoral Matters Committee in the 59th Parliament looked at these matters in more detail as part of its Inquiry into electronic voting.

³⁶⁵ Victorian Electoral Commission, *Submission 92* (revised), p. 37.

³⁶⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 52.

³⁶⁷ Chris Gillman, *Submission 9*.

³⁶⁸ Chris Gillman, *Submission 9*, pp. 8, 10.

4.7 The rural and regional voter experience

‘... we certainly had complaints from members of the public in some regional communities that they were disappointed there was not an early voting centre in their town ...’³⁶⁹

The Committee heard evidence of challenges for rural and regional voters in accessing early voting. Some submitters and witnesses argued that there were too few early voting centres in some districts.³⁷⁰ Most districts in 2018 contained only one early voting centre. Mr Kosmos Samaras, from the Labor Party, told the Committee:

... we would argue that in regional electorates there should be at least two early voting centres and possibly more. I think regional and rural Victorians already have a challenge to get a voting centre during the week if they choose to vote early because they obviously cannot vote on election day because they are working, so we need to make sure that as a state that we avail them of that opportunity as much as possible.³⁷¹

Only having one early voting centre in a district could be a particular problem when it was located on the edge of a district. The Victorian Branch of the Labor Party cited the example of Benambra District, where ‘only one early voting centre was established, in central Wodonga, some 50-100km from other town centres in the district.’³⁷² The Stawell Branch identified Ripon District as a problem, where early voting has taken place in Stawell for the last two elections, requiring some voters to travel significant distances.³⁷³ The Committee notes that Ripon is one of the largest districts in Victoria and that Stawell is located close to one of the boundaries of the district, rather than in a central location.

On the other hand, it was suggested that too many early voting centres could give an advantage to larger parties over non-party-aligned candidates, as they have more resources to staff voting centres with campaigners.³⁷⁴

The Committee also heard that the lack of public transport means regional voters are more likely to drive to early voting centres, putting pressure on nearby parking facilities.³⁷⁵

³⁶⁹ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 23.

³⁷⁰ Australian Labor Party Victorian Branch, *Submission 80*, p. 2, 4; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 23.

³⁷¹ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 4. See also Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, pp. 9–10.

³⁷² Australian Labor Party Victorian Branch, *Submission 80*, p. 4.

³⁷³ Stawell ALP Branch, *Submission 74*, p. 1; see also Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 15.

³⁷⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 8.

³⁷⁵ The Nationals, *Submission 86*, p. 2.

Despite these challenges, regional voters were only slightly less satisfied with their overall voting experience than metropolitan voters (82% compared to 85%)³⁷⁶ and showed no significant difference in their satisfaction with voting centres, early voting centres or postal voting.³⁷⁷

The Committee believes that establishing more early voting centres in regional districts would improve access to voting for rural and regional Victorians. Other ways of delivering services to rural and regional Victorians should also be explored. Mobile early voting centres were favoured by some people as an option,³⁷⁸ and this is something that the VEC is considering.³⁷⁹

FINDING 43: Regional voters face a challenge in accessing voting due to the distances they are required to travel to early voting centres, especially if there is only one early voting centre in a district.

RECOMMENDATION 26: That the VEC establish more early voting centres in larger regional districts and consider further innovative ways of providing voting options for voters living in regional Victoria, such as mobile voting centres.

³⁷⁶ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 72.

³⁷⁷ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, pp. 77–9.

³⁷⁸ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 4–5; Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, pp. 10–11.

³⁷⁹ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 4.

5 Trustworthy and transparent elections

5.1 Introduction

As discussed in Section 1.3.1, the community should be able to trust the results of an election. To achieve this trust, people must be confident that fraud and errors have not occurred. Transparency about electoral processes is essential to achieve this confidence.

The importance of transparency has been recognised by the Inter-Parliamentary Union (a global organisation of national parliaments), whose criteria for free and fair elections include:

States should take all necessary and appropriate measures to ensure the transparency of the entire electoral process including, for example, through the presence of party agents and duly accredited observers.³⁸⁰

In addition to providing the opportunity for scrutineers to observe processes, transparency includes clearly explaining to all stakeholders what safeguards are in place and publishing data after the election to demonstrate that fraud and errors have not affected the final results.

The VEC provides a lot of information to demonstrate the trustworthiness of results. Nonetheless, submitters and witnesses to this Inquiry raised concerns about:

- ballot papers being tampered with or misplaced
- errors in vote counting
- people voting more than once.

The Committee investigated each of these concerns. The issues raised with the Committee and the results of the Committee's investigations are set out in Sections 5.2 to 5.4 of this chapter.

The Committee did not find any evidence indicating that deliberate fraud or interference with ballot papers occurred. Nor did the Committee receive any evidence suggesting that significant errors are present in the final election results.

³⁸⁰ Inter-Parliamentary Union, *Declaration on criteria for free and fair elections*, adopted 1994, <<https://www.ipu.org/our-impact/strong-parliaments/setting-standards/declaration-criteria-free-and-fair-elections>> accessed 6 December 2019.

However, there are areas where additional disclosure by the VEC would help to reduce concerns in the community and improve confidence in election results. This includes:

- providing more details about the VEC's processes
- establishing performance indicators to track and report on ballot paper security
- providing more detailed explanations about discrepancies between figures from different stages of the vote-counting process
- publishing some additional data about apparent multiple voting.

In addition, some changes should be made to communication with parties and candidates to ensure that they have the opportunity to send scrutineers to observe counting processes.

5.2 Security of ballot papers

'As always, a focus of [VEC] procedures was the handling, security and accounting arrangements around ballot papers and other critical documents.'³⁸¹

The VEC has multiple procedures in place to keep votes secure throughout the voting period. Nonetheless, concerns were raised by several submitters to this Inquiry. The growth of early voting was seen as increasing the risk of vote tampering. Discrepancies between different figures published by the VEC also caused concern about ballot papers going missing or being counted incorrectly. These concerns indicate to the Committee that there is a need for greater disclosure about security arrangements and the reasons behind variations in vote counts.

5.2.1 Security processes for early votes

A theoretical concern about early voting was raised by The Greens. They noted the increasing numbers of people voting during the early voting period (see Section 4.3 of this report). This means that increasing numbers of votes need to be stored for up to two weeks. In this context, they argued that:

Tampering with votes cast on election day is unlikely: not only are opportunities limited, but any changes made at a single polling place would either be too small to matter, or would stand out by making that polling place out of line with historical votes at that place and trends elsewhere.

With up to a third of votes cast at prepolls, however, it is entirely plausible that several hundred votes could be altered without raising suspicions. We are not suggesting that this has occurred, but we wish to foreshadow a potential increased risk of fraud.³⁸²

³⁸¹ Victorian Electoral Commission, *Submission 92* (revised), Foreword.

³⁸² Australian Greens Victoria, *Submission 87*, p. 9; see also: Name withheld, *Submission 17*, p. 1.

The Greens in their submission stated that ‘anecdotal accounts from polling officials’ had indicated that the security of early votes in 2018 was not always impeccable.³⁸³ During the public hearings, Mr Rohan Leppert and Mr Michael Butler from the Greens stated that they had no evidence of any fraud actually taking place at the 2018 election—their concerns were purely based on the risk that they perceived.³⁸⁴

To reduce the risk, the Greens called for the ballot papers from each day of early voting to be stored separately and (after the close of voting on election day) to be counted and reported by day. It was believed that this would highlight any tampering, as the day on which any tampering occurred would stand out.³⁸⁵

The Committee does not consider that this additional counting is necessary. However, the Committee agrees that there needs to be more disclosure and reporting on security processes to demonstrate that no tampering has occurred, as recommended in Section 5.2.4 below.

5.2.2 Discrepancies in the number of early votes

Mr Jeff Waddell raised concerns about the security of early votes based on data published by the VEC. Mr Waddell noted that the number of early votes included in the final counts for the 2018 election varied significantly from figures that were published on 24 November 2018³⁸⁶ (the day of the election). Mr Waddell provided a comparison for each district in his submission. Some of the largest discrepancies are noted in Table 5.1 below.

Table 5.1 Discrepancies in the number of early votes, 2018

District	Number of early votes as published on 24 November	Number of early votes as published in final results	Difference
Bendigo East	19,155	14,962	-4,193
Carrum	17,246	11,658	-5,588
Lara	15,409	13,287	-2,122
Narre Warren South	17,627	15,432	-2,195
Sydenham	19,556	20,758	+1,202

Source: Jeff Waddell, *Submission 11*, pp. 3–4.

³⁸³ Australian Greens Victoria, *Submission 87*, p. 9.

³⁸⁴ Rohan Leppert, Acting State Director, and Michael Butler, Victorian Campaign Convener, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 32.

³⁸⁵ Australian Greens Victoria, *Submission 87*, pp. 9–10; Rohan Leppert, Acting State Director, and Michael Butler, Victorian Campaign Convener, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 31–2.

³⁸⁶ Victorian Electoral Commission, *Postal and early voting summary*, 24 November 2018, <https://www.vec.vic.gov.au/Elections/Files/VotingServices_PostalAndEarlyVotingSummary241118.pdf> accessed 6 December 2019.

The discrepancies varied from three votes in some districts to 5,588 votes in Carrum District. In some districts, there were more early votes included in the final count than were published on election day and in some there were fewer.

Mr Waddell noted that ‘The VEC should be able to explain these discrepancies, but nothing has been published on their website to address this matter.’³⁸⁷

The Committee sought explanations from the VEC. The VEC stated:

The Summary table [published on 24 November] recorded marks on the roll, while the election results [final results] record votes rechecked and counted to obtain an election result. Election officials sometimes allocate votes to the wrong category. Declaration vote envelopes received from other districts after election day can be mistakenly marked off the roll as absent votes instead of early votes and vice versa, and parcels of votes can be labelled and counted to the incorrect vote type. While these sorting errors are undesirable in ensuring complete accuracy and consistency in statistical information, they do not impact on the accuracy of the final count. There are several clear examples of incorrect allocation of votes. In Carrum District, the number of early votes counted was 5,876 less than the number of early votes recorded as being issued (marks on the roll). The number of absent votes counted was 5,901 more than the number issued (marks on the roll). The two discrepancies effectively balanced. Similarly, in Bendigo West District an apparent shortfall of 1,758 early votes was matched by an apparent surplus of 1,760 absent votes; and in Narre Warren South District an apparent shortfall of 2,230 early votes was matched by an apparent surplus of 2,168 absent votes. Across all 88 Districts, an apparent shortfall of 29,747 early votes was matched by an apparent surplus of 29,696 absent votes, an overall difference of 51. The VEC will continue to look at procedures to mitigate against these labelling issues.³⁸⁸

Based on Mr Waddell’s calculations, there was a total of 25,667 early votes that were not classified as early votes in the final results and 6,573 votes that were incorrectly classified as early votes. This makes for a total of 32,240 votes which were misclassified (0.9% of the total votes).

The VEC told the Committee that it intends to improve procedures and training programs to reduce such errors and that it ‘will provide clarifying information on the website at future elections to ensure any variations between these two sets of figures are understood.’³⁸⁹

5.2.3 Discrepancies in the total number of votes

The Committee similarly notes discrepancies between the number of people marked off the roll and the total number of ballot papers counted, as set out in Table 5.2.

³⁸⁷ Jeff Waddell, *Submission 11*, p. 3.

³⁸⁸ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 30 August 2019, p. 1. The Committee notes that Mr Gately appears to have used slightly different numbers in his calculations to the numbers used by Mr Waddell and the Committee.

³⁸⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 11.

Table 5.2 Electors marked off the roll compared to the number of votes counted, 2018

	Number of electors marked off the roll	Number of votes counted	Difference
Lower House	3,742,953	3,732,066	-10,887
Upper House	3,742,953	3,731,191	-11,762

Sources: Victorian Electoral Commission, *Submission 92* (revised), p. 46; Victorian Electoral Commission, *State election 2018 results*, (n.d.), <<https://www.vec.vic.gov.au/Results/State2018/Summary.html>> accessed 9 December 2019.

The Committee understands that several factors can lead to differences between the number of electors marked off the roll and number of votes counted, such as provisional votes (where a ballot paper may be included in the count but there is no mark off the roll) and postal or absent votes (where, if the vote is rejected, a person may be marked off the roll but no ballot paper included in the count). Electors may also be marked off the roll and be given ballot papers but may not put the ballot papers in the ballot box, leading to there being fewer ballot papers than electors marked off the roll.

However, the VEC does not provide any discussion of the variations between the number of electors marked off the roll and the number of votes in its public reporting. The Committee considers that it would be appropriate for the VEC to discuss these variations in the future, along with explanations for why the VEC is confident that the variations are not the result of vote tampering, misplacing ballot papers or other errors.

5.2.4 Improving confidence in the security of ballot papers

The Committee understands that the VEC does take a variety of measures to prevent and identify any potential interference with ballot papers. The Auditor-General conducted an independent audit of the VEC's processes after the 2014 election and found that:

VEC provided evidence of safeguards built into the election management software to avoid miscalculation. Additional manual safeguards include compulsory rechecking of ballots and oversight from scrutineers who are present during counting. Other processes track the movement of ballot materials and record reconciled ballot papers with the number of votes cast. A recent internal audit on the tracking and movement of ballot papers resulted in updates to a number of processes.³⁹⁰

When asked by the Committee, the VEC provided further details about its current security measures, as set out in Box 5.1.

³⁹⁰ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 17.

BOX 5.1: Ballot paper security (text supplied by the VEC)

The VEC has well established procedures and documentation to ensure that the security of all ballot papers is maintained and all are accounted for during voting and counting periods.

- Strong security arrangements are in place at all locations where ballot papers are located including: ballot paper printers, VEC warehouse, election offices, central processing and counting venues and at all voting centres. All election offices have a secure ballot paper storage area which is maintained by the election manager. Every movement of ballot material into and out of these local secure storage areas is documented.
- Reconciliation of ballot papers received, issued, counted and unused takes place at all voting locations. Election managers consolidate this information for all venues in their District via their Account of Ballot Papers.
- Voting centre managers are required to provide details of the number of ballot papers to be accounted for (Issued minus un-used) when they phone through their results. The VEC's election management system checks that the quantity of ballot papers to be accounted for reconciles with the results recorded.
- Scrutineers are invited to observe all activities involving ballot papers. In the main, scrutineers observe most counting activities. Count leaders or election managers advise of the number of ballot papers to be accounted for in any particular count, so that scrutineers can compare this to the total counted.
- Records are maintained for every transfer of ballot material between venues. The receiving official matches the material received against documentation provided by the sending official.
- The VEC's election management system has inbuilt validation checks including:
 - ensuring that each primary result line has a corresponding 2CP (District) and recheck line
 - reports showing the variation between primary and recheck results
 - consolidation of recheck result figures for each voting centre and result parcel to provide the starting point for preference distributions.
- Central oversight of key integrity markers also takes place and includes:
 - election office visits by head office staff to confirm proper security arrangements, ballot paper tracking documentation and procedures
 - comparison of lower house results with corresponding upper house result parcels
 - comparison of marks on the roll versus votes counted for each electorate
 - ongoing monitoring and review of the Account of Ballot Papers maintained in each District by the election manager.

Source: Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 9.

The Committee has not received any evidence indicating that any ballot papers failed to be counted in 2018. However, the VEC provides little information to the community about its processes and safeguards.

The *State election service plan* had minimal discussion about the security of ballot papers. Similarly, none of the performance indicators (see Section 6.2) measured ballot paper security. The VEC's report to Parliament after the election made only a very brief reference to some of the measures undertaken to ensure the security of ballot papers and to ensure that ballot papers were not misplaced at any stage of storage or counting.³⁹¹

The Committee considers that the concerns about ballot paper security may be a result of this lack of public information about the VEC's security procedures, rather than any problems with the security procedures.

Given that the security of ballot papers is a critical component of a trustworthy election, this is an area where transparency should be improved. Publishing information like the VEC gave to the Committee (see Box 5.1) may go some way to providing some assurance about security processes. The Australian Electoral Commission provides similar detailed information on its website about the security of ballot papers at its central counting sites.³⁹²

To provide full assurance about security processes, it is also important for the VEC to be accountable for how effective its processes have been. The Committee recommends that the VEC add performance measures and targets relating to ballot paper security to its election performance indicators. The VEC should also provide public explanations for discrepancies like the ones outlined in Sections 5.2.2 and 5.2.3. Such explanations should include why the discrepancies occurred, why they were not identified as problematic by the VEC's processes and why the VEC is confident that no fraud occurred.

FINDING 44: Concerns were raised during the Inquiry about the security of ballot papers (especially during the early voting period). The Committee received no evidence which indicated that fraud took place. However, the VEC's public documentation provides little information about how votes are kept secure or about what checks are conducted by the VEC to ensure that no votes are misplaced or tampered with. Additional information may help to reduce public concern about the risk of electoral fraud or error.

³⁹¹ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, Foreword.

³⁹² Australian Electoral Commission, *Central Senate Scrutiny – security and integrity*, 2019, <<https://www.aec.gov.au/Voting/counting/security-integrity.htm>> accessed 22 January 2020.

RECOMMENDATION 27: That the VEC improve its transparency in relation to the security of ballot papers, including:

- outlining ballot paper security measures in future state election service plans
- establishing and reporting on performance indicators and targets relating to ballot paper security as part of its election performance indicators
- reporting to Parliament after an election on the effectiveness of its measures to ensure that ballot papers were free from tampering and that no ballot papers were lost, including explanations for any variations in figures that might be used to confirm ballot paper security (such as differences between the number of electors marked off the roll and the number of votes counted).

5.3 Vote counting

5.3.1 Arrangements for scrutineers

‘The scrutineering of ballot papers is a critical contribution to the integrity of our system of democracy. Effective scrutineering relies upon clear and consistent direction, decision-making and communication from the VEC and its staff.’³⁹³

To ensure that the vote counting process is trustworthy, candidates and parties are allowed to send scrutineers to watch the process. Scrutineers can observe the counting of ballot papers and can challenge the decisions of election officials (such as about the formality of votes or the legitimacy of declaration votes).³⁹⁴ Scrutineers play an important role in preventing errors and fraud in vote counting.

Two concerns were raised about the VEC’s processes for involving scrutineers:

- the amount of notice provided to candidates and parties about events during the counting process
- the way that candidates and parties were notified about events.

The amount of notice given to candidates and parties

A number of submitters told the Committee that the VEC did not give candidates and parties enough time to organise scrutineers for some counts in 2018. The Liberal Party told the Committee that:

... there were a number of instances where the VEC commenced counts with unreasonably short periods of notice. This prevented some scrutineers from attending

³⁹³ Australian Labor Party Victorian Branch, *Submission 80*, p. 7.

³⁹⁴ Victorian Electoral Commission, *Scrutineer handbook*, Melbourne, 2018, p. 33.

counts conducted by the VEC due to required travelling distances, especially in regional Victoria.³⁹⁵

Overall, 62% of candidates interviewed in the post-election evaluation were satisfied with the information they received about the counting timetable, with 16% expressing dissatisfaction.³⁹⁶ One candidate noted a 'Lack of information about how many votes were still to be counted, when they would be counted and what type of votes.'³⁹⁷ A party representative stated that in some cases they received only 1.5 hours notice before a count began, which made it difficult to organise for scrutineers to attend.³⁹⁸

The amount of notice for the Ripon District recount was noted as particularly problematic:

... the Ripon election manager did send a notice of the recount before the commencement of counting. However, the notice period was relatively short, which was approximately 1 hour for an electorate the size of Ripon where some local scrutineers would have to travel for 2 hours or more to get to the election office in Stawell, not to mention any other scrutineers that were coming from elsewhere in Victoria. Political parties treat recounts with the highest priority and devote considerable resources to participating in them. Generally speaking, political parties have experienced teams of scrutineers available to participate in recounts after elections.³⁹⁹

Scrutineers can be particularly important in recounts, which generally only occur where there are close results.

The Labor Party suggested that notice of a recount should be given 6–12 hours before it begins.⁴⁰⁰ The Liberal Party suggested that minimum amounts of notice be specified in legislation.⁴⁰¹ Mr Adam Wojtonis from the Liberal Party argued that the length of notice should be relative to the size of the electorate and its proximity to Melbourne.⁴⁰²

Ms Liz Williams, the Deputy Electoral Commissioner, argued that there is a tension between the desire for longer notice periods before recounts and the desire to have results as soon as possible:

As we saw in Ripon ... the recount for that district took four days ... Given that we are pushed at the moment, we are getting the upper house completed on the Tuesday and declared on the Wednesday before the writ needs to be returned on the Saturday.

³⁹⁵ Liberal Party of Australia (Victorian Division), *Submission 69*, pp. 8–9; see also Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11.

³⁹⁶ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 21.

³⁹⁷ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 20.

³⁹⁸ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian state election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 44.

³⁹⁹ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11; see also Liberal Party of Australia (Victorian Division), *Submission 69*, p. 8.

⁴⁰⁰ Australian Labor Party Victorian Branch, *Submission 80*, p. 8.

⁴⁰¹ Liberal Party of Australia (Victorian Division), *Submission 69*, pp. 8–9.

⁴⁰² Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 12.

The period for completing recounts before the writ is returned is also extremely tight, particularly in the event of an upper house situation. So, look, I agree there needs to be some time, I guess, for parties to be ready ... I think there was a suggestion of about 6 to 12 hours—12 hours would be getting too far down the track.⁴⁰³

Mr Warwick Gately AM, the Electoral Commissioner, told the Committee that the VEC has reflected on the issue and ‘will look into that for the future.’⁴⁰⁴ The VEC has also recommended that the length of time set in legislation to complete all counting be extended from 21 to 23 days.⁴⁰⁵ If implemented by the Parliament, this change may make it easier for the VEC to give longer notice periods before recounts.

Clear notification

Following the Ripon recount, the unsuccessful candidate also asserted that her scrutineers were not properly aware that a recount was taking place. She argued that they would have behaved differently if they had been aware.⁴⁰⁶ The Labor Party explained:

On the basis of public comments from the VEC, the Labor candidate believed that this process was a “further review” or “re-check”, rather than a formal re-count, and that the Commission was still considering a request for a re-count. As a result, the Labor candidate did not have the opportunity to prepare an appropriately experienced team of scrutineers for a formal re-count and the scrutineers who were present did not know to act as would have been expected in a re-count.⁴⁰⁷

To avoid confusion, the Liberal Party recommended that the Electoral Act be amended ‘to prescribe the form of words that the Commissioner or a VEC official must issue to all candidates to initiate a recount.’⁴⁰⁸ Mr Wojtonis told the Committee that ‘there were significant differences in the manner and form by which activities were notified’ and argued that a template ‘would avoid circumstances where information is inadvertently missed as it is not clearly indicated.’ He also suggested that the registered officers of parties be notified to reduce the likelihood of local candidates misinterpreting the notification.⁴⁰⁹

The Labor Party similarly recommended:

The VEC to establish explicit and clear processes for the communication of its decision to undertake a re-count. These processes should define how the VEC will communicate a re-count decision, including to whom (being both the candidate and the State

⁴⁰³ Liz Williams, Deputy Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 17.

⁴⁰⁴ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 17.

⁴⁰⁵ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, p. 109.

⁴⁰⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 58.

⁴⁰⁷ Australian Labor Party Victorian Branch, *Submission 80*, p. 7.

⁴⁰⁸ Liberal Party of Australia (Victorian Division), *Submission 69*, p. 9.

⁴⁰⁹ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11.

Secretary of any respective party), from whom (being the Electoral Commissioner), and when (being 6-12 hours before the commencement of the re-count to allow for the preparation of a) suitably experienced VEC officials and b) scrutineer teams).⁴¹⁰

The Committee agrees that there is scope for improvement in the communication about recounts. There should be a mandated minimum amount of time, a specified form of words and notification of all relevant candidates, party officers and other contact officers.

However, the Committee also recognises that the VEC faces pressure from stakeholders for results as quickly as possible. If longer periods of notice are required before recounts, it needs to be understood that it will take longer for final results to be available. Any changes to legislation need to balance those factors.

The length of time the VEC can take to count the votes is also constrained by legislation (see further discussion in Section 5.3.3 of this report). This also needs to be factored into any decisions to prescribe minimum notice periods for recounts. If introducing minimum notice periods, the Government may wish to also consider the VEC's recommendation that the total counting period be extended from 21 to 23 days.⁴¹¹

FINDING 45: At the 2018 election, a recount for Ripon District was called with only one hour's notice to candidates and parties. This made it difficult for parties to organise scrutineers to be present. The way that the recount was announced may also have caused some confusion for candidates.

RECOMMENDATION 28: That the Government amend the Electoral Act to:

- mandate a minimum length of time between notifying candidates and parties about a recount and commencing the recount
- specify a particular form of words in which recounts are announced, to avoid any confusion, and
- require the VEC to notify the relevant state secretaries of parties and contact officers for non-party-aligned candidates, as well as the candidates.

⁴¹⁰ Australian Labor Party Victorian Branch, *Submission 80*, p. 8.

⁴¹¹ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, p. 109.

5.3.2 Discrepancies between different counts of the votes

‘Votes at polling booths are scrutinised by scrutineers of the parties on the night. When the votes are rechecked some discrepancies in the scrutinised counts are found. Then when the re-checked votes are put through the DOP [distribution of preferences] process, more discrepancies are found.

Quite simply, these counts should match every time.’⁴¹²

Before the votes are counted, the VEC makes a prediction about which two candidates it thinks will have the most votes after the distribution of preferences. The VEC conducts a two-candidate-preferred count on election night based on this prediction. This count indicates which of those two candidates is most likely to win the election and can provide an early indication of election results (see Box 5.2 for more details about counting processes).

If the VEC predicts the correct two candidates and the votes are counted accurately, the two-candidate-preferred count should be the same as the result of the preference distribution. In practice, though, there are usually discrepancies, as errors in the initial counts are identified during rechecks and preference distributions, and figures are adjusted accordingly.

Recheck processes differ from primary count processes in several ways, enabling errors to be identified and meaning that recheck figures are more likely to be accurate:

- there is less time pressure during recheck counting
- rulings on informal ballots are made by one person and therefore are more consistent
- district ballot papers are counted by electronic counting machines rather than manually.⁴¹³

For many districts, there were relatively small differences between the two-candidate-preferred figures and the final results. However, Mr Jeff Waddell noted some large discrepancies between these counts in some districts.⁴¹⁴

For Benambra District, the discrepancy noted by Mr Waddell was due to the candidates selected for the two-candidate-preferred count being different to the final two candidates after the distribution of preferences. But there were also significant discrepancies in districts where the correct two candidates were selected for the two-candidate-preferred count. Some of the largest discrepancies are noted in Table 5.3 below.

⁴¹² Jeff Waddell, *Submission 11*, p. 8.

⁴¹³ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 10.

⁴¹⁴ Jeff Waddell, *Submission 11*, pp. 6–8.

Table 5.3 Discrepancies in the results between two-candidate-preferred results and final results, 2018

District	Change between two-candidate-preferred count and final results	
	Labor candidate	Coalition/Greens candidate
Brunswick	+126	+102
Eltham	+773	-767
Melbourne	+84	-177
Melton	-475	+99
South-West Coast	-72	-108

Source: Jeff Waddell, *Submission 11*, pp. 6–8.

Table 5.3 shows that the changes between the two-candidate-preferred count and the final results can lead to one candidate increasing while the other decreases, to both candidates increasing or to both candidates decreasing. Mr Waddell notes that the changes in 2018 saw an overall boost to the Labor Party and a decrease for the Liberal Party.⁴¹⁵ Mr Waddell’s conclusion was that ‘Something appears horribly wrong with either the 2CP [two-candidate-preferred] by Voting Centre count process or the DOP [distribution of preferences, i.e. final results] process.’⁴¹⁶

Mr Waddell’s concerns may have been strengthened by the fact that the VEC provides little explanation for these changes. The VEC does include a note on each of its results webpages stating:

Please note that two candidate preferred counts provide an early indication of election results. Minor variations may be observed with rechecked results and final preference distributions (where required).⁴¹⁷

No further details are supplied about particular instances. When asked by the Committee, the VEC provided the following explanation (see Box 5.2 for background on counting processes):

... the 2CP [two-candidate-preferred] count is based on the primary count conducted on election night. After election night, election offices conduct a recheck of all first-preference votes, correcting any errors made on election night, and the formal distribution of preferences is based on the rechecked first-preference votes. The original 2CP figures are not adjusted as part of the recheck process and remain based on primary results only.

The difference between the primary (and 2CP) figures and the rechecked figures is not a matter for concern. Rechecks are a normal part of the election process. The differences between the primary count of first-preference votes and the rechecked count are

⁴¹⁵ Jeff Waddell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 23; Jeff Waddell, *Submission 11*, p. 8.

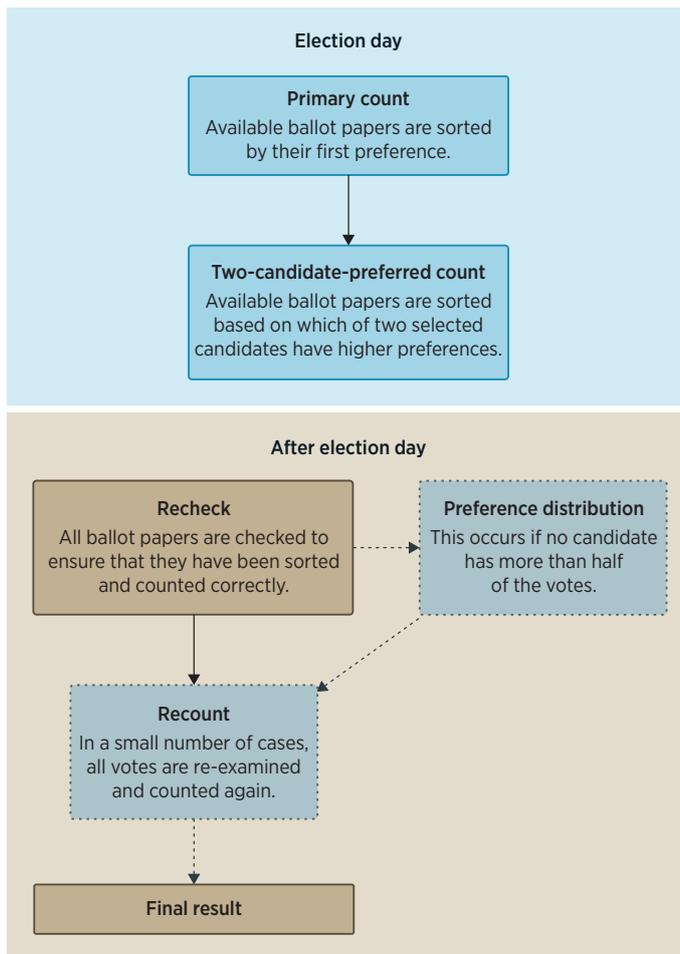
⁴¹⁶ Jeff Waddell, *Submission 11*, p. 8.

⁴¹⁷ See, for example, Victorian Electoral Commission, *State election 2018: Albert Park District*, (n.d.), <<https://www.vec.vic.gov.au/Results/State2018/AlbertParkDistrict.html>> accessed 15 November 2019.

usually very small. In Eltham District, for example, the recheck for Apollo Parkways voting centre reduced the Liberal vote by 1, reduced the ALP vote by 4, and increased the informal votes by 5, with no change to the total of 1,539 votes. There was a more significant change in the early votes; the recheck reduced the Liberal vote by 101 and increased the ALP vote by 96, which suggests that a batch of votes was misallocated in the primary count and the error was corrected in the recheck. In some districts the discrepancy between the 2CP count and the distribution of preferences was greater than the difference between the primary and rechecked first-preference votes. In these cases there would have been misallocation of “minor” candidates’ votes during the original 2CP count, and these mis-sorts are not corrected later because the 2CP count is based on the primary count.

There is no lack of resources to count the votes. Scrutineers can observe every stage of the count. At each stage, sorting errors can be detected and corrected, and votes initially classed as informal can be ruled to be formal, and vice versa. This does not mean that the process is flawed.⁴¹⁸

BOX 5.2: The vote counting process for the Lower House



418 Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 30 August 2019, p. 2.

BOX 5.2: The vote counting process for the Lower House (continued)

The **primary count** is undertaken on election day and involves sorting the available^(a) ballot papers by their first preference.

The **two-candidate-preferred count** takes place after the primary count (also on election day); it involves sorting the available ballot papers based on which of two selected candidates have higher preferences. The two selected candidates are determined in advance by the VEC based on its prediction of how people will vote. In some cases, the VEC's selected candidates may be different from the final two candidates when the preferences are distributed.

Rechecks take place for all districts starting on the Monday after election day. These involve rechecking the formality and first preferences of all ballot papers to ensure that they have been sorted and counted correctly.

A **preference distribution** occurs after the recheck if no candidate has more than half of the votes.

The **final result** for a district in most cases is the recheck result or the preference distribution. In a small number of cases, a **recount** may take place, in which all votes are re-examined and counted again. In this case, the **recount** is the final result.

- a. Some ballot papers are not available for counting on election night (such as votes cast outside of the elector's district, provisional votes and postal votes received on the Friday before the election or later). These are added to the counts later.

For more details about the process in 2018, see Victorian Electoral Commission, *Submission 92* (revised), pp. 41–4; Victorian Electoral Commission, *Scrutineer handbook*, Melbourne, 2018, p. 36.

The Committee's analysis of the districts set out in Table 5.3 also identified the following changes during the counting process that contributed to the discrepancies identified by Mr Waddell:

- in some cases, votes that were counted towards candidates in the two-candidate-preferred count were later declared informal (at least 376 votes in Melton District and 180 in South-West Coast District)
- in Brunswick District, 443 votes were included in the final results that were not included in the two-candidate preferred count (411 of these were early votes); in addition, at least 72 ordinary votes that were counted towards candidates in the two-candidate-preferred count appear to have been reclassified as informal in the final results

- in Eltham District, more than 700 votes (including the 100 early votes noted by the VEC above) that were attributed to Mr Nick McGowan during the two-candidate-preferred count were counted toward Ms Vicki Ward in the final distribution of preferences
- at least 221 early votes counted as first-preference votes for the Greens in the primary count for Melbourne District appear to have been reclassified as first-preference votes for other candidates or declared informal in the final results.

The Committee considers that these are relatively significant changes, being greater than the margins in some of the closest districts. It is not clear from the data whether these were counting errors, data entry errors or errors in assessing formality.

The VEC told the Committee that, due to the differences in processes between primary and recheck counts (see above), it considers that recheck results are more accurate. The VEC also noted that recheck counts are conducted in the presence of scrutineers 'who are provided with primary count data and can observe variations during the rechecking process.'⁴¹⁹

Mr Waddell suggested that discrepancies like these might be addressed by additional resources for the VEC and the use of electronic voting. On electronic voting, see Section 4.6.2 of this report. Mr Waddell also advocated for publishing full distributions of preferences for all districts to ensure consistency of data.⁴²⁰

However, the Committee considers that increasing the priority of accuracy in the primary count would be a more important change, as discussed further in Section 6.2.4. The Committee also considers that there is a need for greater transparency around these discrepancies.

Increasing the transparency about vote-counting processes

From the perspective of transparency and accountability, it is good that the VEC publishes primary counts and two-candidate-preferred counts as well as the final results. These figures can be useful for various stakeholders.

Publishing these figures also makes transparent the adjustments that are made during the counting process. The Committee understands that it is normal for vote-counting process to identify and correct errors. However, the VEC has published very little information about why these discrepancies have occurred or why it is confident in the final result, despite the fact that final figures vary from earlier figures. As a result, it is not clear to the public what has occurred or why. This can be seen in Mr Waddell's comment to the Committee that, 'I am not sure how the VEC are getting two different answers from the same set of data. That is a great mystery.'⁴²¹

⁴¹⁹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, pp. 10-11.

⁴²⁰ Jeff Waddell, *Submission 11*, p. 9.

⁴²¹ Jeff Waddell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 22.

Given the importance of accuracy in vote counting and the sensitivities around vote counting processes, discrepancies in results figures should not be a mystery to the public.

The VEC told the Committee that:

... there is currently adequate transparency around any differences [between primary and recheck figures], and explanations are already provided on the VEC website via publications that describe the counting process and expected variations between primary counts and rechecks. That said, the VEC will review the information provided in these publications and ensure easy access to this information from web pages where results are posted.⁴²²

The Committee is glad to see that this review will take place. However, the Committee believes there is a need for more than just general descriptions of the processes. The VEC should provide clear and specific explanations for major variations that occur through the count process.

FINDING 46: The VEC publishes a variety of figures related to vote counting, including figures from different stages of the count process. As a result, adjustments to the way votes are counted can be seen by any interested person. However, the VEC does not provide specific explanations for individual adjustments, causing concern for some stakeholders.

RECOMMENDATION 29: That the VEC provide specific explanations on the results pages of its website for any significant adjustment to figures (e.g. more than 200 votes) made between the primary count or two-candidate-preferred count and the final results (recheck or recount results).

5.3.3 Speed of counting votes

Legislation requires the VEC to have completed all vote counting for all districts and regions within 21 days of the election.⁴²³ This must include any recounts that are required, so initial distributions of preferences must be completed with enough time for recounts to take place if needed (see Box 5.2 on the stages of counting).

In addition, the VEC faces pressure from many stakeholders to produce results as quickly as possible, especially for the Lower House. The VEC reported that:

- 79.1% of Lower House votes were counted on election night to provide first-preference votes and two-candidate-preferred counts

⁴²² Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 11.

⁴²³ *Electoral Act 2002*, ss 61(4)(c), 121(5).

- all preference distributions for the Lower House were completed by 5 December (11 days after the election)
- Upper House results were declared on 11 December (17 days after the election).⁴²⁴

The Committee explored with the VEC whether there was any scope to provide results sooner, especially with respect to the Upper House. The Electoral Commissioner responded that:

The upper house count is a very complex piece of work ... At the 2018 state election, given the rise in early voting we put the count emphasis in the first place on the lower house. Upper house counting occurred at the voting centres on election day, so we had some preliminary results from that. But thereafter the material was brought into various locations. It is complex, given the material that is there. Also the below-the-line voters this time, I think, went from 6% to 8% ... That all requires data entry and it requires a second data entry as well. The time frame for the upper house count is very compressed, even just to get to the return of the writ date. [The final results must be determined before the writ can be returned.] As you know the return of the writ date is fixed—21 days after election Saturday. I cannot go beyond that period.

We also take into account the prospect of there being a recount in the upper house. That would cause significant issues ... time is tight already, and this group might give consideration to giving me more time. I cannot advance the upper house results from where they are at this point in time. I think we calculated on the Tuesday ... and we declared soon after. So we did all regions on the Tuesday. That gave me perhaps 48 hours to do a recount before I had to take the writs to the Governor on the Saturday. It is a very difficult count. There is a lot of material there. We have got to be very careful with it; it is very complex.⁴²⁵

The VEC had some thoughts on ways to increase the speed of results. In its report to the Parliament, the VEC recommended that it be allowed to process early votes from 8 am on election day, matching the provisions for postal votes.⁴²⁶ The VEC also conducted a trial of entering preferences into its computer-count application for Melbourne District in 2018. This replaced the usual recheck process and preference distribution. The computerised process enabled the final results to be available earlier and required fewer staff. The VEC indicated that it intends to use this approach in more districts in future elections, though it notes that the scale of expansion may be limited by the ability to access qualified numerical data entry operators.⁴²⁷

⁴²⁴ Victorian Electoral Commission, *Submission 92* (revised), pp. 41–4.

⁴²⁵ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 16.

⁴²⁶ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, p. 109.

⁴²⁷ Victorian Electoral Commission, *Submission 92* (revised), pp. 41–2; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 7.

Overall, though, the VEC believes that the period for counting votes should be extended from 21 to 23 days. The VEC argued that this would ‘protect the accuracy and integrity of all counting activities in an election, including any re-counting, as well as the opportunity for candidates and parties to arrange scrutineers’.⁴²⁸

The Committee generally supports exploring ways to speed up vote counting. However, the Committee also notes that there are limitations on the VEC’s ability to produce quick results without compromising other important aspects of election management. As noted in Section 5.3.2, there are already relatively large errors occurring in some primary counts which might become worse if there were an increased time pressure. A number of participants in this Inquiry considered that there were inadequate notice periods before counts began under current timelines (see Section 5.3.1), which it may be difficult to change if the VEC is required to produce results faster. In addition, trying to speed up vote counting may lead to a temptation to compromise employment conditions. The VEC received 34 complaints about employment conditions, including about working long hours with few breaks.⁴²⁹ The Committee is therefore reluctant to put additional pressure on the VEC to produce results faster within the same timeframe.

The VEC has proposed changing legislation to allow early votes to be processed earlier. This should enable faster results without impacting on accuracy or employment conditions. This is supported by the Committee (see Section 10.2.1).

5.4 Multiple voting

An important principle of Victorian state elections is that each elector is entitled to only one vote for each house of parliament. Staff at voting centres are required to ask a voter ‘Have you voted before in this election?’ and voting more than once is an offence punishable by up to five years’ imprisonment or 600 penalty units (currently almost \$100,000).⁴³⁰

Some submitters raised concerns that, with current processes, it would be possible for people to vote more than once or to impersonate another voter, distorting the election results. To investigate these concerns, the Committee looked at what the data indicate about multiple voting. The Committee also considered several suggestions that were put forward about ways that multiple voting might be prevented.

⁴²⁸ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, p. 67.

⁴²⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 52.

⁴³⁰ *Electoral Act 2002*, ss 90, 150.

5.4.1 Identifying multiple voting

‘The size of the “fake votes” problem makes it insignificant. Nonetheless, I have seen “fake vote” concerns (including, from a “politician”). It is possible to theorise that a large number of multiple votes could be made and the result of an election could thus be doubted.’⁴³¹

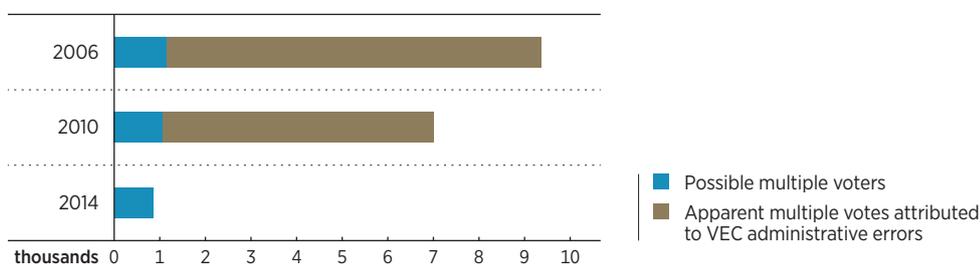
The VEC examines electoral rolls after the election to identify any names that have been crossed off more than once. Electors who have apparently voted more than once are asked to explain.

Following previous elections, the VEC published information about its investigations of apparent multiple voting. In relation to the 2014 election, the VEC stated:

When all excuse and late return processing and roll scanning had been completed, the VEC generated a file of ‘possible’ multiple voters. A total of 846 multiple records required further investigation ... It should be noted that associated integrity checks include ensuring that the number of apparent multiple voters in any one electorate does not impact on the final result.⁴³²

Similar numbers of apparent multiple voters were recorded in earlier years—1,063 in 2010 and 1,142 in 2006.⁴³³ In addition to these numbers, there were 5,945 instances which the VEC put down to administrative errors in 2010 and 8,220 in 2006.⁴³⁴

Figure 5.1 Apparent multiple voters, 2006 to 2014



Note: The VEC did not publish the number of apparent multiple votes attributed to administrative errors in 2014.

Sources: Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian state election*, Melbourne, 2007, p. 41; Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 89; Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 39; Victorian Electoral Commission, *Multiple voting*, Melbourne, 2014, p. 2.

⁴³¹ Allen Hampton OAM, *Submission 105*, p. 5.

⁴³² Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 39.

⁴³³ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 89; Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian state election*, Melbourne, 2007, p. 41.

⁴³⁴ Victorian Electoral Commission, *Multiple voting*, Melbourne, 2014, p. 2.

The VEC published the results of its investigation into the 1,063 apparent multiple voters from 2010, which found that:

- 355 people admitted to multiple voting, generally explaining that they were confused
- 623 people denied multiple voting
- 85 people either did not respond or the VEC's communication was returned undelivered.⁴³⁵

The VEC did not state whether any further investigation was conducted in those cases where people denied multiple voting or failed to respond. The full extent of deliberate multiple voting thus remains unclear.

The VEC did not provide equivalent details of its investigation following the 2014 election.

The total number of apparent multiple voters is relatively small (the 846 possible instances in 2014 are the equivalent of 0.02% of the total votes). There would be potential for these votes to have an impact if they were concentrated in a particular marginal district. As noted above, the VEC does consider this when conducting its analysis. However, the VEC has not published the data broken down by district to demonstrate this.

In contrast to earlier years, the VEC did not publish the number of apparent multiple voters at the 2018 election in its report to Parliament.⁴³⁶

The Committee considers that the VEC should report the number of apparent multiple voters for each election as part of being transparent. As noted by one submitter, it is important to publish not only the total number of apparent multiple votes, but also to break this down by district to demonstrate that there have been no impacts on election results.⁴³⁷

FINDING 47: Following previous elections, the VEC published data about the number of people who appeared to have voted more than once. These numbers were generally relatively small. However, the VEC did not publish these figures in relation to the 2018 election.

⁴³⁵ Victorian Electoral Commission, *Multiple voting*, Melbourne, 2014, p. 2.

⁴³⁶ The VEC did publish details of the number of 'marked as voted votes'. These record occasions when people turn up to vote and find that their names have already been marked off the roll vote but the voter claims that they have not already voted. However, this is a smaller category than the apparent multiple voters of earlier years and the numbers cannot be directly compared.

⁴³⁷ Allen Hampton OAM, *Submission 105*, p. 4.

RECOMMENDATION 30: That the VEC include information about apparent multiple voting in all future reports on state elections. This should include quantifying the number of apparent multiple votes in each district.

RECOMMENDATION 31: That the VEC publish the results of its investigations into multiple voting at each state election, including noting the number of cases which remain unexplained to the VEC's satisfaction.

5.4.2 Preventing multiple voting

Asking if voters have voted before

There are a number of measures currently in place to prevent multiple voting. One of these is that election officials are required to ask voters, 'Have you voted before in this election?'⁴³⁸

While this question should prevent accidental multiple voting, Mr Allen Hampton OAM argued that the phrasing of the question causes problems:

Electors in the busy morning "rush hour" are wanting to get away. They have queued for long enough. They hear the first two questions (name; address) and then before they can be handed the ballot papers, comes question 3. All too often they start their "YES!" before they hear the final clause. Of course they have voted before - they are old hands at this. So the instinct is to give a quick "yes".⁴³⁹

Mr Hampton pointed to the number of people inadvertently making multiple votes (see Section 5.4.1) to suggest that the question was not doing its job.⁴⁴⁰

He also told the Committee that, because the question was confusing, some election officials reword the question. However, he believed that election officials' rewordings sometimes destroyed the intention of the question.⁴⁴¹ As a result, the question may be less effective at preventing accidental multiple voting.

Mr Hampton called for an official rewording of the question, with his preference being 'In this election, have you voted already?' or 'Have you voted already in this election?'⁴⁴² This is similar to the wording used in New Zealand when required: 'Have you already voted at this election in this or any other electoral district?'⁴⁴³

⁴³⁸ *Electoral Act 2002*, s 90(1)(c).

⁴³⁹ Allen Hampton OAM, *Submission 105*, pp. 4-5.

⁴⁴⁰ Allen Hampton OAM, *Submission 105*, p. 4.

⁴⁴¹ Allen Hampton OAM, *Submission 105*, p. 5.

⁴⁴² Allen Hampton OAM, *Submission 105*, p. 5.

⁴⁴³ *Electoral Act 1993* (New Zealand), s 166(1).

The Commonwealth Joint Select Committee on Electoral Reform in 1986 recommended that the question about voting before be removed for Commonwealth elections. The committee found that the question had been confusing for some Aboriginal electors at the 1984 Commonwealth election and was likely to cause confusion for other electors not fluent in English.⁴⁴⁴ The recommendation was not implemented at the Commonwealth level. However, there may be some value in considering rewording or removing the question at the Victorian level.

Voter identification

Some submitters suggested that voters should be required to provide personal identification when voting to reduce the risk of multiple voting or of voters impersonating other people.⁴⁴⁵ For example, Mr Michael Deam argued:

I am required to produce ID to open a bank account. I'm required on demand to produce ID to the police, to produce if in an accident, to purchase alcohol or cigarettes, or enter a casino but I'm not required to produce ID to vote. Even in the third world they do basic ID checking and marking to ensure a valid election by ID check or marking that you've voted.⁴⁴⁶

Mr Adam Wojtonis from the Liberal Party similarly believed that requiring voters to produce identification would not be 'a significant impost'. He argued that voters would already possess the relevant forms of identification if they were eligible to be enrolled.⁴⁴⁷

However, a number of witnesses during the Inquiry spoke against requiring voters to provide identification. For example:

It would disenfranchise particularly people who are newly arrived in this country, who have become Australian citizens and have gone to the trouble of enrolling. We already have our challenge of making sure that these individuals are able to cast a formal vote ... I think adding another layer of complexity to the voting process for these individuals would have a significant impact on their ability to actually vote, and I think it would contribute to disenfranchising people.⁴⁴⁸

⁴⁴⁴ Parliament of Australia, Joint Select Committee on Electoral Reform, *Inquiry into the operation during the 1984 general election of the 1983/84 amendments to Commonwealth electoral legislation*, December 1986, p. 107.

⁴⁴⁵ Name withheld, *Submission 17*, p. 1; Mike Deam, *Submission 22*, pp. 1–2; Allen Hampton OAM, *Submission 105*, p. 5 (as a possible option, but not his preferred approach).

⁴⁴⁶ Mike Deam, *Submission 22*, p. 1.

⁴⁴⁷ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 17.

⁴⁴⁸ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, 21 October 2019, *Transcript of evidence*, pp. 5–6.

... any process to require voter identification that has been attempted to be implemented anywhere around the world—and there is a wealth of literature from the United States in particular—always results in the suppression of votes of minorities, so we do not support it.⁴⁴⁹

Voter identification requirements were introduced in Queensland for the 2015 election and repealed after one election. Voters who turned up to a voting centre in 2015 without identification were given the option of making a ‘declaration vote’—16,189 votes (0.6% of the total) were declaration votes.⁴⁵⁰ An academic study found that:

- there was a drop in turnout, which may have been a result of confusion about what voter identification meant or people not turning up because they did not have identification
- Indigenous and remote voters experienced more problems with the requirements than other voters.⁴⁵¹

Given that the number of apparent multiple voters in previous Victorian elections has been quite low (see above), the Committee does not consider that the potential benefits of reducing multiple voting outweigh the potential risks of disenfranchising some voters.

The Committee also notes that technology is making it harder for people to vote multiple times. Prior to giving someone ballot papers, election officials also check the roll to see whether the person has been marked as having already voted. Paper-based rolls can only identify if a person has voted at one particular voting centre, but electronic roll mark-off devices with live updates can identify whether or not a person has been marked off the roll at any voting centre.

In 2018, the VEC used electronic roll mark-off devices in its early voting centres, mobile voting centres and at some issuing points for absent votes on election-day. A total of 1,557,616 electors were marked off electronically.⁴⁵² This is equivalent to 41.6% of electors marked off the roll. Additional use of electronic roll mark-off in future elections may further reduce the risk of multiple voting.

FINDING 48: Voter identification has the potential to reduce multiple voting, but may also disenfranchise some voters. Given the small scale of apparent multiple voting in Victoria, the Committee does not see any need to introduce voter identification at this time.

⁴⁴⁹ Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 35.

⁴⁵⁰ Parliament of Australia, Joint Standing Committee on Electoral Matters, *The 2013 Federal election: Report on the conduct of the 2013 election and matters related thereto*, April 2015, p. 114.

⁴⁵¹ Graeme Orr and Tracey Arklay, ‘Rethinking voter identification: its rationale and impact’, *Australian Journal of Political Science*, vol. 51, no. 3, 2016, pp. 393–4.

⁴⁵² Victorian Electoral Commission, *Submission 92* (revised), p. 36.

6 Transparent performance measurement and reporting

6.1 Introduction

As discussed in Chapter 5, transparency is an essential part of a robust electoral system. An important component of transparency is a system of performance measurement and reporting. A good performance measurement system will set out exactly what the electoral commission plans to do and what standards it aims to achieve. This needs to be followed by reporting on the commission's actual performance compared to its goals, with explanations for any variances.

Performance measurement is part of good governance for any organisation. For an electoral commission, performance measurement and reporting also help to demonstrate that election results are trustworthy and that all stakeholders have been factored into plans in appropriate ways.

In addition, performance measurement is important for financial accountability. The 2018 election cost \$60.2 million.⁴⁵³ As with every other public sector body, the VEC is obliged to demonstrate to the community and the Parliament how this money was spent and what was achieved with it.

The VEC has a range of ways that it measures and reports its performance. Section 6.2 of this chapter focuses on the VEC's 27 election indicators. Section 6.3 looks at the VEC's overall five-year strategy, *Strategy 2023*. Section 6.4 examines the VEC's plans relating to particular groups of electors.

The Committee considers that the VEC has done some good work in recent years improving its performance measurement system for elections. There is scope for some further improvements to include additional measures about voting centres and count accuracy. There would also be benefits to including more concrete targets in its overall strategy and more specific plans.

Other ways that the VEC's performance is measured are discussed elsewhere in this report. Trends in participation are discussed in Chapter 2. The results of independent research by Colmar Brunton looking at voters', candidates' and parties' levels of satisfaction with the VEC's services have been discussed throughout this report.

⁴⁵³ Victorian Electoral Commission, *Submission 92* (revised), p. 77.

6.2 The VEC's election indicators

Before the 2018 election, the VEC published 27 performance indicators, with measures and targets for each indicator.⁴⁵⁴ The VEC reported on its performance compared to these targets after the election.⁴⁵⁵

The indicators were grouped into four 'major performance objectives':

- Sufficient, fully resourced and accessible voting centres will be available during the voting period.
- The election will be conducted to a high standard within legislated and organisational timeframes.
- Eligible electors will be enrolled and cast a formal vote, or provide a valid and sufficient reason for failing to vote.
- Increase the participation and inclusion of those traditionally underrepresented in the electoral process.⁴⁵⁶

The VEC published election performance indicators for the first time at the 2014 election. Of the 27 indicators in 2018, 15 were continued from 2014⁴⁵⁷ and 12 were new.

Seven of the new indicators related to removing barriers to participation. These were introduced following a recommendation by the Auditor-General in 2016 that the VEC develop additional indicators 'for activities aimed at improving participation among those traditionally under-represented in the electoral system'.⁴⁵⁸ These are discussed in more detail in Section 3.5 of this report.

The Committee is pleased to see that the number of indicators has increased since 2014 and that new measures have been added relating to removing barriers to participation.

6.2.1 The VEC's performance compared to targets

At both the 2014 and 2018 elections, the VEC met exactly two-thirds of its original⁴⁵⁹ targets (see Figure 6.1).

⁴⁵⁴ Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, pp. 3–4 (20 measures) and p. 11 (7 targets in four groups).

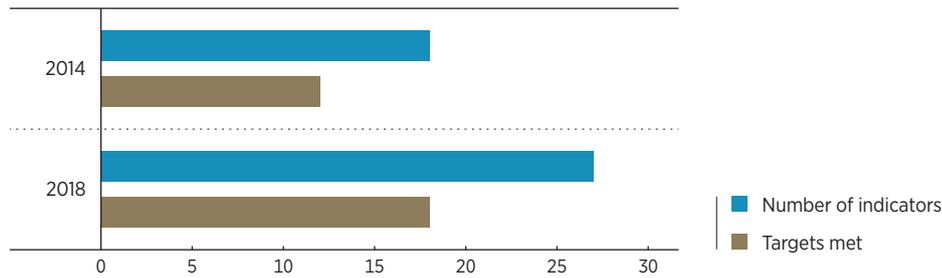
⁴⁵⁵ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, pp. 165–7. The VEC also reported on one additional measure (assisted wheelchair accessible venues) for which no target had been set.

⁴⁵⁶ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, pp. 165–7.

⁴⁵⁷ The targets remained the same for 13, one target was made more challenging and one was made less challenging.

⁴⁵⁸ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 17.

⁴⁵⁹ For one indicator ('Workshop participants know how to find out who to vote for'), the target was stated at '70 per cent' in the 2018 *State election service plan* (p. 11) but stated as '80 per cent' in the *Report to Parliament on the 2018 Victorian state election* (p. 167).

Figure 6.1 Performance indicators for the 2014 and 2018 state elections

Source: Electoral Matters Committee calculations, based on Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, pp. 119–20; Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, pp. 3–4, 11; Victorian Electoral Commission, *Submission 92 (revised)*, pp. 135–7.

In some of the cases where the target was not met in 2018, the VEC’s performance was close to the target. The failure to meet these targets was not significant. However, there were several unmet targets which caused some concern for the Committee.

In particular:

- the key indicators of voter turnout and informality were not met, despite the target for Lower House informality being made less challenging in 2018
- the target for ‘independent wheelchair accessible’ venues was not met in either 2014 or 2018
- the overall voter satisfaction in 2018 (84%) was well below the target of 93%.

These issues are discussed in more detail in Sections 2.3, 2.4 and 4.5 of this report. Section 2.2 also discusses the fact that the VEC failed to meet its target for enrolment, though the Committee considers that this is due to the target no longer being appropriate, rather than any shortcomings in the VEC’s programs.

The Committee notes the Auditor-General’s comment that:

The election performance indicators VEC developed in 2014 will need regular reviewing to ensure they are sufficiently ambitious and that they adequately cover VEC’s duties ...⁴⁶⁰

In the following sections, the Committee notes various areas where improvements could be made to the VEC’s election performance measurement system. The Committee has also recommended additional indicators be included relating to ballot paper security in Section 5.2.4.

6.2.2 Number of legal challenges upheld

The VEC’s election indicators are generally clearly expressed and the measures and targets are generally well defined. However, there appears to be some ambiguity with the measure ‘Number of legal challenges to VEC conduct upheld’. This is a particularly

⁴⁶⁰ Victorian Auditor-General, *Victorian Electoral Commission*, Melbourne, 2016, p. 8.

important measure, as it is also one of only four measures for the VEC in the state budget papers.

In reporting on this indicator, the VEC indicated that there were no legal challenges upheld at the 2018 election.⁴⁶¹ However, the Committee notes that there were two applications to the Victorian Civil and Administrative Tribunal (VCAT) to overturn VEC decisions which were upheld. Both related to registering how-to-vote cards.⁴⁶²

It is not clear why the two VCAT cases were not counted for this measure. The VEC may wish to review this measure, to either specify exactly what is being counted or to change what is reported against this measure.

FINDING 49: The VEC reported that no legal challenges to the VEC’s conduct were upheld in 2018, despite the fact that two of the VEC’s decisions were overturned by the Victorian Civil and Administrative Tribunal.

RECOMMENDATION 32: That the VEC review the election performance indicator and budget paper measure ‘Number of legal challenges to VEC conduct upheld’ to ensure that what it measures is clear or change what is included when reporting on this measure.

6.2.3 Expanding the indicators about voting centres

‘The selection of sites for early voting centres has a significant impact on the opportunity for voters to fulfil their democratic duty.’⁴⁶³

While the VEC has developed several indicators about the timeliness of voting centre arrangements, it only has two relating to the quality of these centres:

- one indicator looks at the proportion of venues that are ‘independent wheelchair accessible’
- one looks at the overall level of voter satisfaction (which would be influenced by many factors, of which the suitability of voting centres would be only one).

The Committee notes that major issues raised during this Inquiry about voting centres included:

- their suitability for people with special needs (see Section 4.5.1)
- their suitability for candidates and volunteers (see Section 8.5)

⁴⁶¹ Victorian Electoral Commission, *Submission 92* (revised), p. 136; Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, p. 11.

⁴⁶² Victorian Electoral Commission, *Submission 92* (revised), pp. 55–6.

⁴⁶³ Australian Labor Party Victorian Branch, *Submission 80*, p. 3.

- the number and geographic spread of voting centres (see Sections 4.5.1)
- the effectiveness of the VEC in managing voter numbers at certain voting centres (see Section 4.5.2).

The Committee recognises that it can be difficult to find early and election-day voting centres that meet all of the criteria for an ideal voting centre. However, suitable voting centres are important to ensure that elections are inclusive for all electors and provide a level playing field for candidates. The Committee therefore considers it important to track the VEC's efforts at finding appropriate venues.

The VEC uses a checklist of criteria when assessing venues as potential voting centres. One way of measuring the quality of voting centres would be to track the number of centres meeting a certain threshold number of the criteria (for example, 75% of the criteria). Alternatively, the VEC could report on the number of venues meeting all of a group of particularly important criteria.

Alternatively, the appropriateness of voting centres could be measured through the independent questionnaire conducted after each election. This questionnaire asks electors about their satisfaction with seven different aspects of their experiences at voting centres.⁴⁶⁴ These aspects do not include the suitability of the venue as a voting centre. An additional question asking people to rate the suitability of the venue could provide valuable information to track the VEC's work in finding better venues.

The VEC has indicated that it is looking for ways to find better venues for future elections (see Section 4.5.1). Introducing a performance indicator would enable the VEC's progress in this area to be tracked.

Another important measure of the effectiveness of voting centre arrangements is the length of time electors have to spend in queues. The previous Electoral Matters Committee noted the potential benefits of a performance indicator relating to queueing in its report on the 2014 election:

The committee recommends the VEC establish a performance target for queueing at all Victorian voting centres which reduces queueing times encountered at the 2014 Victorian state election. This target should be incorporated into the VEC's election planning and be used to benchmark the efficiency of voting centres as part of the VEC's annual reporting.⁴⁶⁵

The VEC's response to this suggestion was:

The VEC reviewed its voting centre staffing model prior to the [2018] election and increased staffing numbers to specifically include one or more staff members responsible for queue management. Whilst early voting numbers increased, resulting

⁴⁶⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 41.

⁴⁶⁵ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 45.

in reduced voter numbers on election day, the staff allocated to each voting centre was maintained.⁴⁶⁶

The Committee recognises the VEC's commitment to managing queues. However, as discussed in Section 4.5.2, the proportion of electors having to queue for more than 10 minutes on election day increased from 22% to 29% between 2014 and 2018.⁴⁶⁷ In addition, 43% of electors who were dissatisfied with their experience at their voting centre in 2018 cited long queues or waiting times as the reason.⁴⁶⁸ This may be connected to the fact that the VEC's performance in estimating the number of electors at voting centres in advance of the election decreased from 99.8% accuracy in 2014 to 91.6% in 2018.⁴⁶⁹

The Committee considers that it would be valuable for the VEC to report on its effectiveness in this area. Queueing times are measured after each election as part of the questionnaire conducted by Colmar Brunton (see Section 4.5.2). It would therefore be relatively easy for the VEC to develop a performance indicator related to the proportion of people having to queue for more than 10 minutes as an indicator of the effectiveness of the VEC in managing voter numbers.

FINDING 50: Submitters to this Inquiry raised a number of concerns about the selection of venues as voting centres, especially early voting centres. Given the importance of appropriate voting centres for the smooth running of an election, the VEC should introduce new performance indicators assessing the quality of voting centres at future elections.

RECOMMENDATION 33: That, in future election plans, the VEC include two new performance indicators with targets that relate to the suitability of venues used as a) early voting centres and b) election-day voting centres. These might include measures of the proportion of voting centres meeting a certain number of the VEC's selection criteria or voters' assessments as determined by the post-election evaluation. Results for these indicators should be included in future reports on state elections.

RECOMMENDATION 34: That, in future election plans, the VEC include two new performance indicators with targets that relate to the proportion of electors who queue for more than 10 minutes at a) early voting centres and b) election-day voting centres. Results for these indicators should be included in future reports on state elections.

⁴⁶⁶ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, p. 169.

⁴⁶⁷ Ordinary/absentee voters only, based on online surveys; figures are Committee calculations based on Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 29 November 2014 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2015, p. 156; Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 40.

⁴⁶⁸ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 39.

⁴⁶⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 52.

6.2.4 Introducing indicators about accuracy

The VEC's performance indicators include several measures of the timeliness of the vote count. Only one indicator relates to the accuracy of the count, and that is the 'number of legal challenges to VEC conduct upheld'. This indicator (which also appears in the performance measures set in the budget papers each year) is a very high-level measure that will only indicate extremely serious problems in vote counting.

The VEC has stated that it 'aims to achieve an accuracy of 99.98% via its counting and rechecking processes and has a proven track record of achieving at least this'.⁴⁷⁰ However, it is not clear how this has been measured and the VEC has not published data which demonstrate this. The Committee notes the concerns raised by Mr Waddell and the reasons for the discrepancies identified by him (see Sections 5.2.2 and 5.3.2). It appears that errors occur in the primary counts, two-candidate-preferred counts and in data entry at various stages of the process.

The VEC's emphasis on timeliness rather than accuracy may be a contributing factor to this. The Committee therefore considers that, going forward, indicators should be established and reported relating to the accuracy of vote counting, including the primary and two-candidate-preferred counts. In addition to highlighting the importance of accuracy, transparency around the VEC's achievements in this area may also help to improve public confidence in the results.

FINDING 51: The VEC has several measures relating to the timeliness of vote counting, but only one measure relating to the accuracy of the count. The accuracy measure only indicates whether or not the VEC's efforts met the minimum standards required to prevent successful challenges in court.

RECOMMENDATION 35: That, in future election plans, the VEC include performance indicators that measure the accuracy of primary counts, two-candidate-preferred counts and, where possible, recheck results. Results for these indicators should be included in future reports on state elections.

6.3 Strategy 2023

'... we are at a watershed moment. The conflation of technological advancement, increasing public expectations, media scrutiny and the presumption of diversity and inclusion means that we need to be ready for major change.'⁴⁷¹

In July 2018, the VEC released a five-year strategy, *Strategy 2023*. There was little time for any initiatives to be implemented before the 2018 election. However, the strategy will play a key role in the VEC's preparation for the 2022 election. The strategy's

⁴⁷⁰ Victorian Electoral Commission, *Lower House count*, Melbourne, 2018, p. 8.

⁴⁷¹ Victorian Electoral Commission, *Strategy 2023*, Melbourne, 2018, p. 3.

five-year goal is that 'The VEC is change ready and has the people, systems and relationships to make the most of opportunities.'⁴⁷²

The strategy identifies eight goals for the VEC:

- Develop leaders who always scan for opportunities and challenges, so they can better support our people to work and solve problems.
- Recruit our people for ability and attitude, and develop them based on their strengths.
- Deliver our IT plan – so that we can deliver the standard of elections Victorians expect.
- Establish smart systems that talk to each other so we can have a better understanding of our business and how we can improve.
- Improve processes to enable clever problem solving and better ways of working.
- Base our decision-making on research, facts and expertise.
- Consider all our networks and knowledge when thinking about how to improve our services.
- Focus on growing relationships that will help us spread our message and stay ahead of the curve.⁴⁷³

The Committee acknowledges the importance of these goals and the potential for these to address many of the issues raised in this report.

These goals are defined at quite a high level in *Strategy 2023*. The document does not include details of specific tasks that are planned to achieve the goals (see Box 6.1 for details of some of the VEC's planned activities). Nor does it include any performance measures and targets to indicate what successful achievement of the goals would look like.

However, the VEC's *Annual report 2018–2019* includes a number of measures and interim targets relating to *Strategy 2023*.⁴⁷⁴ The report indicates that further work is being undertaken which will result in additional measures and targets.⁴⁷⁵ The report also notes that 33 key projects and initiatives have been identified so far as part of *Strategy 2023*, though it does not specify what all of these projects are.⁴⁷⁶

The Committee welcomes this disclosure and reporting. However, it would have been preferable for the measures, targets and key projects to be identified at the time the plan was first published. This would help the reader to properly understand what the

⁴⁷² Victorian Electoral Commission, *Strategy 2023*, Melbourne, 2018, pp. 4–5.

⁴⁷³ Victorian Electoral Commission, *Strategy 2023*, Melbourne, 2018, pp. 4–5.

⁴⁷⁴ Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, pp. 15–16.

⁴⁷⁵ Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, pp. 15–19.

⁴⁷⁶ Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, p. 14.

VEC's intentions were and would enable the community and Parliament to hold the VEC to account for whether or not it achieves its goals.

The Committee encourages the VEC to develop comprehensive and robust performance measures for *Strategy 2023* and to make these public as soon as possible.

FINDING 52: The VEC's five-year *Strategy 2023* seeks to make the VEC change-ready and better able to respond to circumstances. The VEC is currently developing a suite of performance measures and targets to monitor its performance towards the goals of the strategy. Developing comprehensive and robust measures, and being transparent about the VEC's performance, will be important to ensure that the strategy is implemented successfully and that the 2022 state election is delivered well.

BOX 6.1: Activities planned by the VEC

In the course of investigating the 2018 election, the Committee has become aware of many activities that the VEC is planning to undertake.

Information about these activities is spread across multiple sources. In some cases, the activities have only been identified in communication with the Committee. The Committee has therefore brought together this list to record what the VEC is planning and to help future Electoral Matters Committees in their evaluation of the VEC's performance.

Electoral roll

- Developing an Electoral Roll Management Strategy.
- Redeveloping the Roll Management System.
- Continuing efforts to reduce roll divergence.
- Considering expanding the use of electronic rolls at voting centres.

Voting centres

- Providing more early voting centres and developing options to meet the needs of high numbers of early voters.
- Considering the appropriate locations of early voting centres.
- Continuing to consult broadly and work with the Electoral Access Advisory Group and government departments to increase the number of accessible early and election-day voting centres.
- Considering whether voting centres that recorded a low number of votes in 2018 should be used again in 2022.
- Building on the existing relationship with Victoria Police to improve responses to problem behaviour outside voting centres.

BOX 6.1: Activities planned by the VEC (*continued*)

Inclusion and participation generally

- Reviewing various strategies related to engagement.
- As part of redeveloping the Roll Management System, including functionality to track voters who have enrolled following participation in community engagement programs.
- Expanding VoterAlert's reach by obtaining electronic contact details for half of the people that have not currently provided them.
- Identifying areas with poor turnout and formality at the 2018 election and targeting them for outreach activities at the 2022 election.

Youth participation

- Considering how to better engage and encourage greater participation by younger Victorians.
- Developing a Young People's Action Plan.
- Continuing to build and enhance the Passport to Democracy program.
- Working with young voters regarding advertising and messaging, including through having RMIT advertising students involved in developing the 2020 local government elections campaign.

Aboriginal and Torres Strait Islander participation

- Consulting with the Aboriginal and Torres Strait Islander community on a new Aboriginal Engagement Plan.

Research

- Establishing a partnership with Notre Dame University to conduct research into age effects on voting behaviour.
- Researching reasons for not voting and attitudes toward voting among electors aged between 25 and 44.
- Sponsoring research into informality and why it occurs (with the University of Adelaide and in conjunction with the New South Wales Electoral Commission).
- Researching the effectiveness of the VEC's enrolment engagement strategy.

Workforce issues

- Establishing a working group to review management of the VEC's workforce during an election.
- Reviewing the remuneration package for election staff.
- Reviewing the appointments policy and processes for election staff.

BOX 6.1: Activities planned by the VEC (*continued*)

- Enhancing online and face-to-face training for election staff.
- Ensuring adequate experienced election officials are available to oversee difficulties in various districts and regions.
- Considering methods to more reliably capture data regarding the number of Aboriginal and Torres Strait Islander people employed as election staff.

Transparency

- Reviewing the information published about vote counts and variations between counts.
- Providing information on the VEC website that clarifies discrepancies between roll mark-off figures and final figures for early votes.

Vote counting

- Considering wider use of computerised rechecks and preference distributions.
- Continuing to refine programs and training to minimise errors in early vote mark-off and ballot paper package labelling.
- Considering communication procedures for recounts, informed by reflection on what could have been done better at the Ripon District recount in 2018.
- Considering the efficacy of the centralised counting model.

Funding and disclosure

- Integrating the Funding and Disclosure Unit into a new Electoral Integrity and Regulation Branch, and making enhancements to the funding and disclosure system.
- Developing education and stakeholder engagement activities regarding funding and disclosure, including creating new materials.

Other

- Developing a Diversity and Inclusion Strategy.
- Refreshing the VEC brand and website.
- Further considering the use of a biodegradable plastic wrap to protect Election Guides that are mailed to electors, in response to complaints about environmental impact.

Source: Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, pp. 15–16, 21, 43, 65, 67; Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, pp. 2–8, 11, 14–15, 17–20; Victorian Electoral Commission, *Submission 92* (revised), Foreword, pp. 9, 30, 36, 42–3, 51, 65, 72–3, 141; Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, pp. 3, 7; Liz Williams, Deputy Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, pp. 21–2; Sue Lang, Director, Communication and Engagement, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 13.

6.4 Other plans

Under the previous five-year strategy, the VEC developed several more focused strategies and plans to sit under the overall strategy. These included an *Education and inclusion strategy*, *Reconciliation action plan*, *Disability action plan* and *Digital engagement strategy*. All of these concluded in 2018 or 2019 and were under review in the middle of 2019.⁴⁷⁷

One new plan has been released to date—the *Disability access and inclusion plan 2019–2023*. Research is also being undertaken to inform action plans for culturally and linguistic diverse communities, young people and Aboriginal and Torres Strait Islander peoples.⁴⁷⁸

6.4.1 The disability access and inclusion plan

‘The [Disability Access and Inclusion] Plan lays out the priority areas for improvement across the document’s life cycle.’⁴⁷⁹

The *Disability access and inclusion plan 2019–2023* was released in October 2019. It is the first of the new plans to be developed under *Strategy 2023*. The VEC states that the plan incorporates the lessons learnt from previous plans⁴⁸⁰ and identifies four ‘key priority areas’ for 2019–2023:

- access—to premises, information and services
- employment—staff recruitment, training and retention
- community—engagement and consultation
- changing attitudes—lead by example.⁴⁸¹

Under each of these areas, the plan lists a number of actions. Some of the actions are clearly defined, such as ‘provide at least one intern opportunity each year through the Australian Network on Disability – Stepping into Internship program’. However, other actions are only set out at a very high level, such as ‘continue to source voting centre options that are accessible’ and ‘ensure our recruitment practices are fully inclusive’.⁴⁸²

The plan does not include quantifiable measures and targets, though the VEC has committed to providing annual progress summaries in future annual reports.⁴⁸³

⁴⁷⁷ Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, p. 15.

⁴⁷⁸ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 2.

⁴⁷⁹ Victorian Electoral Commission, *Disability action and inclusion plan 2019–2023*, Melbourne, 2019, p. 3.

⁴⁸⁰ Victorian Electoral Commission, *Disability action and inclusion plan 2019–2023*, Melbourne, 2019, p. 3.

⁴⁸¹ Victorian Electoral Commission, *Disability action and inclusion plan 2019–2023*, Melbourne, 2019, p. 5.

⁴⁸² Victorian Electoral Commission, *Disability action and inclusion plan 2019–2023*, Melbourne, 2019, pp. 6–7.

⁴⁸³ Victorian Electoral Commission, *Disability action and inclusion plan 2019–2023*, Melbourne, 2019, p. 10.

The Committee considers that plans such as these could be improved by providing additional detail. For example, the Department of Premier and Cabinet's *Disability action plan* has a goal of 'Recruitment practices ensure the equitable participation of people with disability in the process', which is similar to the VEC's goal to 'ensure our recruitment practices are fully inclusive'. However, where the VEC provides no further details in its plan, the Department of Premier and Cabinet notes who is accountable for achieving the goal, lists five actions that will be taken and identifies three measures and targets:

- People with disability make up 20% of the short-listing pool by 2019.
- People with disability make up 15% of the interview pool by 2019.
- Strong uptake of training and hiring managers are aware of their potential biases and have strategies to address these.⁴⁸⁴

The VEC's previous disability action plan was closer to this model, including details of the timeline, manager responsible and performance measures.⁴⁸⁵ Plans are more transparent when they include concrete actions and performance measures with quantified targets. The Committee recognises that more specifics may be provided in annual reports, but considers that establishing measures and targets within the plan itself at the time of its release would be more appropriate.

FINDING 53: The VEC's *Disability access and inclusion plan* includes some actions which are defined at a very high level and does not include quantifiable measures and targets.

RECOMMENDATION 36: That, in developing future plans and strategies, the VEC include concrete actions, measures and quantified targets in the original plan at the time of release, so that stakeholders have a better understanding of what the VEC intends to do.

6.4.2 Making plans and evaluations public

As noted above, the VEC had a number of plans which concluded in 2018 or 2019. Some of these plans were not made public, such as the *Enduring framework for the design, implementation and evaluation of electoral education and awareness programs (2014–2018)* and an education and inclusion strategy. The VEC has noted that these documents included performance monitoring plans or key performance indicators.⁴⁸⁶ These were also not fully made public.⁴⁸⁷

⁴⁸⁴ Department of Premier and Cabinet, *DPC's disability action plan*, 2019, <<https://www.vic.gov.au/dpcs-disability-action-plan>> accessed 11 December 2019.

⁴⁸⁵ Victorian Electoral Commission, *Improving access to the Victorian electoral system: A disability action plan 2016–2019*, Melbourne, 2015.

⁴⁸⁶ Victorian Electoral Commission, *Submission 12a*, submission to the Parliament of Victoria, Electoral Matters Committee, Inquiry into civics and electoral participation in Victorian state parliamentary elections, 2018, p. 2; Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 11.

⁴⁸⁷ The VEC published and reported on 'individual project targets for election-period initiatives' which sit below its overall key performance indicators—Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 11.

The VEC has indicated that it is planning to develop additional plans, including:

- a young people's action plan
- a new Aboriginal engagement plan
- a diversity and inclusion strategy.⁴⁸⁸

The Committee would like to see all of the VEC's plans publicly released as they are developed, including associated performance evaluation criteria. Making these more detailed plans, strategies and performance indicators publicly available would increase the transparency and accountability of the VEC's efforts. This would in turn help this committee, the Parliament and the community to understand and assess the VEC's plans and performance in relation to inclusion and participation.

This is particularly important given the high-level nature of *Strategy 2023*, as discussed in Section 6.3 above.

FINDING 54: The VEC is planning to develop several plans and strategies relating to engagement and inclusion. Previously, the VEC has not made all of its plans and strategies or the associated evaluation criteria publicly available.

RECOMMENDATION 37: That the VEC make all future inclusion and participation plans, strategies and key performance indicators publicly available.

⁴⁸⁸ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, pp. 4, 19; Victorian Electoral Commission, *Annual report 2018–2019*, Melbourne, 2019, p. 67.

7 Competitive elections

7.1 Introduction

The Organization of American States lists competitive elections as one of the four basic conditions of a democratic system. In this context, competitive elections are ones that ‘offer the electorate an unbiased choice among alternatives.’⁴⁸⁹ The Organization lists four key issues that make up the basic guarantees for a competitive election campaign:

- Do candidates compete on a level playing field?
- Do the voters have access to the information needed to make an informed choice when they cast their votes?
- Is the physical security of all candidates and party personnel guaranteed?
- Are candidates for office and the electorate allowed to organize and interact freely?⁴⁹⁰

The first two questions are partly addressed in this chapter.

Section 7.2 looks at the way that the VEC delivers various services to candidates and parties. Delivering these services in a way that is fair for all candidates and parties is an important part of creating a level playing field and therefore a competitive election.

Participants in this Inquiry suggested several areas where improvements could be made to the ways the VEC delivered services. These included the registration of how-to-vote cards and communication with candidates and parties. It was also suggested that the VEC could facilitate access to mental health and emotional support for candidates when required.

As noted above, it is also important for voters to have access to the information they need to make an informed choice. This is explored in Section 7.3. Some submitters suggested altering the way non-party-aligned candidates are labelled on ballot papers. Other submitters raised concerns about misleading advertising, with some calling for stricter regulation about truth in advertising.

Chapter 8 continues the analysis of competitiveness in Victorian elections by looking at voting centres. All four of the above questions are used to consider whether voting centres are appropriately competitive. Public funding and limitations on donations are also an important part of creating a level playing field in Victoria. These are discussed in Chapter 9.

⁴⁸⁹ General Secretariat of the Organization of American States, *Methods for election observation: A manual for OAS electoral observation missions*, report prepared by Gerardo L. Munck, Washington DC, 2007, p. 7.

⁴⁹⁰ General Secretariat of the Organization of American States, *Methods for election observation: A manual for OAS electoral observation missions*, report prepared by Gerardo L. Munck, Washington DC, 2007, p. 8.

7.2 The VEC's services to candidates and parties

'As a party neither we nor our candidates (bar 1) had stood for election before. While running as a candidate is daunting the VEC did everything that they could to simplify the process. They were free and generous with their support, and certainly made what could have been a very stressful time something that just simply worked.'⁴⁹¹

Throughout this Inquiry, many submitters had positive things to say about how the VEC managed the election and provided services to candidates. These positive comments were made by established parties,⁴⁹² new parties⁴⁹³ and non-party-aligned candidates.⁴⁹⁴

The VEC's services to candidates were also generally assessed favourably by candidates and party representatives interviewed as part of an independent post-election evaluation. This research was undertaken by Colmar Brunton and involved a survey of 87 candidates (of which 21 were non-party-aligned) and interviews with ten party representatives.⁴⁹⁵

Although the overall assessments were generally positive, several areas were identified during the Inquiry where the VEC's services could be improved or where additional services could be helpful.

7.2.1 How-to-vote cards

The registration of how-to-vote cards is one of the important services that the VEC manages. Only how-to-vote cards that have been registered with the VEC are allowed to be given out on election day. The VEC will only carry copies of registered how-to-vote cards when providing mobile voting.⁴⁹⁶

Before it can register a how-to-vote card, the VEC must ensure that the card meets certain criteria set out in legislation.⁴⁹⁷

Once a how-to-vote card is submitted by a party or candidate, the VEC must make a decision about whether or not it meets the criteria for registration before noon of the day after the card is received by the VEC.⁴⁹⁸ The Committee heard from the Labor

⁴⁹¹ André Baruch, State Director, Transport Matters Party, *Submission 14*, p. 1.

⁴⁹² Australian Labor Party Victorian Branch, *Submission 80*, p. 3; The Nationals, *Submission 86*, p. 1; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 8; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 19.

⁴⁹³ André Baruch, State Director, Transport Matters Party, *Submission 14*, p. 1; André Baruch, State Director, Transport Matters Party, public hearing, Melbourne, 25 November 2019, *Transcript of evidence*, pp. 1–2.

⁴⁹⁴ Jill Briggs, *Submission 1*, p. 1; Joe Garra, *Submission 46*, p. 1; Hon. Russell Northe MLA, Member for Morwell, *Submission 97*, p. 1; Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 9; Jill Briggs, public hearing, Melbourne, 25 November 2019, *Transcript of evidence*, p. 2.

⁴⁹⁵ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019.

⁴⁹⁶ Victorian Electoral Commission, *Candidate handbook – District*, Melbourne, 2018, p. 19.

⁴⁹⁷ *Electoral Act 2002* s 79(2)–(3).

⁴⁹⁸ *Electoral Act 2002* s 79.

Party, the Liberals and the Greens that there had been delays in this process.⁴⁹⁹ Delays were also noted by party representatives in the post-election evaluation conducted by Colmar Brunton.⁵⁰⁰ The Labor Party told the Committee:

Registration and production of HTV cards is a significant logistical challenge for major parties. In 2018, the Labor Party alone had to register around 200 unique HTV designs, produce/print around 2.4 million copies thereof, and distribute them to their respective electorates across the state ...

There were delays in the registration of HTV cards, which placed at risk the party's capacity to produce and distribute HTVs in time for use. Often these delays were seemingly inexplicable, e.g. a three-day delay between the approval of a multi-lingual version of a HTV and its "generic" (and otherwise identical) equivalent. In some instances, delays resulted in some parties being advantaged by having markedly earlier approval of their HTVs compared with others ...⁵⁰¹

The Labor Party also stated that some designs were lost in processing by the VEC.⁵⁰²

Mr Adam Wojtonis from the Liberal Party highlighted the tight timeframe to prepare how-to-vote cards for mobile voting. Registrations for how-to-vote cards opens on the Monday after nominations and mobile voting begins on the Wednesday. As a result, Mr Wojtonis indicated, delays 'caused issues in actually being able to have how-to-vote cards in the field in time for mobile voting teams to be able to give them to voters.'⁵⁰³

Ms Glenda Frazer from the VEC told the Committee that, after seeing the submissions speaking of problems with the process:

I went back and checked the records. Every how-to-vote card that was lodged on a day was approved—if it was to be approved—by 12 noon the following day. We did not have any how-to-vote cards that did not get registered within the legal time frame. The only ones we had were where people had to go away and make a correction or there was a problem and it might have been defective, but anything that was going to get approved definitely was approved.⁵⁰⁴

Richmond District was suggested as one place where delays may have occurred. In response, the Electoral Commissioner confirmed that decisions on all how-to-vote cards in Richmond District were made within the legislated time frame. He noted that, in some cases, the initial cards that were provided were not accepted and the applicants needed

⁴⁹⁹ Liberal Party of Australia (Victorian Division), *Submission 69*, p. 4; Australian Labor Party Victorian Branch, *Submission 80*, p. 4; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 10; Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 30.

⁵⁰⁰ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 40.

⁵⁰¹ Australian Labor Party Victorian Branch, *Submission 80*, p. 4.

⁵⁰² Australian Labor Party Victorian Branch, *Submission 80*, pp. 4–5.

⁵⁰³ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 10.

⁵⁰⁴ Ms Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 7.

to amend the cards and resubmit them. As a result, there were some cases where the final registration of the card did not occur until the second day after it was initially lodged. However, the Electoral Commissioner indicated that applicants were notified of decisions about the cards each time within the legislated timeframe.⁵⁰⁵

Some of the confusion in this situation may be a result of the way that the VEC notified parties about the successful registration of their how-to-vote cards. The VEC explained:

... any registered political party would bring all their how-to-vote cards to the VEC head office ... If they were still there in person, they were advised in person that the registrations had been approved. If they had not stayed around and they had left, they were then advised by telephone that they [the how-to-vote cards] had gone through.⁵⁰⁶

The Labor Party advised that they relied on looking at the VEC's website to identify when cards had been accepted, based on when the cards were published online.⁵⁰⁷ The VEC noted that there were some delays with this process.⁵⁰⁸

The Labor Party called for additional staff to be allocated to how-to-vote card registrations and recommended a new system which would:

... provide a receipt for each design submitted, allocate a case number to each, and allow realtime monitoring and reporting (with reference to the case number) on the status of each design submitted by a user.⁵⁰⁹

This suggestion was also supported by Mr Adam Wojtonis from the Liberal Party.⁵¹⁰

The Deputy Electoral Commissioner, Ms Liz Williams, also told the Committee that, 'we can look at possibly moving the start of mobile voting to later in that week, which may give parties a little more time.'⁵¹¹

FINDING 55: The Labor Party, the Liberals and the Greens told the Committee that they had experienced delays in receiving notifications from the VEC about the registration of how-to-vote cards. However, the VEC's records indicated that there were no delays. The problem may lie in the processes used by the VEC to communicate with parties.

⁵⁰⁵ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 18 November 2019, pp. 7–9.

⁵⁰⁶ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 7.

⁵⁰⁷ Australian Labor Party Victorian Branch, *Submission 80*, p. 5.

⁵⁰⁸ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 7.

⁵⁰⁹ Australian Labor Party Victorian Branch, *Submission 80*, p. 5.

⁵¹⁰ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 14.

⁵¹¹ Liz Williams, Deputy Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 8.

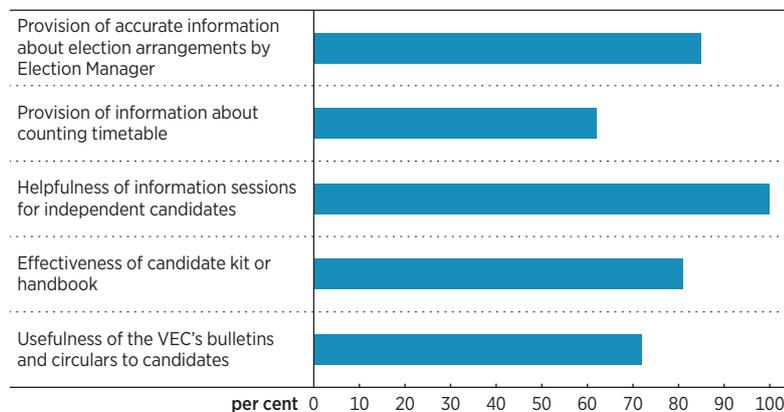
RECOMMENDATION 38: That the VEC talk with parties to understand their concerns about how-to-vote card registration and identify any changes to processes that could be helpful in the future. This may include emailing confirmation of each how-to-vote card's registration and providing an online register of the status of each submitted card which parties can view at any time.

7.2.2 Communication with candidates and parties

The VEC plays an important role as a source of information for candidates and parties. It is crucial that this information be accurate, comprehensive, timely and readily accessible to candidates, so that there is a level playing field in terms of understanding the system.

Most candidates rated the VEC's communication with candidates highly in the post-election evaluation (see Figure 7.1). From in-depth interviews with party representatives, the independent researchers found that, 'The VEC's communication to parties was perceived to be excellent in terms of clarity, completeness, and transparency.'⁵¹²

Figure 7.1 Proportion of candidates satisfied with different aspects of the VEC's communication with candidates, 2018



Source: Electoral Matters Committee, based on Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, passim.

Figure 7.1 shows that there was a lower level of satisfaction with the provision of information about the counting timetable. Issues with notification about counts and recounts have been discussed in Section 5.3.1.

⁵¹² Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 42.

Other suggestions that people made in relation to the VEC's communication with candidates, parties and other stakeholders included:

- earlier provision of information about postal vote applicants⁵¹³
- additional guidelines about what how-to-vote cards can contain and how they can be designed, including possibly an example of a how-to-vote card on the VEC's website⁵¹⁴
- regionally based election briefings for candidates or access to the briefings online⁵¹⁵
- providing the location of early voting centres as soon as possible, to assist with organising volunteers⁵¹⁶
- providing details about the number of entrances that will be used at a voting centre in advance, so that the correct number of volunteers can be organised.⁵¹⁷

The Committee hopes that these potential improvements will be considered by the VEC in its planning for the 2022 election.

7.2.3 Mental health and emotional support for candidates and their families

The Hon. Russell Northe MLA raised concerns around the mental health impacts of standing for election on candidates and their families. He noted that candidates can be subject to negative commentary and media attention, which can take a toll on them and their families. He argued that, in addition to being important in itself, support for mental health is important to ensure that the best candidates are prepared to nominate.⁵¹⁸

He suggested:

... I would maybe like to see the VEC have some types of supports and assistance in place for people ... I know major parties do what they can to support people, but there are other candidates outside of the party structure that obviously source all their information about being a candidate from the VEC, so to maybe have those emotional supports as well through the VEC so at least people know they are there, I think is important ...⁵¹⁹

⁵¹³ Liberal Party of Australia (Victorian Division), *Submission 69*, p. 8.

⁵¹⁴ Jacqui Hawkins, *Submission 81*, p. 1; Jacqui Hawkins, public hearing, Melbourne, 25 November 2019, *Transcript of evidence*, p. 3; see also Jill Briggs, *Submission 1*, pp. 1–2; Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 44.

⁵¹⁵ Jill Briggs, *Submission 1*, p. 1; Jill Briggs, public hearing, Melbourne, 25 November 2019, *Transcript of evidence*, p. 1; see also Jacqui Hawkins, *Submission 81*, p. 2.

⁵¹⁶ Victorian Trades Hall Council, *Submission 82*, pp. 4–5.

⁵¹⁷ Joe Garra, *Submission 46*, p. 1.

⁵¹⁸ Hon. Russell Northe MLA, Member for Morwell, *Submission 97*, p. 2.

⁵¹⁹ Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 10.

We are very blessed and lucky to have a good EAP [employee assistance program] from the Parliament of Victoria, and I would see maybe something within the VEC. I am not saying that the VEC would deliver such supports and services, but to potentially tap into and refer to other service providers would be something that I would think would be beneficial.⁵²⁰

The Committee recognises the importance of providing support to candidates and agrees that this is an area that should be further explored.

FINDING 56: Successful candidates have access to mental and emotional support services through the Parliament. However, support may not be as easily available to unsuccessful candidates.

RECOMMENDATION 39: That the VEC investigate the practicability of facilitating mental and emotional support services for candidates and their families and include a service in its 2022 election planning if appropriate.

7.3 An accurately informed vote

For a vote to reflect the intentions of the person filling out the ballot paper, voters need to understand who is on the ballot paper and what they stand for. Candidates have the main responsibility for informing voters about themselves. Some of the issues associated with this are discussed elsewhere in this report (how-to-vote cards in Section 7.2.1 and candidates at voting centres in Section 8.4).

Some submitters to this Inquiry proposed that explicitly labelling non-party-aligned candidates on ballot papers could assist voters. There were also suggestions that the VEC take a role in preventing misleading electoral advertising.

7.3.1 Non-party-aligned candidates on ballot papers

Currently, the VEC is required to include the following information on ballot papers:

- a candidate's name
- their party affiliation (where relevant)
- a logo representing that party
- (for the Upper House only) the locality of their home.⁵²¹

⁵²⁰ Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 13.

⁵²¹ *Electoral Act 2002* s 74(3B)(b), 74(4), 74(5).

When a non-party-aligned candidate stands, the space where a party affiliation would appear is left blank. Two submitters called for the word ‘independent’ to be printed there instead.⁵²² Miss Jacqui Hawkins explained that:

In our state division, there was more than one independent candidate and the blank field near both candidates’ names caused confusion. A voter informed us that they could not tell which candidate was the independent, not knowing that both were independent as it was blank next to those candidates’ names.⁵²³

Miss Hawkins argued that labelling non-party-aligned candidates was an important part of transparency, so that voters can accurately identify who they are voting for.⁵²⁴ This is required in most other Australian jurisdictions when requested by the candidate.⁵²⁵

The Committee also heard that the fact that non-party-aligned, ungrouped candidates must be listed under the heading ‘Ungrouped’ on Upper House ballot papers could be confusing for people from culturally and linguistically diverse backgrounds.⁵²⁶

The Committee considers that the legislation as it stands is satisfactory. Party-aligned candidates have the name of their party displayed on ballot papers to inform voters of their affiliation. It is sufficient for non-party-aligned candidates to have a blank space to indicate their lack of any formal affiliation.

7.3.2 Misleading advertising

‘Legislators have a difficult balancing task: protecting the independence of the VEC, protecting free speech and the free flow of information; and at the same time protecting the integrity and reputation of our democracy. The task is complicated by the practical realities of allegation and enforcement during a short and volatile election period.’⁵²⁷

Some submitters expressed concerns about advertising or other electoral publications that might mislead voters. This can include material with false statements about candidates or parties. It can also include material falsely claiming or suggesting it has been written by a particular candidate, party or the electoral commission.

⁵²² Jill Briggs, *Submission 1*, p. 1; Jacqui Hawkins, *Submission 81*, p. 1.

⁵²³ Jacqui Hawkins, *Submission 81*, p. 1.

⁵²⁴ Jacqui Hawkins, public hearing, Melbourne, 25 November 2019, *Transcript of evidence*, p. 10.

⁵²⁵ Australian Capital Territory: *Electoral Act 1992* (ACT) s 117(2)(c); New South Wales: *Electoral Act 2017* (NSW) s 105; Northern Territory: *Electoral Act 2004* (NT), s 40(2)(d)(ii); South Australia: *Electoral Act 1985* (SA) s 62(1)(c)-(d); Tasmania: *Electoral Act 2004* (Tas) s 98(1A); Western Australia: *Electoral Act 1907* (WA) s 113C(5).

⁵²⁶ Committee’s CALD community forums (see Section 3.3.1).

⁵²⁷ Ann Birrell, Bronwen Feenstra, Phillip Walker, Tony Guttman & Bob Hale, *Submission 78*, p. 1.

Currently, legislation prohibits people publishing material that ‘is likely to mislead or deceive an elector in relation to the casting of the vote of the elector’.⁵²⁸ However, this has been interpreted by the courts to only relate to the way the ballot papers are obtained, marked and deposited and not to decisions about who to vote for.⁵²⁹

Some participants in this Inquiry suggested that there should be stricter regulations requiring truth in electoral advertising. It was argued that changes in society, especially the increasing use of social media, are making it easier for people to spread misleading information.⁵³⁰ For example, Ms Ann Birrell noted:

... the dramatic rise in the concept of post-truth, the triumph of the deceptively simple over the honestly complex, the role of social media in making it harder to assess credibility, the manipulation of search engines to magnify misinformation, the lack of traditional media performing a mediating function between politicians and voters, and the decline of local and regional press.⁵³¹

The Greens noted that:

The tactic of bombarding opposition campaigns with incendiary, false and damaging online messages is increasingly in use. Unchecked, the prevalence of false and misleading campaigning will have a toxic influence on the freedom and fairness of our elections.⁵³²

Several submitters mentioned the advertising used in the Division of Chisholm at the 2019 Commonwealth election which resembled Australian Electoral Commission signage with instructions to vote for one particular candidate. Concern was expressed that similar advertising could be used in future state elections.⁵³³ The Committee notes that the Federal Court, sitting as the Court of Disputed Returns, has ruled that the advertising in question was ‘misleading or deceptive in relation to the casting of the vote.’⁵³⁴

‘Testing the adequacy of the [Electoral] Act against contemporary styles of political communication is vital, and it is probably going to have to happen after every general election because of the sheer pace of the change in online communications.’⁵³⁵

⁵²⁸ *Electoral Act 2002* s 84(1).

⁵²⁹ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the provisions of the Electoral Act 2002 (Vic) relating to misleading or deceptive political advertising*, February 2010, pp. 4–5.

⁵³⁰ Ann Birrell, Bronwen Feenstra, Phillip Walker, Tony Guttman & Bob Hale, *Submission 78*, p. 2; newDemocracy Foundation, *Submission 79*, pp. 2–3; Australian Greens Victoria, *Submission 87*, p. 10; Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 35; Ann Birrell, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 42.

⁵³¹ Ann Birrell, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 41.

⁵³² Australian Greens Victoria, *Submission 87*, p. 10; Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 30.

⁵³³ Bianca Haven, *Submission 61*, p. 1; Ann Birrell, Bronwen Feenstra, Phillip Walker, Tony Guttman & Bob Hale, *Submission 78*, p. 2; Victorian Trades Hall Council, *Submission 82*, p. 5.

⁵³⁴ *Garbett v Liu* (2019) FCR 241 [153].

⁵³⁵ Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 35.

One submission noted that two recent surveys had found that most Australians supported laws requiring truth in political advertising. The submission noted the provisions in the South Australian electoral act.⁵³⁶ These provisions make it an offence to publish an electoral advertisement which ‘contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent.’⁵³⁷ Ms Ann Birrell noted that South Australia’s legislation had been positively reviewed in a report by academics in the United Kingdom,⁵³⁸ which found that:

The overall impression that emerges from this analysis of South Australia’s anti-lying law is that it is benign. It does not have an enormous effect on information or discourse, but it does constrain politicians from making claims that are demonstrably false.⁵³⁹

The Hon. Russell Northe MLA similarly called for an independent arbitrator to assess whether claims made about other parties or candidates in election material are factual. Ideally, he recommended materials being tested before circulation, to prevent negative impacts on campaigns.⁵⁴⁰ Alternatively, he called for public apologies, retractions or fines from candidates or parties found to be making inaccurate comments. He noted the importance of remedial actions taking place during the election period so that the impact on voting is minimised.⁵⁴¹

A different approach was suggested by the newDemocracy Foundation, which recommended increasing the disclosure about who is paying for advertising and what messages they are spreading. The foundation noted that candidates can target different messages to different groups via social media and that it is difficult for any individual to know the full range of messages that a candidate might be publishing. This can make it difficult to fact-check the messages or assess whether the messages meet legislated requirements.⁵⁴²

The foundation called for:

... real-time online advertising disclosures by major digital publishers. This would create a single repository of the advertisements, the advertiser and the amount spent for each advertisement.⁵⁴³

Mr Iain Walker, Executive Director of the foundation, argued that this would assist people to make their own decisions about the reliability of the messages in the advertising.⁵⁴⁴ He told the Committee:

⁵³⁶ Ann Birrell, Bronwen Feenstra, Phillip Walker, Tony Guttman & Bob Hale, *Submission 78*, p. 2 (with sources).

⁵³⁷ *Electoral Act 1985* (SA) s 113(1).

⁵³⁸ Ann Birrell, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 41–2.

⁵³⁹ Alan Renwick and Michela Palese, *Doing democracy better: How can information and discourse in election and referendum campaigns in the UK be improved?*, The Constitution Unit, University College London, London, 2019, p. 29.

⁵⁴⁰ Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, pp. 9, 12.

⁵⁴¹ Hon. Russel Northe MLA, Member for Morwell, *Submission 97*, p. 2.

⁵⁴² newDemocracy Foundation, *Submission 79*, pp. 2–3.

⁵⁴³ newDemocracy Foundation, *Submission 79*, p. 3.

⁵⁴⁴ Iain Walker, Executive Director, newDemocracy Foundation, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 7.

I think you cannot try and regulate the truth. It is a very, very difficult, actually impossible, piece to do. We have always had fake news. We used to get it from taxidrivers who would hold forth, and the answer is, 'Maybe your taxidriver is not a source of news'—whereas if you actually start to push back and say, 'Let's just simply expose who is providing advertising and run this on a disclosure basis', you may have a more effective ability to do something that is clearly having an impact on how elections are operated.⁵⁴⁵

The Labor Party called for several changes in relation to misleading advertising:

- improved training for voting centre managers
- clear examples of misleading or deceptive materials to be provided by the VEC
- a review of the provisions about misleading or deceptive materials in the Electoral Act, to ensure that they are clear and that the penalties are sufficient.⁵⁴⁶

In 2010, the former Electoral Matters Committee conducted an inquiry into misleading or deceptive political advertising and did not support changes at that time (other than the publication of registered how-to-vote cards on the VEC's website).⁵⁴⁷ An investigation into the impact of social media on electoral matters in 2014 similarly favoured no legislative changes, though it noted the need to watch this space.⁵⁴⁸

The Committee is currently conducting a new inquiry looking at the impact of social media on Victorian elections and Victoria's electoral administration. This will include looking at the regulation of online advertising. The issues outlined in this section will be considered as part of that inquiry.

FINDING 57: Current electoral legislation does little to restrict false or misleading information being published about candidates and parties. Some submitters to this Inquiry called for more regulation by the VEC or an independent arbiter. Others have called for additional measures to disclose who is paying for political advertising and what they are saying. The Committee is currently conducting a separate inquiry into social media and online electoral advertising, which will consider these and other issues.

⁵⁴⁵ Iain Walker, Executive Director, newDemocracy Foundation, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 2; see also pp. 7–8.

⁵⁴⁶ Australian Labor Party Victorian Branch, *Submission 80*, p. 7.

⁵⁴⁷ Parliament of Victoria, Electoral Matters Committee, *Inquiry into the provisions of the Electoral Act 2002 (Vic) relating to misleading or deceptive political advertising*, February 2010.

⁵⁴⁸ Parliament of Victoria, Electoral Matters Committee, *Discussion paper—Inquiry into the impact of social media on Victorian elections and Victoria's electoral administration*, August 2014, pp. 16–17.

8 Voting centres

8.1 Introduction

Voting centres are one of the key places where elections are contested. They provide an opportunity for voters to receive information about candidates, to talk to candidates and other campaigners and to receive candidates' how-to-vote cards. Voting centres provide a last opportunity for candidates to inform and influence electors before they cast their votes.

Given these roles, the appropriate management of voting centres is a key element of a competitive election. As discussed in Section 7.1, this means that voting centres must be set up and run in a way that:

- creates a level playing field for candidates
- gives voters the information they need to make informed choices
- guarantees the physical security of candidates and volunteers
- allows candidates and volunteers to interact with voters.

This chapter looks at the way that voting centres were selected, set up and managed in terms of these criteria. This chapter focuses on the needs of candidates and volunteers at voting centres. Section 4.5 of this report discusses the appropriateness of voting centre venues for voters and the VEC's management of voting centres for voters' needs.

The Electoral Act contains a number of rules regarding what candidates and parties can do at voting centres. These provide key guidance for voting centre managers about navigating these various issues. It is critical for voting centre managers to be well trained about these rules and the VEC's interpretation of them. However, the Committee also recognises that implementing these rules can be difficult. The VEC must enforce these rules without unreasonably preventing candidates and volunteers from participating in the electoral process.

In 2018, the Government made several amendments to the Electoral Act. These included changes to what candidates, parties and other campaigners were permitted to do at voting centres. These new rules were implemented for the first time at the 2018 election. Section 8.2 of this chapter looks at how they were implemented. It finds that there were a number of areas where the implementation could have been better. There is also a need for greater clarity in the legislation about restrictions on political signage near voting centres.

The Committee heard from several participants in this Inquiry that there was scope for improvement in the way that election officials are trained to ensure that elections are competitive. This applied not only to some of the new legislation but to legislation more generally. These concerns are discussed in Section 8.3. The VEC has committed to reviewing its practices and the Committee hopes that this will lead to improvements in future elections.

Section 8.4 looks at the handing out of how-to-vote cards at voting centres. It can be a challenge to fund the printing of how-to-vote cards and to organise volunteers to hand them out, especially for smaller parties and non-party-aligned candidates. Several options were suggested to make a more even playing field. The Committee concluded that further facilitating the re-use of how-to-vote cards would assist parties and candidates and create a more competitive election.

The Committee was also told that some of the early voting centres lacked appropriate facilities for candidates and volunteers (discussed in Section 8.5). This can provide a disadvantage to some candidates and therefore reduce the competitiveness of an election. The VEC explained the difficulties it experienced finding and securing leases for appropriate venues, but noted that it is looking at new methods of acquiring venues for future elections. The Committee hopes that further work in this area will result in better venues.

8.2 Implementing the new legislation relating to voting centres

‘The Electoral Legislation Amendment Act 2018 received royal assent on 31 July 2018 and while elements of this Act relating to the introduction of a political donation disclosure regime did not come into operation until after the election there were many elements that had an immediate impact.’⁵⁴⁹

In 2018, the Government introduced three significant changes to the rules about voting centres:

- candidates and other campaigners are not permitted within six metres of voting centre entrances (previously they were permitted up to three metres from entrances)
- a new offence explicitly prohibits violence or intimidation of people who are handing out how-to-vote cards or supporting a candidate near voting centres
- new rules limit the size and number of political signs that can be displayed within 100 metres of voting centre entrances.⁵⁵⁰

⁵⁴⁹ Victorian Electoral Commission, *Submission 92* (revised), Foreword.

⁵⁵⁰ *Electoral Act 2002* ss 158, 152(4)–(5), 158A.

The legislation introducing these changes passed in July 2018, providing the VEC with limited time to determine how to interpret the legislation, to adapt its processes and to develop information materials for candidates before the November 2018 election. The VEC noted that:

The VEC appointed an additional staff member to each voting centre to assist in the administration of the new provisions and provided training and additional information to support the management of these requirements. The VEC also briefed registered political parties and candidates on its proposed approach to administering the new laws to ensure questions of interpretation could be addressed before the early voting period and election day itself.⁵⁵¹

Nonetheless, the Committee was told that there were several issues with the implementation of the new rules. Participants in this Inquiry stated that there had been inconsistent applications of the new rules and that some election officials appeared to not be familiar with the rules. Some submitters also argued that the rules for political signage were unclear or inappropriate and should be modified.

This section explores these and related matters.

8.2.1 The six-metre rule

Following the 2018 changes to the Electoral Act, people are generally prohibited from campaigning within six metres of the entrance of a voting centre.⁵⁵² The Electoral Act specifies that the six-metre limit can be reduced ‘if the [Victorian Electoral] Commission considers that it is practically necessary to do so’.⁵⁵³

Concerns with the operation of the rule from the voters’ perspective have been discussed in Section 4.5.3. Parties, candidates and volunteers also expressed some concerns about the way this rule was applied.

The Labor Party was concerned that the six-metre rule was not always enforced:

... most candidates/volunteers were mindful of the rule and the convenience of voters. Of concern here are the multiple reports, across districts, of a lack of response from VEC officials to deliberate and repeated incursions of the 6m rule by the same individuals. A lack of strong enforcement on this issue can lead to a “race to the bottom”—with candidates/volunteers competing to see how far they can push the threshold.⁵⁵⁴

Other submitters argued that the six-metre rule was enforced in circumstances when it should not have been. In some cases, strictly enforcing the six-metre rule meant that volunteers were required to stand in car parks (with safety risks) or to block

⁵⁵¹ Victorian Electoral Commission, *Submission 92* (revised), p. 35.

⁵⁵² *Electoral Act 2002* s 158(1)–(2); the prohibition includes canvassing for votes, soliciting votes, inducing an elector not to vote for particular candidates or inducing an elector not to vote at all.

⁵⁵³ *Electoral Act 2002* s 158(1)(b).

⁵⁵⁴ Australian Labor Party Victorian Branch, *Submission 80*, p. 6.

neighbouring businesses.⁵⁵⁵ Mrs Margaret Downie told the Committee of her experience at the Bulleen voting centre:

Even though the office was on the first floor of the building she [the voting centre manager] declare[d] the front door as the entrance meaning if we were to follow the distance requirement we would have been standing on Elgar Road. Even when it was hot she would not let us stand in the shade.⁵⁵⁶

As noted above, the legislation does provide the VEC with flexibility in the application of the six-metre rule, citing ‘inclement weather’ as an example of the sort of practical consideration that might influence the VEC to determine a shorter distance.⁵⁵⁷ The VEC’s guidance to election officials noted that they can ‘shorten this distance because of weather/safety’ if needed.⁵⁵⁸

The Committee considers it appropriate for this flexibility to be in place. However, the issues raised in this section suggest this flexibility was not always applied in practice. This may reflect limitations with the training and oversight of election officials. This is discussed in Section 8.3 of this chapter.

FINDING 58: Participants in this Inquiry expressed concerns about the failure of some voting centre managers to enforce the rule preventing campaigning within six metres of a voting centre entrance and about some voting centre managers enforcing the rule too strictly, endangering the safety of volunteers or inconveniencing neighbouring businesses.

8.2.2 Conflict at voting centres

‘The impact of harassment and intimidation on an election process can lead to a corruption of the election result if unchecked, and the undermining of public trust and participation in our democracy.’⁵⁵⁹

As discussed in Section 7.1, a competitive election is expected to be free of any violence. The Electoral Act has a number of provisions designed to prevent violence between people campaigning at voting centres, including the new offence specifically prohibiting violence or intimidation towards campaigners.⁵⁶⁰ However, the Committee was told that there were several instances of conflict and intimidation at the 2018 election. Some participants in this Inquiry also considered that the VEC’s response to these events was inadequate.

⁵⁵⁵ The Nationals, *Submission 86*, p. 3; Name withheld, *Submission 102*, p. 1; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 20.

⁵⁵⁶ Margaret Downie, *Submission 27*, p. 1.

⁵⁵⁷ *Electoral Act 2002* s 158(1)(b).

⁵⁵⁸ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 11 October 2019, Attachment 4, p. 1.

⁵⁵⁹ Australian Greens Victoria, *Submission 87*, p. 7.

⁵⁶⁰ *Electoral Act 2002* ss 152, 174.

The VEC's approach

Ms Liz Williams, the Deputy Electoral Commissioner, informed the Committee that:

... the way we approached potential behaviour problems at voting centres this time was different again from 2014. We take a three-pronged approach in terms of establishing protocol with parties and candidates from the outset in terms of expectations of behaviour and made that clear. We all want cooperative and respectful behaviour outside our voting centres. We want to tackle it from that end rather than a big stick at the other end ... [Election officials] were trained very much in terms of, 'You seek cooperation, provide a warning and then if that fails escalate, go straight to VicPol'.⁵⁶¹

The VEC also worked with the police before the election to facilitate police involvement where necessary. This resulted in the police providing a liaison officer to work with the VEC during the election period. The VEC developed a briefing document for the police, which included the offences relating to intimidation and violence.⁵⁶²

Ms Williams told the Committee:

... during the early voting period we had about 10 escalations through head office in terms of the manager saying, 'Okay, look, I've got a situation here where these party workers, campaign workers are not cooperating'. We did two things. We alerted VicPol to that. We had a direct contact at VicPol who could provide communication on the ground to their officers very quickly. Also, we contacted the registered officers of the parties to say, 'Look, can you please talk to your workers outside this venue. We are having difficulties in gaining cooperation'. In the main with the parties, we had a mixed response. With some parties we found that things settled down very quickly, and we were very appreciative of that. There were some cases where that was less so.⁵⁶³

Conflict in 2018

Submitters and witnesses to this Inquiry expressed different views about what happened in 2018. Mr Adam Wojtonis of the Liberal Party believed that there had been a reduction in the amount of conflict at voting centres compared to previous elections.⁵⁶⁴

In contrast, Mr Kosmos Samaras from the Labor Party told the Committee:

We did see an increase in what I would define as conflict between parties, conflict between candidates at the early voting centres in particular. I think the VEC to some extent struggled to get on top of that.⁵⁶⁵

⁵⁶¹ Liz Williams, Deputy Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 21.

⁵⁶² Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 11 October 2019, p. 2.

⁵⁶³ Liz Williams, Deputy Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 21.

⁵⁶⁴ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 16.

⁵⁶⁵ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, 21 October 2019, *Transcript of evidence*, p. 2; see also Australian Labor Party Victorian Branch, *Submission 80*, p. 6.

The Greens similarly believed that there was a greater level of harassment aimed at their candidates and supporters in 2018 than in previous elections. They claimed that, in one district, their candidate was repeatedly intimidated during the early voting period and on election day, eventually needing a police escort at the voting centre. Submissions stated that the candidate also received death threats and was the subject of online videos inciting violence towards him.⁵⁶⁶

Overall, the VEC received 58 complaints about the conduct of people campaigning at voting centres in 2018, the majority of which were about intimidation, harassment or aggressive behaviour.⁵⁶⁷ This is a substantial increase on the 28 complaints about people campaigning at voting centres in 2014.⁵⁶⁸

The VEC's response

The Greens considered that the VEC's response to harassment and intimidation in 2018 was not sufficient:

... too many officers in charge of polling booths were unfamiliar with the offences under the Act and had no sufficient processes in place to liaise with police, and that police tended to be unfamiliar with the offences as well.⁵⁶⁹

The Greens hired private security guards at some voting centres because they were not sufficiently confident that the VEC and police would deal with intimidation.⁵⁷⁰

Ms Sue Pennicuik, a Greens candidate, similarly told the Committee that there were differences between voting centre managers in terms of how seriously they reacted to claims of harassment. However, it appeared to her that none were 'capable of responding in a timely manner to stop intimidation of candidates and volunteers as it is occurring.'⁵⁷¹

Some candidates interviewed as part of the post-election evaluation also expressed dissatisfaction with the response by VEC staff to claims of intimidation and harassment. One suggested that there was a need for staff to be better informed about the rules, stating that the candidate 'was the one citing the (new) legislation—which they had no idea about.'⁵⁷² A candidate also told the researchers that 'The VEC staff made empty threats about what they would do if it [harassment of voters by volunteers and candidates] did not stop - but never enforced any of it.'⁵⁷³

⁵⁶⁶ Australian Greens Victoria, *Submission 87*, p. 8; Dinesh Matthew, *Submission 68*, pp. 1–2.

⁵⁶⁷ Victorian Electoral Commission, *Submission 92* (revised), pp. 52–3.

⁵⁶⁸ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 47.

⁵⁶⁹ Australian Greens Victoria, *Submission 87*, p. 7; see also Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 29.

⁵⁷⁰ Australian Greens Victoria, *Submission 87*, p. 7; Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 29–30, 33; see also Sue Pennicuik, *Submission 100*, p. 5.

⁵⁷¹ Sue Pennicuik, *Submission 100*, p. 5.

⁵⁷² Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 10.

⁵⁷³ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 15.

Mr Wojtonis from the Liberal Party, however, was more positive about the VEC's approach:

... on the whole I was happy with the VEC's response in relation to that inappropriate behaviour and calling police as necessary ... I think there were some instances at early voting centres where the commissioner restricted the number of volunteers at the polling place and things like that, but I think that they were measured responses, and I think that they had the intended effect.⁵⁷⁴

Proposed changes

'For the VEC, balancing a response to allegations of poor behaviour and requests to intervene outside a busy voting location without restricting another participant's ability to engage in the election process was difficult to achieve.'⁵⁷⁵

The Committee recognises the difficulties for the VEC in managing candidate behaviour. Election officials do not necessarily have expertise in investigating complaints about candidate behaviour or in managing potentially violent people. Nor do they have resources to continually supervise candidates and volunteers. At the same time, however, they are responsible for keeping the peace at voting centres and ensuring that voters and candidates are able to exercise their democratic rights.

Given this situation, it is essential for the VEC to establish appropriate and effective protocols to manage incidents. It is also essential for election officials to be trained appropriately to deal with situations and for them to be fully aware of the VEC's protocols. These should include effective processes for involving the police when appropriate.

Ms Pennicuik called for a dedicated VEC team to respond to such situations, as well as additional training and preparation for the police.⁵⁷⁶ The Greens called for a variety of measures, including training on unconscious bias and 'a stronger and more formal agreement' between the VEC and police.⁵⁷⁷

The VEC informed the Committee that it will try to streamline processes with the police and reduce delays in police responses to incidents in the future.⁵⁷⁸ If additional funding is required (such as for additional training or specialised staff), this should be costed and requested by the VEC.

The Committee notes the concerns raised about the way that the VEC managed some of the incidents. The training of election officials is discussed further in Section 8.3.

⁵⁷⁴ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 16.

⁵⁷⁵ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 11 October 2019, p. 5.

⁵⁷⁶ Sue Pennicuik, *Submission 100*, p. 5.

⁵⁷⁷ Australian Greens Victoria, *Submission 87*, p. 9; Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 30.

⁵⁷⁸ Liz Williams, Deputy Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 21.

FINDING 59: There were a number of alleged instances of intimidation and harassment of candidates and volunteers at the 2018 election. Concerns were raised about the way that some of these instances were managed by VEC staff and police.

RECOMMENDATION 40: That the VEC further develop its relationship with the police to establish procedures to enable quick and effective responses to any intimidation, harassment or violence at voting centres.

8.2.3 Limitations on political signage

‘The new restriction on the amount of electioneering material able to be displayed at polling booths was a positive step. It went some way to levelling the playing field on election day as well as greatly reducing the amount of waste.’⁵⁷⁹

As noted above, changes in 2018 introduced new limitations on the amount of political signage at voting centres. A number of submitters expressed support for the limitations, arguing that they reduced the amount of waste, saved time and money, and provided a level playing field for candidates.⁵⁸⁰ Some considered that the legislation should go further and called for a complete ban on political signage at voting centres.⁵⁸¹

Overall, 60% of candidates interviewed as part of the post-election evaluation were satisfied with how the change to the legislation was managed by the VEC at voting centres. However, 25% of the people interviewed were dissatisfied.⁵⁸² Two major areas of concern were raised during the Committee’s Inquiry:

- some people argued that the rules (or the VEC’s interpretation of them) were unreasonable
- some believed that the VEC had been inconsistent in the way that the rules were enforced.

The appropriateness of the rules

The new legislation specifies that ‘A candidate or registered political party may display 2 signs ... at each designated entrance to the grounds in which the voting centre is situated.’⁵⁸³ The VEC interpreted this to mean that a party running candidates in both the Lower and Upper House could generally have a total of four signs (either for the party or candidates) at an entrance. The VEC also permitted Upper House party

⁵⁷⁹ Joslyn Tait, *Submission 31*, p. 1.

⁵⁸⁰ Jill Briggs, *Submission 1*, p. 2; Joslyn Tait, *Submission 31*, p. 1; Mark Blades, *Submission 64*, p. 1; Stawell ALP Branch, *Submission 74*, p. 1; Australian Labor Party Victorian Branch, *Submission 80*, p. 3; Jacqui Hawkins, *Submission 81*, p. 2.

⁵⁸¹ Mike Deam, *Submission 22*, p. 2; Nyssa Sims, *Submission 76*, p. 1.

⁵⁸² Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 36.

⁵⁸³ *Electoral Act 2002* s 158A(3).

candidates to display additional signs in some circumstances, but only if they did not include ‘any connection to the party including badging (eg. colours), name, logo or party endorsement’.⁵⁸⁴ These limitations were to avoid any concerns that a party might have more than two signs related to the Upper House election.

Some called for changes to either the legislation or the VEC’s interpretation of it. The Nationals suggested that:

... in instances where a registered political party is running both a lower house candidate and an upper house candidate, they should be entitled to 2 signs for each candidate. Additionally, The Nationals contend that each candidate should be free to use their allocation of signage to display content as they see fit, including but not limited to reflecting their party affiliation (through colours, slogans and logos) or position on campaign issues.⁵⁸⁵

The Liberal Party also raised concerns about the restrictions on what could be included on signs for candidates. The party called for a clearer framework about signage.⁵⁸⁶

In addition, the Liberal Party believed that parties should be allowed to display signs for candidates in neighbouring districts at early voting centres which are likely to receive voters from neighbouring districts. This can happen when an early voting centre in another district is closer to where some electors live than the early voting centre in their own district.⁵⁸⁷

The Nationals contended that businesses should be allowed to display signs supporting their preferred candidates if they wish to, even if they are near a voting centre. The current legislation prohibits signs on business properties within 100 metres of a voting centre, though it does not prohibit signs on residential properties. The Nationals believed that business owners’ freedom of expression should not be curtailed this way.⁵⁸⁸

They also argued that implementing this rule could be difficult or impractical at times. They noted a disagreement from 2018 about whether a farm should be classified as a residential or business property. They raised the possibility that a candidate might not be allowed to display signage in their office if a voting centre is established within 100 metres of the office, even if the candidate’s office is established before the voting centre venue is known.⁵⁸⁹

⁵⁸⁴ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 11 October 2019, Attachment 4, p. 1.

⁵⁸⁵ The Nationals, *Submission 86*, p. 4.

⁵⁸⁶ Liberal Party of Australia (Victorian Division), *Submission 69*, pp. 1–2.

⁵⁸⁷ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 8–9; Liberal Party of Australia (Victorian Division), *Submission 69*, p. 6.

⁵⁸⁸ The Nationals, *Submission 86*, p. 3; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 20, 27.

⁵⁸⁹ The Nationals, *Submission 86*, p. 3; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 20, 27.

Some submitters expressed concern about the VEC not taking action when mobile billboards were driven within 100 metres of early voting centres, even though the relevant party already had the maximum number of signs permitted.⁵⁹⁰

The VEC has called for the Government to amend the Electoral Act to clarify how many signs candidates and parties are permitted to display. In addition, the VEC called for amendments to provide clarity around who is responsible for displaying signs at voting centres, to facilitate enforcement of the rules around signage.⁵⁹¹ The Committee agrees that these matters should be clarified to ensure the smooth and fair operation of voting centres in 2022.

Enforcing the rules

The Liberal and Labor parties told the Committee that there had been some inconsistency in the way the rules about signage were enforced. The Liberal Party stated that VEC staff ‘on a number of occasions’ prevented people putting up signs that were compliant with the VEC’s guidelines.⁵⁹² The Labor Party told the Committee that it had observed signs being allowed to remain despite being in excess of the limit, signs being removed when they conformed with the rules and signs being allowed to remain on display overnight at early voting centres.⁵⁹³

Similar concerns were expressed in the post-election evaluation report:

Several party representatives observed instances of inconsistent application of rules and legislation across voting centres. In particular, centres were seen to be enforcing different standards in relation to the placement of campaign signage (when and where they could be placed).⁵⁹⁴

Consistent interpretation of the rules is important for ensuring a level playing field and a competitive election. Potential improvements to the training of VEC staff are discussed further in Section 8.3 of this chapter.

FINDING 60: New legislation introduced in 2018 limits the amount of political signage near voting centres. However, there is some concern about various aspects of the legislation and the way it has been interpreted. The VEC has called for the legislation to be amended to provide greater clarity.

⁵⁹⁰ Australian Labor Party Victorian Branch, *Submission 80*, p. 6; see also Name withheld, *Submission 102*, p. 1.

⁵⁹¹ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, pp. 79, 110.

⁵⁹² Liberal Party of Australia (Victorian Division), *Submission 69*, pp. 1–2; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 9.

⁵⁹³ Australian Labor Party Victorian Branch, *Submission 80*, pp. 5–6; Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, public hearing, 21 October 2019, *Transcript of evidence*, p. 2.

⁵⁹⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 42.

RECOMMENDATION 41: That the Government seek to amend Section 158A of the Electoral Act to provide greater clarity around how many signs candidates and parties can set up at voting centres and what is permitted to be on those signs. The Government should also consider amendments relating to the status of mobile billboards, broadening the range of premises which are exempt from the signage restrictions and clarifying who is responsible for electoral signs.

Political advertising beyond the voting centre

Both the Labor Party and National Party noted that some candidates were erecting signs in places that were prohibited by the road rules or local government regulations (such as bus stops or road-side poles). They argued that greater enforcement was required to prevent this in the future.⁵⁹⁵

The VEC advises candidates to check with local councils, VicRoads and Public Transport Victoria to understand the appropriate rules governing advertising.⁵⁹⁶ However, it has no jurisdiction to deal with signs more than 100 metres from voting centres.

Inappropriate electoral signage beyond the space around a voting centre is managed by the relevant authorities in the same way that they would manage any other signage in breach of regulations. The Committee notes the concerns of Mr Matthew Harris from The Nationals that VicRoads' investigations may take longer than the election period,⁵⁹⁷ providing an unfair advantage to those people who break the rules. Parties may wish to raise their concerns with the relevant authorities in the lead-up to the 2022 election and to establish protocols for breaches of the regulations to be dealt with quickly and effectively.

8.3 Strengthening the training of election officials

'There were many instances of disagreements with the early voting centre manager ... managers do need to be experienced, fully and competently trained and familiar with all the rules.'⁵⁹⁸

The Committee recognises the size and complexity associated with training election officials. Over 20,000 casual staff were employed for the 2018 election, with many performing multiple roles through the election period.⁵⁹⁹ The VEC provides training to these people in a variety of forms, including 'on-line learning, manuals and reference material, and face-to-face training with practical activities.'⁶⁰⁰

⁵⁹⁵ Australian Labor Party Victorian Branch, *Submission 80*, p. 5; The Nationals, *Submission 86*, p. 4; Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 20.

⁵⁹⁶ Victorian Electoral Commission, *Candidate handbook: District*, Melbourne, 2018, p. 17.

⁵⁹⁷ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 20.

⁵⁹⁸ Stawell ALP Branch, *Submission 74*, p. 2.

⁵⁹⁹ Victorian Electoral Commission, *Submission 92* (revised), p. 28.

⁶⁰⁰ Victorian Electoral Commission, *Annual report 2018-2019*, Melbourne, 2019, p. 8.

The VEC stated that 98.5% of election-day officials completed the online training.⁶⁰¹ The VEC surveyed election officials about their training and preparation and found that ‘over 80% of respondents indicated that the election manuals and online training were easy to use; improved their understanding of the role and prepared them for their role.’⁶⁰²

However, a number of participants in this Inquiry believed that the training was inadequate. The Labor Party called for:

The VEC to improve the training provided to Voting Centre Managers, particularly with regard to rules relating to canvassing at voting centres, misleading or deceptive materials, and the application/enforcement of rules.⁶⁰³

Mr Adam Wojtonis from the Liberal Party told the Committee:

I believe that the training systems in place for VEC staff could be drastically improved. While I appreciate that a lot of VEC staff, especially the professional staff that are ongoing, are across their brief, there are a significant number of casual and sessional staff that they actually have to engage in the lead-up to an election, which presents certain difficulties for them.

... I think that a larger education program for VEC staff, especially the ones that are engaged solely for the election, should be implemented.⁶⁰⁴

As outlined in Section 8.2, participants in this Inquiry identified a number of areas where the VEC’s training could be improved regarding the new rules for voting centres. The Committee notes that the new rules were introduced less than four months before the 2018 election. Some of the difficulties may have been a result of scenarios which the VEC had not fully anticipated. Having now implemented the legislation at one election, the training before future elections in these areas is likely to be more comprehensive.

However, concerns were also raised about the training of election officials in relation to ongoing activities. It was claimed that there were multiple areas where some officials lacked basic knowledge or varied behaviour with respect to critical elements of the election. These included:

- the rights of third-party campaigners to be at voting centres and to hand out how-to-vote cards⁶⁰⁵
- offences in the Electoral Act relating to interfering with political liberty and intimidation⁶⁰⁶

⁶⁰¹ Victorian Electoral Commission, *Submission 92* (revised), p. 135.

⁶⁰² Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 8.

⁶⁰³ Australian Labor Party Victorian Branch, *Submission 80*, p. 7.

⁶⁰⁴ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 16.

⁶⁰⁵ Wil Stracke, Assistant Secretary, Victorian Trades Hall Council, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 39.

⁶⁰⁶ Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 29.

- what election officials should say to voters when handing out ballot papers⁶⁰⁷
- making how-to-vote cards available to voters during mobile voting⁶⁰⁸
- counting votes⁶⁰⁹
- scrutineering processes (such as the procedures for challenging ballots and how challenged or excluded ballots were handled).⁶¹⁰

Mr Robert Crouch stated that a ballot box where he voted included a sign indicating that ballot papers should be unfolded. He expressed concern about this, as not folding the ballot papers meant that people in the voting centre would be able to see how a person voted. The VEC's investigation suggested that this was an innovation made by someone at one particular voting centre. This would suggest that the training did not sufficiently emphasise the importance of secrecy in vote casting. The VEC has indicated that it will update training and procedures in response.⁶¹¹

The Committee does not have the capacity to investigate all of these claims as part of this Inquiry. However, the Committee notes the variety of people suggesting various areas where training could be improved. In the light of this, the VEC may benefit from examining the effectiveness of its training processes.

The VEC informed the Committee that:

... the VEC will establish a working group to review effective management of the VEC workforce during an election - with a view to implementing recommendations from this review at the next State election. The VEC is also reviewing the remuneration package for election staff and will be enhancing its online and face-to-face training in advance of the 2022 State election.⁶¹²

The VEC should examine the issues set out in this chapter as part of that review.

Given the important role that training plays in creating competitive and democratic voting centres, the VEC may benefit from an independent evaluation of its training processes and their effectiveness at the next election. This may provide valuable feedback that the VEC can use in future elections.

FINDING 61: A variety of stakeholders identified areas where they believe that the VEC's training of election officials could be improved. This included not only the implementation of new legislation but also basic knowledge and procedures about long-established activities.

⁶⁰⁷ Colin Smith, *Submission 98*, p. 1; Allen Hampton OAM, *Submission 105*, p. 4.

⁶⁰⁸ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 16.

⁶⁰⁹ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 20.

⁶¹⁰ Australian Labor Party Victorian Branch, *Submission 80*, p. 7.

⁶¹¹ Robert Crouch, *Submission 28*, pp. 2-4, 10.

⁶¹² Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, correspondence, 31 January 2020, p. 8.

RECOMMENDATION 42: That the VEC consider the concerns raised in this chapter about the training of election officials as part of its planned review of the effective management of the VEC workforce during an election.

RECOMMENDATION 43: That the VEC engage an independent expert to evaluate the effectiveness of its training procedures at the 2022 election. This evaluation should include examining the actual behaviour of election officials in voting centres to understand how effectively the training is translated into practice.

8.4 Candidates, volunteers and how-to-vote cards

‘The current state of “how to vote” cards is wasteful, annoying or intimidating to voters and undemocratic. To elaborate on the latter: smaller parties and less-resourced candidates have significant trouble affording the expense of designing, printing and distributing the cards and then face further trouble finding and mobilising enough volunteers to hand them out.’⁶¹³

Multiple submitters to this Inquiry argued that the number of people campaigning and handing out how-to-vote cards at voting centres could be overwhelming and problematic for voters (see Section 4.5.3). They therefore recommended reducing the number of candidates and volunteers at voting centres for the sake of voters.

The Committee also heard that the need to hand out how-to-vote cards could be challenging for candidates and their supporters. Parties and candidates explained that it could be a struggle to find enough volunteers to hand out cards, especially through the two-week early voting period. It was also noted that printing how-to-vote cards was a major expense. These challenges can be particularly hard for smaller parties and non-party-aligned candidates. It was therefore argued that the current system gives an advantage to bigger parties.

Several changes were suggested to improve the situation, including reducing the length of the early voting period, facilitating the re-use of how-to-vote cards and limiting the number of people campaigning at voting centres.

8.4.1 The early voting period

Several submissions recommended that the early voting period should be reduced to one week to make it more practicable for candidates and volunteers. They argued that it was difficult to find volunteers to be at the early voting centres, especially for smaller parties and non-party-aligned candidates.

⁶¹³ Nyssa Sims, *Submission 76*, p. 1.

The Liberal Party noted that the two-week early voting period also meant that ‘political parties and their candidates are focused on early voting centres and not campaigning in the community.’⁶¹⁴

While recognising the difficulties the two-week period causes for parties, Mr Rohan Leppert from the Greens considered that these issues are less important than providing opportunities for all voters:

It is difficult to have someone stationed at polling booths at all times. But that is secondary to what should be the primary concern, which is: do all voters have access to exercise their democratic right? And a reduction in those options would be problematic for us.⁶¹⁵

The Victorian Trades Hall Council stated that shortening the early voting period could make it difficult for people with a number of different work and other commitments to vote.⁶¹⁶

The Committee was presented with mixed views regarding the appropriate duration of early voting. This issue is discussed in more detail in Section 4.4.

8.4.2 Facilitating the re-use of election materials

As mentioned above, producing how-to-vote cards can be one of the major costs of running as a non-party-aligned candidate.⁶¹⁷ If the VEC facilitates re-use of the cards, this can reduce the number that need to be printed, making it less of a burden for candidates and reducing the amount of waste.

In its service plan, the VEC’s strategies included ‘encouraging the return of how-to-vote material to party workers at each voting centre’.⁶¹⁸ Ms Jacinta Smith stated that:

One booth that I volunteered (prepoll) at had a table, inside the voting room (apparently) where voters could put the how to vote papers, after they had voted, and these papers were then returned to the volunteers outside. On that day, I used the same handful of papers all day by multiple usage.⁶¹⁹

Miss Jacqui Hawkins also observed VEC staff handing material back to volunteers at voting centres.⁶²⁰

⁶¹⁴ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 11; see also Liberal Party of Australia (Victorian Division), *Submission 69*, p. 6.

⁶¹⁵ Rohan Leppert, Acting State Director, Australian Greens Victoria, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 33.

⁶¹⁶ Victorian Trades Hall Council, *Submission 82*, p. 4.

⁶¹⁷ Name withheld, *Submission 102*, p. 1.

⁶¹⁸ Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 6.

⁶¹⁹ Jacinta Smith, *Submission 10*, p. 1.

⁶²⁰ Jacqui Hawkins, *Submission 81*, p. 2.

However, Mr Matthew Harris from The Nationals noted that this practice was not followed at all voting centres:

... people recycle their how-to-vote cards now and put them in a box on the way out. In some polling centres a perfectly sensible VEC official would allow someone who happened to be wearing a yellow or a blue or a red T-shirt to pop in and grab them all and hand them back out to everybody. In some polling centres that discretion was not observed and there were boxes and boxes of recycled how-to-vote cards piling up.⁶²¹

The Committee supports efforts to reduce wastage at voting centres and notes favourably the voting centres where efforts were made to assist candidates and parties to re-use materials. The Committee hopes that the VEC will encourage such practices more broadly and consider additional efforts to facilitate the re-use of how-to-vote cards at future elections.

8.4.3 Limiting the number of people handing out how-to-vote cards

One submitter suggested no more than two people per candidate and no third-party representatives should be permitted within 100 metres of a voting centre.⁶²² The Hon. Russell Northe MLA similarly recommended limiting the number of people to one or two representatives for each candidate. He also suggested bringing the representatives inside the voting centre to make things more orderly.⁶²³ A representative of a minor party also expressed support for capping the number of campaigners at each voting centre to reduce the larger parties' advantage.⁶²⁴

In response to the suggestion that third parties be prohibited from campaigning at voting centres, Ms Wil Stracke from the Victorian Trades Hall Council responded:

I would also think it was fundamentally anti-democratic. I would have thought maximum participation in the democratic process, particularly when there are safeguards like the preregistration of how-to-vote cards, which ensure that they meet requirements, we would be encouraging; we would want people to know that they get a full diversity of views through the democratic process, and eliminating third-party campaigners who have views about what should or should not happen in particular areas, I would say, is a regressive step.⁶²⁵

Similar views were expressed by Mr Matthew Harris from The Nationals.⁶²⁶

Some people called for completely banning people from handing out how-to-vote cards. They argued that the cards could be provided to voters by the VEC instead (for

⁶²¹ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 24.

⁶²² Name withheld, *Submission 102*, p. 1.

⁶²³ Hon. Russell Northe MLA, Member for Morwell, public hearing, Melbourne, 22 October 2019, *Transcript of evidence*, p. 11.

⁶²⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, p. 41.

⁶²⁵ Wil Stracke, Assistant Secretary, Victorian Trades Hall Council, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 39–40; see also Victorian Trades Hall Council, *Submission 82*, p. 2.

⁶²⁶ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 26–7.

example, in voting booths or in folders elsewhere in the voting centre).⁶²⁷ Mr Mike Deam argued that:

This has several benefits including reducing congestion around polling places, reduced litter, reducing the overall impact on the environment and making it a safer place to do your voting.⁶²⁸

This would also reduce the pressure on parties and candidates to have volunteers at early and election-day voting centres. Ms Nyssa Sims noted that the pressure to provide volunteers at early voting centres is largely driven by the fact that people are allowed to hand out how-to-vote cards.⁶²⁹ In particular, prohibiting the handing out of how-to-vote cards would reduce the disadvantage that smaller parties and non-party-aligned candidates may have in terms of funding to print how-to-vote cards and the ability to organise volunteers.

In addition, a prohibition on handing out how-to-vote cards may make it easier to find suitable venues for voting centres. As discussed in Box 4.2 in Chapter 4, how-to-vote cards are banned at voting centres in New Zealand. This enables the electoral commission to establish voting centres in venues such as supermarkets and shopping centres. These would be less practical in Victoria, where space must be made for campaigners.

However, the Committee considers that campaigning at voting centres is an important democratic right. People should be free to express their support for candidates, as long as this does not interfere with voters' ability to cast their votes safely and efficiently. The Committee also notes that candidates and volunteers do more than just hand out how-to-vote cards at voting centres, including giving voters an opportunity to ask questions and talk to candidates before casting their vote.

The Committee therefore does not support limiting the number of people handing out how-to-vote cards.

FINDING 62: It can be difficult for candidates and parties to print how-to-vote cards and to organise volunteers to hand them out at early voting and election-day voting centres.

FINDING 63: Facilitating the re-use of how-to-vote cards may make it easier for parties and candidates to campaign at voting centres.

⁶²⁷ Mike Deam, *Submission 22*, p. 2; Joslyn Tait, *Submission 31*, p. 1; Nyssa Sims, *Submission 76*, p. 1; Allen Hampton OAM, *Submission 105*, Supplementary submission 1, p.2; see also Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, pp. 8, 42.

⁶²⁸ Mike Deam, *Submission 22*, p. 2.

⁶²⁹ Nyssa Sims, *Submission 76*, p. 1.

FINDING 64: Limiting the number of people allowed to campaign at voting centres or prohibiting people from handing out how-to-vote cards would undemocratically restrict people’s right to support their preferred candidates.

8.5 Facilities for candidates and volunteers

‘I think they [voting centres] should be suitable for every person who is engaged in the process, so from the volunteers at the polling place to the voters, to the VEC officials and staff. It should be suitable for everyone.’⁶³⁰

Several submissions considered that some voting centres in 2018 did not have appropriate facilities for candidates and volunteers. Some of the early voting centres were highlighted as particularly problematic.

The Nationals told the Committee:

The layout and location of a number of Early Voting Centres and Polling Places meant that in some circumstances, volunteers acting on behalf of candidates were required either to stand in the middle of busy car parks (with obvious health and safety consequences) or to block the front of small businesses operating out of neighbouring shopfronts.⁶³¹

Mr Matthew Harris from The Nationals further noted that:

... for many of our volunteers for all the various parties it [the voting centre] effectively becomes a place of work. They need the appropriate health and safety, and many of the early voting centres did not have any shelter, for example, from either the sun or the rain and people were standing there for hours on end. There were no toilet facilities either, so that all needs to be factored in as well as being sure it is accessible for voters.⁶³²

The Labor Party similarly noted that some early voting centres offered no shelter for volunteers.⁶³³ The lack of shelter or toilet facilities for candidates and volunteers was raised by several candidates interviewed as part of the post-election evaluation.⁶³⁴

Other concerns that were expressed to the Committee about the appropriateness of voting centre venues included:

- vehicles operating near the entrances, causing a risk to the safety of campaigners and voters⁶³⁵

⁶³⁰ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 15.

⁶³¹ The Nationals, *Submission 86*, p. 3.

⁶³² Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, pp. 21–2.

⁶³³ Australian Labor Party Victorian Branch, *Submission 80*, p. 3.

⁶³⁴ Colmar Brunton, *Victorian Electoral Commission: evaluation of services at the 24 November 2018 Victorian State election: Parties and candidates report*, report for the Victorian Electoral Commission, Melbourne, 2019, pp. 8, 13.

⁶³⁵ Trish Crossin, *Submission 106*, pp. 1–3.

- the layout combined with the six-metre rule making it impractical for volunteers to reach voters to give them how-to-vote cards⁶³⁶
- voting centres with multiple entrances making it difficult for candidates to have enough volunteers.⁶³⁷

The Liberal Party argued that all venues selected as voting centres should allow candidates and volunteers to exercise their political freedoms to display signage and hand out how-to-vote cards.⁶³⁸

The VEC told the Committee that it struggles to rent suitable venues for use as early voting centres and that it experienced more difficulty in 2018 than previously.⁶³⁹

Ms Glenda Frazer (Director, Elections) explained:

As well as us having difficulty actually finding a venue, we also experienced a lot of difficulty with people wanting to lease to us. People had memories of previous elections' early voting, they knew the numbers that were coming through. Some people thought that was great ... but on the other side, a lot of people just did not want the foot traffic, did not want the people, did not want party workers and the voters coming to the venues.

... We take election offices for six months, but additional early voting centres for that three-month window, people do not want us. They are not willing. Even though we have a cardboard office, they think we are going to destroy the place in that three-month period and they are just not willing to take that risk.⁶⁴⁰

As a result, the VEC stated that it had limited options available to it in some cases.

When asked about how the VEC decides on voting centres, the Electoral Commissioner explained that 'a number of competing requirements' need to be balanced⁶⁴¹ (see further discussion in Section 4.5.1 of this report). Specifically in relation to amenities for candidates and volunteers, he explained that 'it is another factor amongst many factors, but I would say it is not the prime determinant.'⁶⁴² Ms Frazer noted that factoring in access to toilets for candidates and volunteers would require a change in voting centre selection processes,⁶⁴³ suggesting that this is not part of current considerations.

⁶³⁶ Stawell ALP Branch, *Submission 74*, p. 2.

⁶³⁷ Joe Garra, *Submission 46*, p. 1.

⁶³⁸ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 15; Liberal Party of Australia (Victorian Division), *Submission 69*, p. 6.

⁶³⁹ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 2.

⁶⁴⁰ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 3.

⁶⁴¹ Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 4.

⁶⁴² Warwick Gately AM, Electoral Commissioner, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 5.

⁶⁴³ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, p. 6.

Nonetheless, Ms Frazer told the Committee that the VEC is looking at different models for acquiring venues for future elections.⁶⁴⁴

As discussed in Sections 4.5.1 and 6.2.3, the Committee considers that the VEC should continue trying to improve its processes for the selection of voting centres, especially early voting centres. Appropriate facilities for candidates and volunteers should continue to be among the considerations.

FINDING 65: The VEC struggled to find suitable venues for early voting centres in some districts. As a result, some venues lacked facilities such as toilets or shelters for candidates and volunteers handing out how-to-vote cards. Some venues were impractical or dangerous for candidates and volunteers. The VEC stated that it is considering different ways to acquire early voting centres at future elections.

RECOMMENDATION 44: That, in selecting venues for future elections, the VEC factor in the needs of candidates and volunteers (such as toilets, shelter and appropriate spaces for campaigning) as far as possible.

⁶⁴⁴ Glenda Frazer, Director, Elections, Victorian Electoral Commission, public hearing, Melbourne, 28 October 2019, *Transcript of evidence*, pp. 2–4.

9 Campaign funding

9.1 Introduction

The Organization of American States outlines four key issues as basic guarantees for competitive election campaigns (see Section 7.1). One of these is—Do candidates compete on a level playing field?⁶⁴⁵

Laws that limit donations and provide public funding for election candidates are one way of contributing to a level playing field. Such laws can make elections more competitive by limiting the influence of donors and lowering the barrier for entry for newer and less resourced candidates.

Up to and including the 2018 election, political donations were largely unregulated by Victorian law. In 2009 the Chair of the Electoral Matters Committee at that time, Mr Adem Somyurek MLC, wrote that:

Victoria, along with the Commonwealth, is amongst the least regulated jurisdictions in the western world in terms of political finance law.⁶⁴⁶

The law surrounding election campaign funding remained unchanged until 2018 when the *Electoral Legislation Amendment Act 2018* introduced a new system that reduced the amount of donations that parties and candidates can receive, required donations to be publicly disclosed and provided more public funding for parties and non-party-aligned candidates. This chapter briefly describes the new system (in Section 9.2), and the evidence the Committee received about its implementation so far (in Sections 9.3–9.4).

Some stakeholders identified challenges posed by the new system, including the difficulty of raising money in country districts and uncertainty around candidates making contributions to their own campaigns. Section 9.5 discusses recommended changes, which included introducing expenditure caps, removing indexation of funding and donation amounts, and providing donation information with ballot papers.

The Committee has not recommended any changes to the new system. The Committee's view, reflected in some of the evidence it heard, is that the new system needs to operate for at least one electoral cycle before its effectiveness at contributing to competitive elections can be properly assessed and any major changes considered.

⁶⁴⁵ General Secretariat of the Organization of American States, *Methods for Election Observation: A Manual for OAS Electoral Observation Missions*, report prepared by Gerardo L. Munck, Washington DC, 2007, p. 8.

⁶⁴⁶ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into political donations and disclosure*, April 2009, p. vii.

The Electoral Act requires an independent, expert panel to review the system after the 2022 election (see Box 9.1). The future Electoral Matters Committee may wish to make recommendations to the Parliament after that review.

BOX 9.1: Independent, expert panel review

The 2018 amendments to the Electoral Act included a requirement for an independent, expert panel to review the election campaign funding, donations and disclosure system following the 2022 election. Issues the expert panel will be required to examine include:

- caps on political expenditure
- the impact of the *Electoral Legislation Amendment Act 2018* on third party campaigners, small community groups and not-for-profit entities
- the operation of the disclosure system.^(a)

The panel may also examine:

- contemporary issues regarding electoral funding, including funding of political parties or candidates.

The Committee notes that the future Electoral Matters Committee may have a role in establishing the panel through a power to veto and propose alternative panel members.

- a. The panel must also examine the effectiveness of the 2018 amendments relating to electronic assisted voting.

Source: *Electoral Act 2002* ss 222DB–DC.

9.2 Electoral Legislation Amendment Act 2018

‘I think it is a balance between ensuring that the democratic process is allowed to function without money coming from places and spaces that we do not know about.’⁶⁴⁷

The new election campaign funding, donations and disclosure system introduced in 2018 was intended to:

... enhance the integrity of the Victorian electoral system by introducing a political donations disclosure and reporting scheme, and increase public funding available to political parties and candidates to limit the influence of private donations in the political process.⁶⁴⁸

⁶⁴⁷ Wil Stracke, Assistant Secretary, Victorian Trades Hall Council, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 40.

⁶⁴⁸ Martin Pakula, Attorney-General, *Statement of Compatibility with the Charter of Human Rights and Responsibilities Act 2006 for the Electoral Legislation Amendment Bill 2018*, 2018, p. 1. See Victoria, Legislative Assembly, 10 May 2018, *Parliamentary debates*, Book 5, p. 1342.

9.2.1 Donations and disclosure

The donations and disclosure aspects of the law include:

- a ban on foreign political donations
- a ban on anonymous political donations above \$1,000, with increases tied to the consumer price index
- a \$4,000 cap on political donations from any one donor to any one recipient during one election cycle, with increases tied to the consumer price index
- a requirement for people who make or receive political donations to disclose them to the VEC within 21 days—the VEC then publishes disclosures on its website
- requirements for those who receive political donations to report to the VEC each year.⁶⁴⁹

Each registered political party may appoint a ‘nominated entity’ which is exempt from the donations and disclosure system (provided it meets certain eligibility criteria). This is to ‘address the operational and organisational structures that may exist for registered political parties in Victoria. Gifts between a nominated entity and its political party will be exempt from the scheme, and provide for registered political parties that use a separate entity to hold and maintain assets for the party, or provide services for the party.’⁶⁵⁰

9.2.2 Public funding

Recognising the reduced ability of candidates to raise money through donations under the new system,⁶⁵¹ the legislation provides for additional public funding for parties and non-party-aligned candidates through:

- an increase to the public funding given to eligible candidates based on the number of first preference votes they receive, and the ability to receive this funding in advance
- the introduction of administrative expenditure funding for members of Parliament and political parties (which cannot be used for political or electoral expenditure)
- the introduction of policy development funding for political parties (which cannot be used for political or electoral expenditure).⁶⁵²

While not all of these funding streams relate directly to election campaign spending, they provide funding for activities that political parties and candidates may previously have funded through donations.

⁶⁴⁹ Victorian Electoral Commission, *Disclosure of political donations*, 2019, <<https://www.vec.vic.gov.au/CandidatesAndParties/FundingDisclosure.html>> accessed 31 October 2019.

⁶⁵⁰ Victoria, Legislative Assembly, 10 May 2018, *Parliamentary debates*, Book 5, p. 1350.

⁶⁵¹ Victoria, Legislative Assembly, 10 May 2018, *Parliamentary debates*, Book 5, p. 1351.

⁶⁵² Victorian Electoral Commission, *Funding*, 2019, <<https://www.vec.vic.gov.au/Results/results-funding.html>> accessed 31 October 2019. See also *Electoral Act 2002* Part 12 Divisions 1C, 2 and 2A.

9.3 Implementation of the Electoral Legislation Amendment Act 2018

‘The VEC has introduced a constructive compliance approach to its administration and enforcement of Victoria’s funding and disclosure laws. The Act includes significant penalties for non-compliance. Accordingly, it is essential that all donors and recipients of political donations familiarise themselves with their obligations.’⁶⁵³

The legislation enacting Victoria’s new election campaign funding, donations and disclosure system came into effect in two stages:

- on 1 August 2018 bans on all foreign donations and on anonymous donations over \$1,000 came into effect, along with the ability of members of Parliament and political parties to access administrative expenditure funding
- on 25 November 2018 (the day after the 2018 election) the disclosure system came into operation, along with the \$4,000 cap on donations, the remaining public funding amendments and various administrative aspects of the law.

This section describes the VEC’s activities in implementing the legislation so far, and the challenges the new legislation has placed on political parties and candidates.

9.3.1 VEC implementation activities

The new system places responsibilities on the VEC, including enforcing compliance with the political donation and disclosure aspects of the legislation, and administering new streams of public funding.⁶⁵⁴ To manage these responsibilities, the VEC established a new business unit:

The Funding and Disclosure Unit will build over time as the complexity and volume of the administration and enforcement of this new function evolves. During 2019-20, the VEC will integrate the Funding and Disclosure Unit into a new Electoral Integrity and Regulation Branch to build a hub for the VEC’s regulatory and compliance activities.⁶⁵⁵

The VEC has worked to educate stakeholders and the public about the new laws through an advertising campaign, direct written communication, information in the 2018 election Candidate Handbook, briefing sessions and a range of information on the VEC’s website.⁶⁵⁶ The information on the VEC’s website includes guidance for both donors and recipients of political donations, various forms for providing information required under the Electoral Act and a *Funding and disclosure handbook*.⁶⁵⁷

⁶⁵³ Victorian Electoral Commission, *Submission 92* (revised), p. 48.

⁶⁵⁴ Victorian Electoral Commission, *Annual report 2018-19*, p. 65.

⁶⁵⁵ Victorian Electoral Commission, *Annual report 2018-19*, p. 65.

⁶⁵⁶ Victorian Electoral Commission, *Submission 92* (revised), pp. 47-8. The VEC notes that it will prioritise future stakeholder engagement and outreach regarding funding and disclosure.; Victorian Electoral Commission, *Annual report 2018-2019*, Melbourne, 2019, p. 65.

⁶⁵⁷ Victorian Electoral Commission, *Disclosure of political donations*, 2019, <<https://www.vec.vic.gov.au/CandidatesAndParties/FundingDisclosure.html>> accessed 6 November 2019; Victorian Electoral Commission, *Funding and disclosure handbook*, Melbourne, 2018.

As required by legislation, the VEC has begun publishing political donation disclosure information on its website.⁶⁵⁸ This includes indicating whether information from donors and recipients reconciles. At time of publishing, the disclosure website has published 72 donations.⁶⁵⁹

9.3.2 Challenges for political parties and candidates

'... it is a challenge and all parties are facing this at the moment, trying to get our [party] members ... to understand how the dynamic has changed. We have all got to make sure that we have a process in place to make sure we are complying.'⁶⁶⁰

The election campaign funding, donations and disclosure system is still relatively new, with the majority of the legislation coming into effect the day after the 2018 election. Nonetheless, political parties and candidates have already identified some challenges.

Mr Matthew Harris from The Nationals told the Committee that the new system would be a challenge for those trying to raise money in country districts, while also acknowledging districts with a low socio-economic demographic in Melbourne could be similarly affected:

It is all on the public record where donations come from, and in many regional communities it is a few people with a reasonable amount of money.

... The new rules have changed how we have got to operate in regional communities, and we have got to widen the pool of supporters and get smaller amounts.⁶⁶¹

The Liberal Party expressed concern that candidates at an election will be unable to pay for expenditure incurred during their campaign after the election result is declared. The concern was that such a payment would be 'considered a gift to a Registered Political Party or other State Election campaign.'⁶⁶²

The Electoral Act includes an exemption to the general \$4,000 cap on donations which allows candidates to make unlimited contributions to their own campaign.⁶⁶³ However, Mr Adam Wojtonis noted that:

... [candidates are] considered under the Act a candidate from the time they nominate until the declaration of the polls. However, as in normal commercial terms, when you are running a campaign candidates have bills to pay within 30-day net terms and things like that so the timings of those invoices may come after the declaration of the poll, which means that they are subject to the cap so they will only be able to pay up to \$4000

⁶⁵⁸ Victorian Electoral Commission, *Submission 92* (revised), p. 47.

⁶⁵⁹ Victorian Electoral Commission, *Donations*, 2020, <<https://disclosures.vec.vic.gov.au/donations-public>> accessed 22 July 2020.

⁶⁶⁰ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 25.

⁶⁶¹ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 25.

⁶⁶² Liberal Party of Australia (Victorian Division), *Submission 69*, p. 3.

⁶⁶³ *Electoral Act 2002* s 217D(5).

that would be disclosable. But anything above and beyond that would be in breach of the Act and then the political parties would have to cover the cost out of their future campaign funds.⁶⁶⁴

The Liberal Party recommended re-defining the time during which a person is considered a candidate at an election in the Electoral Act as a way of addressing this concern. A person would be considered a candidate from nomination until 30 days after the election.⁶⁶⁵ The Liberal Party also made further recommendations regarding candidate endorsement and nominating procedures.⁶⁶⁶

The Committee hopes that these matters will be considered in more detail as part of the independent review of the system taking place after the 2022 election.

FINDING 66: The Committee welcomes the significant reforms to campaign funding, donations and disclosure requirements. The new system has the potential to improve competitiveness and transparency in Victorian elections.

FINDING 67: The new election campaign funding, donations and disclosure system may present challenges for some candidates. These include difficulty raising money in country districts and uncertainty around candidates making contributions to their own campaigns.

9.4 Public funding distributed

As set out in Section 9.2.2, the VEC is responsible for distributing three streams of public funding to parties and candidates—first preference vote funding, administrative expenditure funding and policy development funding.

This section addresses only first preference funding, as administrative expenditure and policy development funding are explicitly prohibited from being used for electoral expenditure, and therefore are not relevant to the Committee’s Inquiry.

9.4.1 Funding for the 2018 election

At the 2018 election, eligible candidates were given \$1.75 per first preference vote.⁶⁶⁷

Payments to parties increased in line with previous elections in 2018. Payments to non-party-aligned candidates more than doubled from 2014 (\$115,737) to 2018

⁶⁶⁴ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 10.

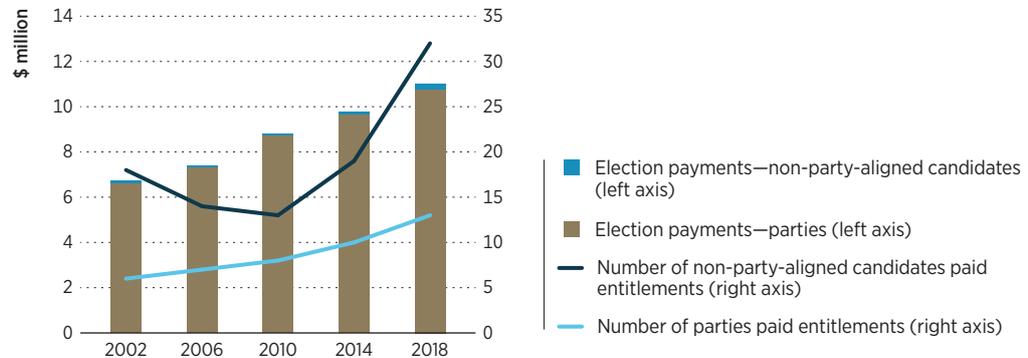
⁶⁶⁵ Liberal Party of Australia (Victorian Division), *Submission 69*, p. 3.

⁶⁶⁶ Liberal Party of Australia (Victorian Division), *Submission 69*, pp. 2–3.

⁶⁶⁷ Victorian Electoral Commission, *Funding*, 2019, <<https://www.vec.vic.gov.au/Results/results-funding.html>> accessed 21 May 2020. To be eligible candidates must receive at least 4% of the total number of first preference votes or be elected.

(\$256,918). This reflects in part the 68% increase (from 19 to 32) in the number of non-party-aligned candidates who qualified for and claimed first preference payments (see Figure 9.1).

Figure 9.1 Election payments to candidates and parties, 2002 to 2018



Source: Electoral Matters Committee, based on VEC data.

The new system has caused some problems for The Nationals. At previous elections, public funding was apportioned by the VEC between the Liberal Party and The Nationals at their request:

... we run on a joint ticket with our Liberal colleagues in upper house seats. In previous elections the commission has then proportioned the public funding that is available for the votes obtained in the upper house between the National Party and the Liberal Party. We agree a split of the public funding. We write to the commission and the commission has then passed the money on based on that request from the two parties.⁶⁶⁸

Following the 2018 election, the VEC transferred the relevant public funding, including advance funding for the 2022 election, to the Liberal Party only:

After this election the commissioner formed a different view. In three regions where the National Party contested on a joint ticket with the Liberal Party, as the Liberal Party was number one on the ticket in each of those three regions the commissioner formed the view that the money had to flow to the Liberal Party, so he has transferred the money to the Liberal Party. We are still taking legal advice about the best way to resolve it, but it could be resolved with amendments to the legislation that provides the commissioner with discretion to pay the money as the parties wish, but at the moment ... the funds for the 2018 election for the upper house votes are with the Liberal Party, and obviously with the changes that were made last year the advance funding for 2022 is being paid to the Liberal Party as well.⁶⁶⁹

The cap on political donations prevents the Liberal Party transferring funds to The Nationals.

⁶⁶⁸ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 23.

⁶⁶⁹ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 23.

The Committee notes media reporting that The Nationals and the Liberal Party instigated proceedings in the Supreme Court in February 2020 seeking that transfers between the parties not be treated as political donations and be exempt from the general cap on donations.⁶⁷⁰

9.4.2 Funding for the 2022 election

The 2018 changes to the Electoral Act allow public funding based on first preference votes to be provided in advance to political parties and non-party-aligned candidates. This funding is paid through instalments across the four years ahead of a general election (40% in the year after an election, 20% in each of the next three years).⁶⁷¹ The VEC reported on advance public funding entitlements paid ahead of the 2022 election in its submission to this Inquiry (see Table 9.1).

Table 9.1 Advance public funding paid for the 2022 election

Recipient type	Number claimed as at 30 June 2019	40% entitlement claimed as at 30 June 2019 (\$ million)
Registered political parties	9	10.9
Non-party-aligned candidates	12	0.1

Source: Victorian Electoral Commission, *Submission 92* (revised), p. 49.

Despite being only 40% of the entitlement for the 2022 election, the advance funding entitlements are comparable with the full amount paid at the 2018 election. This is because they are calculated based on the increased rates per vote that came into effect after the 2018 election.⁶⁷² Advance funding entitlements available to political parties and non-party-aligned candidates across the four years leading up to the 2022 election will be greater than \$29.3 million (see Table 9.2). This is a significant increase on the \$11.0 million paid for the 2018 election.

⁶⁷⁰ Samantha Hutchinson and David Estcourt, 'Action launched on donation laws', *The Age*, 4 March 2020, p. 7.

⁶⁷¹ *Electoral Act 2002* ss 212A and 212B.

⁶⁷² *Electoral Act 2002* s 212B

Table 9.2 Advance public funding available for the 2022 election

Recipient type	Number eligible	Entitlement				Total
		2018–19 ^(a) (\$ million)	2020 (\$ million)	2021 (\$ million)	2022 (\$ million)	
Registered political parties	14	11.3	5.7	5.7	5.7	28.3
Non-party-aligned candidates	39	0.4	0.2	0.2	0.2	1.0
Combined	53	11.7	5.9	5.9	5.9	29.3

a. Amounts against this entitlement already claimed are shown in Table 9.1.

Source: Electoral Matters Committee, based on VEC data. Note these figures do not take into account changes that will occur due to the indexation of amounts under the *Electoral Act 2002* s 217Q.

9.5 Further possible changes

‘I think that the current system—we need to work through it for an election and see how it goes.’⁶⁷³

The Committee heard recommendations from a variety of stakeholders advocating changes to the funding, donations and disclosure system. These recommendations included introducing expenditure caps, removing indexation provisions from the Electoral Act and providing campaign donation information with ballot papers.

This section discusses the recommendations for change. However, as the system is still so new, the Committee believes that any changes should wait until the system has operated for at least one electoral cycle.

The Committee notes that an independent review will take place following the 2022 election (see Box 9.1).

9.5.1 Election expenditure caps and associated recommendations

Of the 106 submissions to the Inquiry, approximately 20 appeared to be connected, often making the same point and using similar language. While these submissions varied to a degree, many discussed election campaign funding. Themes present in these submissions included:

- praise for the donations reforms introduced in 2018
- calls for the introduction of general or electorate-based expenditure caps, citing New South Wales, the Australian Capital Territory and New Zealand as models which Victoria could consider

⁶⁷³ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 25.

- arguing for an increase in per-vote public funding
- advocating for the removal of the minimum vote threshold (currently 4% of first preference votes)⁶⁷⁴ to receive public funding.

The submissions argued that these reforms would make election campaign funding fairer and more accountable, reduce financial risk for non-party-aligned candidates and minor parties, and prevent major parties from outspending their competitors.⁶⁷⁵ A further submission expressed concern at the influence of donations by corporate lobby groups, and also advocated spending caps, noting the risk of undeclared donations under a donation cap system.⁶⁷⁶

At a public hearing, Mr Matthew Harris from The Nationals argued against an expenditure cap:

I think that the funding changes that came in last year are effectively a cap. There is a significant amount of campaign funding provided to parties now, and then over and above that people can raise money within the \$4000 per person limit. So perhaps some parties are going to be very successful in raising \$4000 from a million people, I do not know, but I would say that the new rules effectively provide a quasi-cap, the way they are drafted at the moment.⁶⁷⁷

Mr Kosmos Samaras, from the Labor Party, told the Committee that the party would not support caps on election campaign spending. His view was that they would be an ineffective attempt to even the playing field, as major parties will find ways to impact the vote despite spending caps.⁶⁷⁸

As noted above, the Committee believes that the changes made in 2018 need to operate for at least one electoral cycle before the need for any major changes can be properly assessed. The possibility of an expenditure cap would be best considered after that time. The Committee expects that it will be examined as part of the independent review scheduled to take place after the 2022 election (see Box 9.1).

FINDING 68: There are differing views on whether an election campaign spending cap should be introduced. This issue may be considered as part of the independent, expert panel review following the 2022 election required by the Electoral Act.

⁶⁷⁴ *Electoral Act 2002* s 211.

⁶⁷⁵ See Phoebe Meyer, *Submission 29*, p 1; Peter Ferguson, *Submission 36*, pp. 1-2; Louise Sampson, *Submission 37*, pp. 1-2; Robert Humphreys, *Submission 38*, p. 1; Janet Hall, *Submission 41*, p. 1; Anthony Williams, *Submission 45*, p. 1; Kavitha Chandra-Shekeran, *Submission 47*, p. 1; Campbell Aitken, *Submission 50*, p. 1; Mark Blades, *Submission 64*, p. 1; Zoe Farr, *Submission 65*, p. 1; Beryl Langer, *Submission 77*, p. 1.

⁶⁷⁶ Michael Foster, *Submission 71*, p. 1.

⁶⁷⁷ Matthew Harris, State Director, The Nationals, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 25.

⁶⁷⁸ Kosmos Samaras, Assistant State Secretary, Australian Labor Party Victorian Branch, Melbourne, 21 October 2019, *Transcript of evidence*, p. 6.

9.5.2 Indexation of amounts under the Electoral Act

Various dollar amounts regarding donation caps, disclosure thresholds and public funding under the Electoral Act are subject to annual indexation through a link to the consumer price index.⁶⁷⁹

The VEC, in its *Report to Parliament on the 2018 Victorian state election*, recommended this indexation requirement be removed for political donation disclosure thresholds and donation caps:

Although the *Electoral Act 2002* permits limited rounding, annual adjustments to these amounts risk contributing to non-compliance as a result of changing values that add ambiguity and complexity over time.⁶⁸⁰

The Committee recognises the role indexation of various dollar amounts under the Electoral Act plays in ensuring the legislation remains current and that disclosure thresholds and donation caps are workable.

The VEC's concerns regarding indexation may be considered as part of the independent review after the 2022 election (see Box 9.1). This would allow the expert panel to consider any positive and negative effects of indexation over the course of a full electoral cycle and, if necessary, make any recommendations for change based on that information.

FINDING 69: The VEC has recommended removing the indexation of certain dollar amounts relating to donations and disclosures provided for by the Electoral Act, to reduce complexity and the risk of accidental non-compliance. This may be considered as part of the review required to take place after the 2022 election.

9.5.3 Providing candidate donation information with ballot papers

The newDemocracy Foundation advocated trialling a range of innovations to Victoria's electoral system in its submission and hearing. This included publishing details of political donations either on, or along with, ballot papers:

Whether physically "on" the ballot paper or a paper handed out with the ballot, the Committee should actively consider a trial of distributing donation details for each candidate proactively as a way to build trust and confidence. It would simply note the total of donations received and the leading 3-5 donors. Logistically, it would only require a blackout date for donations 4 weeks from a polling date in order to allow for data collation – which is not excessively complex or onerous.

⁶⁷⁹ *Electoral Act 2002* s 217Q.

⁶⁸⁰ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, p. 110.

Reflexive public opinion offers a view that our system should “ban all donations” which considered public judgment found to be unworkable in practice. This solution appears to strike a better, fairer balance.⁶⁸¹

The newDemocracy Foundation observed voters wanting more information about local government candidates in its work with the Geelong Citizens Jury following the Greater Geelong City Council’s dismissal.⁶⁸² The Foundation argued that, in a state election context, this kind of information needs to be provided at the time of voting, as people will not try to find it on the VEC’s website.⁶⁸³

The Committee recognises the value in providing donor information to voters. However, the cap on donations introduced by the *Electoral Legislation Amendment Act 2018* means providing details of the top donors to a candidate may not be very informative.

⁶⁸¹ newDemocracy Foundation, *Submission 79*, p. 2.

⁶⁸² newDemocracy Foundation, *Local Government Victoria – Democracy in Geelong (2016)*, 2019, <<https://www.newdemocracy.com.au/2016/07/10/local-government-victoria-democracy-in-geelong>> accessed 23 December 2019. Geelong Citizens’ Jury, *Geelong Citizens’ Jury Final Report*, 2017, p. 12.

⁶⁸³ newDemocracy Foundation, *Submission 79*, p. 2.

10 Implementation of previous recommendations

10.1 Introduction

The Committee believes that following up on previous recommendations adds an extra layer of accountability to Victoria's electoral system. This chapter examines the implementation of recommendations from two reports:

- the VEC's *Report to Parliament on the 2014 Victorian state election*
- the previous Electoral Matters Committee's *Report on the inquiry into the conduct of the 2014 Victorian state election*.

The Committee found that, of the 11 recommendations in the VEC's *Report to Parliament on the 2014 Victorian state election*, nine have been implemented or partially implemented. Regarding the two that have not been implemented, the Committee does not support one but has recommended implementing the other.

Of the 23 recommendations in the previous Electoral Matters Committee's report on the 2014 election, 17 have been implemented or partially implemented.

10.2 VEC's Report to Parliament on the 2014 Victorian state election

The VEC made 11 recommendations to Parliament following the 2014 election.⁶⁸⁴ All recommendations were for legislative change. Of the VEC's 11 recommendations, the Committee considers that:

- eight recommendations have been implemented
- one recommendation has been partially implemented
- two recommendations have not been implemented.

The VEC had a different opinion about one recommendation. The VEC recommended that postal vote declarations received after election day be accepted if they are postmarked on the Sunday or Monday after election day.⁶⁸⁵ The VEC assessed this recommendation as not addressed.⁶⁸⁶ However, the Committee is satisfied that this

⁶⁸⁴ Victorian Electoral Commission, *Submission 92* (revised), pp. 144–5.

⁶⁸⁵ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 7.

⁶⁸⁶ Victorian Electoral Commission, *Submission 92* (revised), p. 145.

recommendation has been implemented through an amendment to the Electoral Act s 106(3), which allows postal votes to be accepted if they are received by the VEC before 6 pm the Friday after election day, and the declaration is witnessed on or before election day.⁶⁸⁷

Figure 10.1 Implementation of recommendations in the *VEC’s Report to Parliament on the 2014 Victorian state election*



Source: Electoral Matters Committee.

10.2.1 Recommendation that was partially implemented

The recommendation that has been partially implemented concerned allowing early and postal votes to be processed (but not inspected) 72 hours before the close of voting on election day.⁶⁸⁸ This has been partially implemented by changes which allow:

- early votes to be processed (but not inspected) from two hours before the close of voting on election day
- postal votes to be processed (but not inspected) from 10 hours before the close of voting on election day.⁶⁸⁹

Following the 2018 election, the VEC recommended that early votes be processed from 8 am on election day, the same time as postal votes. This would have the advantage of increasing the number of votes that are able to be counted on election night, especially

⁶⁸⁷ The Committee notes that the VEC’s assessment of the substantially similar Recommendation 9 from the Electoral Matters Committee’s *Inquiry into the conduct of the 2014 Victorian state election* indicated that the recommendation had been addressed, suggesting the VEC’s assessment of its own recommendation as ‘not addressed’ in its submission to this Inquiry may be an oversight. See Victorian Electoral Commission, *Submission 92* (revised), p. 140.

⁶⁸⁸ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 7.

⁶⁸⁹ *Electoral Act 2002* ss 99 and 110J.

considering that the VEC expects the number of people voting early to continue to increase.⁶⁹⁰ The Committee agrees with this recommendation, so long as this processing is still open to scrutineers.

FINDING 70: Processing early votes from 8 am on election day would increase the number of votes that are able to be counted on election night.

RECOMMENDATION 45: That the Electoral Act be amended to allow early votes to be processed, but not inspected, from 8 am on election day. Scrutineers should have the same access to observe this process as they have for current vote processing practices.

10.2.2 Recommendations that were not implemented

The two recommendations that have not been implemented relate to:

- reducing the period between the issue of the writ and the close of rolls from seven days to three days⁶⁹¹
- prohibiting any person or organisation other than the VEC from distributing postal vote applications.⁶⁹²

Reducing the period between the issue of the writ and the close of rolls from seven days to three days was also a recommendation of the Electoral Matters Committee in 2012.⁶⁹³ This recommendation was supported by the then government and included in the defeated Electoral Amendment Bill 2014.⁶⁹⁴ While the VEC again recommended the period between the issue of the writ and the close of roll be reduced following the 2014 election, the 58th Parliament's Electoral Matters Committee did not support this view.⁶⁹⁵ As reasons for its view, that committee cited the thousands of Victorians enrolling between the issue of the writ and close of roll, along with a desire not to contribute to the rise in provisional votes being cast on election day.⁶⁹⁶

The VEC has not made this recommendation again following the 2018 election.

⁶⁹⁰ Victorian Electoral Commission, *Report to Parliament on the 2018 Victorian state election*, Melbourne, 2019, pp. 62, 109.

⁶⁹¹ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 6.

⁶⁹² Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 8.

⁶⁹³ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2010 Victorian state election and matters related thereto*, May 2012, p. 45.

⁶⁹⁴ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. xix.

⁶⁹⁵ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, pp. 42–3.

⁶⁹⁶ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, pp. 42–3.

The VEC recommended prohibiting any person or organisation other than the VEC from distributing postal vote applications.⁶⁹⁷ The VEC has consistently noted this issue and recommended legislative change.⁶⁹⁸ In the absence of such change, the VEC has encouraged parties and candidates sending postal voting applications to adhere to a protocol to avoid elector confusion.⁶⁹⁹

Legislative change ahead of the 2018 election prohibited postal vote applications that were physically attached to or part of material issued by anybody other than the VEC.⁷⁰⁰ In introducing the legislation, then Special Minister of State, Mr Gavin Jennings MLC, said:

The effect of this amendment is that political parties, candidates and persons other than the VEC will no longer be able to distribute postal vote application forms as part of their own campaign material to voters.⁷⁰¹

The legislation did not prevent candidates and parties from distributing postal vote applications that were separate from campaign material.⁷⁰²

The Liberal Party recommended that the legislation be reformed to align with the Commonwealth Electoral Act,⁷⁰³ which allows a postal vote application to be ‘physically attached to, or form part of, other written material issued by any person or organisation.’⁷⁰⁴ This was the situation in Victoria prior to the 2018 amendments.⁷⁰⁵

However, the VEC received an increasing number of complaints about political parties sending electors postal vote applications, despite the new regulations (see Table 10.1). People making complaints found the practice misleading on the part of political parties, thought the applications came from the VEC and therefore showed bias towards a particular party, or otherwise felt that the practice must be against the rules.⁷⁰⁶

⁶⁹⁷ Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, p. 8.

⁶⁹⁸ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 99; Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian state election*, Melbourne, 2007, p. 120. For previous Electoral Matters Committee discussion of this issue see Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, May 2016, pp. 51–3.

⁶⁹⁹ Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, p. 49; Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian state election*, Melbourne, 2007, p. 48.

⁷⁰⁰ *Electoral Act 2002* s 101(2)(c).

⁷⁰¹ Victoria, Legislative Assembly, 22 June 2018, *Parliamentary debates*, Book 9, p. 3,058.

⁷⁰² Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 21.

⁷⁰³ Liberal Party of Australia (Victorian Division), *Submission 69*, p. 7.

⁷⁰⁴ *Commonwealth Electoral Act 1918* (Cth) s 184AA.

⁷⁰⁵ *Electoral Act 2002* s 101(2)(c), version 045, effective 1 September 2017.

⁷⁰⁶ Victorian Electoral Commission, *Submission 92*, p. 53.

Table 10.1 Complaints to the VEC concerning political parties distributing postal vote applications, 2010 to 2018

	2010	2014	2018
Number of complaints about political parties distributing postal vote applications	4	28	77
Total complaints	167	454	861
Complaints about political parties distributing postal vote applications as percentage of total complaints (per cent)	2.4	6.2	8.9

Sources: Victorian Electoral Commission, *Submission 92*, p. 53; Victorian Electoral Commission, *Report to Parliament on the 2014 Victorian state election*, Melbourne, 2015, pp. 46–7; Victorian Electoral Commission, *Report to Parliament on the 2010 Victorian state election*, Melbourne, 2011, pp. 91–2.

The VEC also reported that some of its media interviews addressed political parties distributing postal vote applications as an emerging issue of concern in the community.⁷⁰⁷

The Committee supports the VEC’s recommendation that any person or organisation other than the VEC should be prohibited from distributing postal vote applications. Allowing this practice has caused confusion for voters and undermined confidence in the impartiality of the VEC across multiple elections.

FINDING 71: The VEC received an increased number of complaints regarding political parties distributing postal vote applications in 2018. Electors find the practice misleading, believe it must be against the rules and sometimes believe the VEC has sent party political material, demonstrating bias. Legislative change ahead of the 2018 election limited, but did not prohibit, this practice.

RECOMMENDATION 46: That the Government amend the Electoral Act to prohibit any person or organisation other than the VEC from distributing postal vote applications.

FINDING 72: Of the 11 recommendations in the VEC’s *Report to Parliament on the 2014 Victorian state election*, nine have been implemented or partially implemented. Two recommendations have not been implemented—the Committee does not support one but has recommended implementing the other.

⁷⁰⁷ Victorian Electoral Commission, *Submission 92*, p. 22.

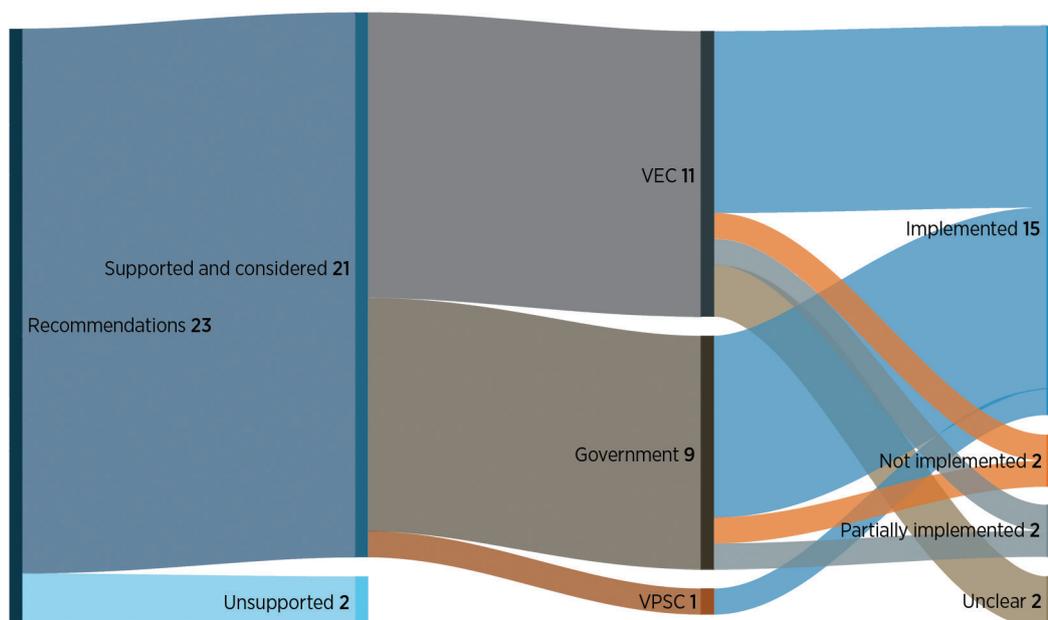
10.3 Electoral Matters Committee’s Report on the inquiry into the conduct of the 2014 Victorian state election

The previous Electoral Matters Committee’s *Report on the inquiry into the conduct of the 2014 Victorian state election* made 23 recommendations.

Thirteen recommendations were directed to the VEC, nine were directed to the Government for legislative change, and one was directed to the Victorian Public Sector Commission (VPSC).

Two of the 23 recommendations were not supported. Of the remaining 21, the Committee found 15 have been implemented, 2 partially implemented, 2 not implemented and 2 remain unclear.

Figure 10.2 Implementation of recommendations in the Electoral Matters Committee’s *Report on the inquiry into the conduct of the 2014 Victorian state election*



Note: the 21 ‘supported and considered’ recommendations include 19 that were supported or supported in principle (10 by the Government, nine by VEC), and two that the VEC indicated it would consider. The recommendation directed to the VPSC was one of the 10 supported by the Government.

Source: Electoral Matters Committee.

10.3.1 Recommendations for legislative change

The Government supported, or supported in principle, all nine of the recommendations for legislative change. Of these recommendations, the Committee found that:

- seven were implemented
- one was partially implemented
- one was not implemented.

The recommendation that was partially implemented concerned allowing electors to apply for a postal vote electronically, and for the VEC to provide political parties with data on electors who have applied for a postal vote.⁷⁰⁸ Amendments to the Electoral Act in 2018 provided for electronic postal vote applications and for the VEC to provide political parties and candidates with data on electors who had *successfully* applied for a postal vote only.⁷⁰⁹

The Committee agrees that only successful applicants' details should be provided to parties and candidates. However, the Committee is concerned that the design of the postal vote application form may have had negative consequences.

Postal voters at the 2018 election were required to declare that they understood their data may be provided to political parties and non-party-aligned candidates by ticking a box (see Figure 10.3). The VEC rejected applications that did not tick the box.⁷¹⁰

Figure 10.3 Extract from the 2018 postal vote application form

Elector to declare

I declare that:

I am entitled to apply for a postal vote for the above claimed address;

I understand that my name and address details on this form may be provided to registered political parties and independent candidates who are standing for election for the region or district in which the above claimed address is located.

Source: Victorian Electoral Commission.

The instructions attached to the VEC's postal vote application informed voters that 'If you **do not** agree by ticking the declaration on your application, the VEC will be unable to accept your postal vote application.'⁷¹¹ However, if postal vote applicants did not read those instructions, the consequence of not ticking this box may not have been clear. The Committee considers that it is not clear from the language on the form (which is set by the Electoral Regulations 2012)⁷¹² or the associated box with the text 'Elector to declare' that applications will be rejected if the box is not ticked.

This may have led to some applicants leaving the box unticked when attempting to register for a postal vote and believing that they had filled out a valid application. This may have delayed access to postal voting, as the applications would have been rejected and the elector would have had to fill in and submit another form. This may have also created an additional administrative burden for the VEC.

⁷⁰⁸ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 50.

⁷⁰⁹ *Electoral Act 2002* s 104A. The Liberal Party continued to argue that postal voter application data should be provided when the VEC receives applications, as opposed to successful postal voter applicant data only when applications are approved. Liberal Party of Australia (Victorian Division), *Submission 69*, pp. 7-8; Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 17.

⁷¹⁰ Victorian Electoral Commission, *State election service plan*, Melbourne, 2018, p. 21.

⁷¹¹ Victorian Electoral Commission, *Postal vote application for Victorian state election—P402*, Melbourne, 2018, p. 2.

⁷¹² *Electoral Regulations 2012* reg 21 and sch—Form J.

In contrast, when enrolling to vote or registering as a general postal voter in Victoria, people are not required to tick a box declaring that they understand that their details may be passed on. Information attached to the enrolment form simply informs electors who their details may be passed to. A similar approach is taken with applications for a postal vote at a Commonwealth election. The application form to be a general postal voter in Victoria does not even state that electors' details will be passed to political parties and non-party-aligned candidates.

The Committee prefers the approach taken in the enrolment form and Commonwealth postal vote application form. The information about how electors' details are used is still presented with the form, but the confusion made possible by the second tick box shown in Figure 10.3 is avoided. A simpler postal vote application form, similar to that used by the Commonwealth, would make it easier for more Victorians to successfully apply for a postal vote.

FINDING 73: The current requirement for Victorian postal vote applicants to tick a box declaring that they understand their details may be provided to political parties and non-party-aligned candidates adds an element of confusion to the application process. This may result in applications being unnecessarily rejected. The Committee considers that having information attached to the application form explaining that applicants' details may be passed on is necessary, but a tick box declaration is not.

RECOMMENDATION 47: That the Government amend the Electoral Regulations 2012 to remove the requirement for applicants to separately declare that they understand that their name and address may be provided to registered political parties and non-party-aligned candidates.

The Committee also heard that the manner in which postal voter data was provided to parties and non-party-aligned candidates could be improved. Mr Adam Wojtonis, of the Liberal Party, told the Committee:

... there were some issues around the provision of postal vote data and things like that where there were some delays in that data that was meant to be provided on a daily basis should be provided earlier in the day. That meant that obviously our normal campaign procedures were delayed by that. That said, I think on the whole and with the experience of the previous election, that will improve next time around. And obviously measures should be taken to try and assist the VEC in trying to actually make those procedures much clearer—and the time lines and deadlines by which they have to provide that sort of information.⁷¹³

⁷¹³ Adam Wojtonis, Acting State Director, Liberal Party of Australia (Victorian Division), public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 17.

Postal voters' details are important for candidates and parties so that they can send the voters information to help them make an informed vote. If the details are not passed on quickly enough, there can be delays in getting this information to voters. This may result in voters completing their ballot papers before they receive the information from parties and candidates.

The VEC's election planning indicated it intended to provide successful postal voter application details as soon as practicable:

... postal voting application details for the District for which the candidate has nominated will be provided as soon as practicable after postal voting material has been issued. Candidates will be sent an email containing instructions on how to create an account and download electronic copies of the postal voting details as they become available from the VEC's secure data exchange portal ...⁷¹⁴

The Committee recognises that this was the first election for which the VEC was required to provide this service. Further, the VEC had little time to implement the change between when the legislation was passed in Parliament and the 2018 election. The Committee encourages the VEC to learn from the 2018 election and implement improved processes at future elections.

FINDING 74: The 2018 election was the first at which the VEC was required to provide successful postal voter application data to political parties and non-party-aligned candidates. Feedback from the Liberal Party was that this process could be improved, particularly in terms of the timing for the VEC to provide data.

RECOMMENDATION 48: That the VEC consider improvements to the way it provides successful postal voter application data to political parties and non-party-aligned candidates at future elections, including providing the data sooner and clearly communicating set times for providing the data.

The recommendation that was not implemented concerned restricting the early voting period at by-elections to two weeks.⁷¹⁵ The Committee recommended this based on its belief that 28 days of campaigning during the early voting period, on top of campaigning prior to the early voting period, places an unnecessary strain on political parties, volunteers and non-party-aligned candidates. Further, the Committee argued that Victorian electors are accustomed to a two-week early voting period from general elections.⁷¹⁶

⁷¹⁴ Victorian Electoral Commission, *2018 state election candidate handbook: District*, Melbourne, 2018, pp. 24–5.

⁷¹⁵ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 37.

⁷¹⁶ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 36.

The *Electoral Legislation Amendment Act 2018* amended the Electoral Act s 99 to make early voting begin at 9 am the Monday after the final nomination day for both by-elections and general elections. However, it did not amend the Electoral Act s 63(10), which allows the Speaker some discretion in setting the length of time between final nomination day and election day. The result is that the period of early voting for a by-election remains variable.⁷¹⁷

10.3.2 Recommendations to the VEC

In its submission to this Inquiry (and report to Parliament), the VEC responded to the Committee's recommendations. The response did not include an explicit statement of support or otherwise for each recommendation—the classifications used here are therefore the Committee's interpretations of the VEC's responses. Of the 13 recommendations directed to the VEC:

- nine were supported, or supported in principle
- the VEC indicated it would consider two
- two were not supported.⁷¹⁸

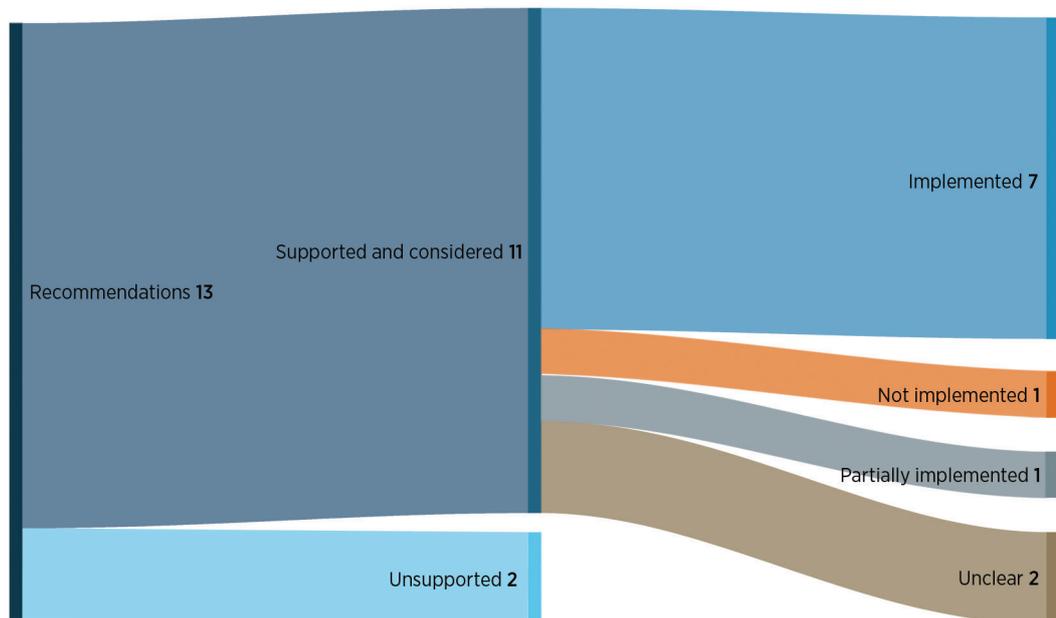
Of the 11 recommendations supported or under consideration, the Committee found that:

- seven were implemented
- one was partially implemented
- it is unclear whether two recommendations have been implemented
- one was not implemented.

⁷¹⁷ The Committee believes this was an oversight in drafting, as the Explanatory Memorandum to the Electoral Legislation Amendment Bill 2018 made it clear the intention of the Bill was to allow only a 12 day early voting period. See Explanatory Memorandum, Electoral Legislation Amendment Bill 2018, p. 10.

⁷¹⁸ Victorian Electoral Commission, *Submission 92* (revised), pp. 138–43.

Figure 10.4 Implementation of recommendations to the VEC in the Electoral Matters Committee's *Report on the inquiry into the conduct of the 2014 Victorian state election*



Note: the 11 'supported and considered' recommendations include nine that the VEC supported or supported in principle and two that the VEC indicated it would consider.

Source: Electoral Matters Committee.

Recommendations that have not been fully implemented

The recommendation that was partially implemented concerned the VEC continuing its informal ballot survey and using the information gained to target its community education programs. Following the 2018 election the VEC performed an informal ballot survey for the Lower House, but not for the Upper House. The Committee has recommended that surveys be conducted for the Upper House in the future in Section 2.4.3.

It is unclear whether two recommendations have been implemented. These concerned:

- enhanced training for the Senior Election Official pool, emphasising an Election Manager's responsibility to maintain order and peace at a voting centre under the Electoral Act s 174⁷¹⁹
- additional training for political parties and non-party-aligned candidates regarding the VEC's how-to-vote card protocol.⁷²⁰

⁷¹⁹ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 152.

⁷²⁰ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 153.

These recommendations ask the VEC to ‘enhance’ or ‘provide additional’ training. The VEC’s responses indicate it provided training on these issues, but whether that training was ‘enhanced’ or ‘additional’ was not clear.⁷²¹ VEC efforts at the 2018 election to maintain peace and order at voting centres, including the behaviour of those handing out how-to-vote cards, are discussed at Section 4.5.3 and throughout Chapter 8.

The recommendation that was not implemented concerned setting and reporting on a performance target for queueing times at voting centres.⁷²² The VEC’s response regarding a performance target for queueing times in its submission did not make any mention of a performance target. Nor did the Committee find any mention of such a target anywhere else in the VEC’s submission or its *State election service plan*.⁷²³ This issue is discussed in Sections 4.5.2 and 6.2.3.

10.3.3 Recommendation to the Victorian Public Sector Commission

Recommendation 19 concerned amending the *Code of conduct for Victorian public sector employees* ‘to prohibit public sector workers using government property, such as ambulances, fire trucks and uniforms for political purposes and in election campaigns and that penalties be developed for a breach of this type.’⁷²⁴

The Committee’s analysis of the Code found that it had not been updated since the recommendation was made. However, the Commission’s publication *Guidance during election periods* was updated in June 2016.⁷²⁵ This publication now includes reference to government vehicles (the previous version had referred only to government cars⁷²⁶) and government-issued uniforms as examples of public resources which it is not appropriate for public sector employees to use for election-related activities. Further, the document also now includes reference to possible disciplinary action for breaches.⁷²⁷

The Committee is satisfied that the recommendation has been implemented.

FINDING 75: Of the 23 recommendations in the Electoral Matters Committee’s *Report on the inquiry into the conduct of the 2014 Victorian state election*, 17 have been implemented or partially implemented.

⁷²¹ Victorian Electoral Commission, *Submission 92* (revised), p. 143.

⁷²² Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, pp. 45, 117.

⁷²³ Victorian Electoral Commission, *Submission 92* (revised), p. 139; Victorian Electoral Commission, *State election service plan*, Melbourne, 2018.

⁷²⁴ Parliament of Victoria, Electoral Matters Committee, *Report on the inquiry into the conduct of the 2014 Victorian state election*, May 2016, p. 145.

⁷²⁵ Victorian Public Sector Commission, *Guidance during election periods*, 2016, p. 1.

⁷²⁶ Victorian Public Sector Commission, *Guidance during election periods*, (as at the date of the Committee’s report on the 2014 election), p. 2.

⁷²⁷ Victorian Public Sector Commission, *Guidance during election periods*, 2016, p. 2.

11 Reforming the Upper House electoral system

11.1 Introduction

Many submitters to this Inquiry called for reforms to the ways votes are cast or counted for the Upper House. They argued that the 2018 results were problematic and did not appropriately reflect voters' intentions. They proposed a variety of changes intended to provide more democratic results at future elections.

This chapter sets out the evidence and arguments presented by submitters to this Inquiry. It also includes some analysis of the electoral data where relevant. However, the Committee has not explored these issues in depth and therefore has not reached any findings about these issues. The Committee considers that these matters need to be investigated more fully as part of a separate inquiry specifically looking at the Upper House electoral system. The Committee recommends such an inquiry in Section 11.5.

As part of that inquiry, the Committee can consider the issues raised by submitters to the current Inquiry in detail.

Section 11.2 of this chapter looks at what concerned submitters about the 2018 results. This included candidates with very small numbers of first-preference votes being elected, candidates with much larger numbers of first-preference votes not being elected and a discrepancy between the overall number of votes for the Greens and the electoral outcome. Section 11.2 also identifies the three key factors that led to these outcomes.

Section 11.3 examines the concerns that were raised by submitters. These concerns were largely focused on:

- the significant discrepancies between first-preference votes and the final outcomes
- a belief that voters were not making informed choices when voting above the line.

Not all submitters agreed about these concerns and the evidence is not always straight-forward to interpret. Section 11.3 tries to capture the different perspectives on these matters.

Submitters proposed a wide variety of changes to the Upper House electoral system. These are described in Section 11.4. The Committee notes that there was no consensus about what (if anything) should be changed.

The Committee recognises that voting and vote counting for the Upper House are complicated processes. In addition, a variety of technical terms are used in describing the processes. Box 11.1 sets out the main processes and key terms used in Victorian Upper House elections.

BOX 11.1: Upper House voting and vote counting

Members of Victoria’s Upper House are elected using proportional representation, with five members elected from each of eight regions. Voters must indicate multiple preferences, which are used to determine which candidates are elected. The system is often referred to as ‘single transferable vote’ internationally.

Voting above and below the line

A voter can indicate their preferences by either:

- voting **above the line**—the voter selects one party or candidate group; the preferences for that vote are then directed according to a group voting ticket decided by that party/group, or
- voting **below the line**—the voter indicates their preferences for five or more individual candidates.

Most voters (91.2% in 2018) vote above the line.

A **group voting ticket** is set by a party or candidate group. It determines where above-the-line votes will be transferred if the party or group’s candidates are elected or excluded (see below).

A group voting ticket

The image shows a sample ballot paper for the Victorian Upper House. It is divided into two main sections: 'Group A Voting Ticket' and 'Group B Voting Ticket'. Both sections are for 'LIBERAL DEMOCRATS'. Each section contains a grid of boxes for marking preferences. The boxes are arranged in rows and columns, with numbers 1 through 45. Each box contains the name of a candidate or a party group. The ballot paper also includes instructions for voters to mark their preferences.

Source: Victorian Electoral Commission.

Vote counting

To be elected to the Upper House, a candidate must achieve a quota of votes (1/6 of the total number of votes + 1). Candidates gain votes from:

- **first-preference votes**—that is, the votes in which a candidate was given a ‘1’ by the voter (either directly below the line or through a group voting ticket)

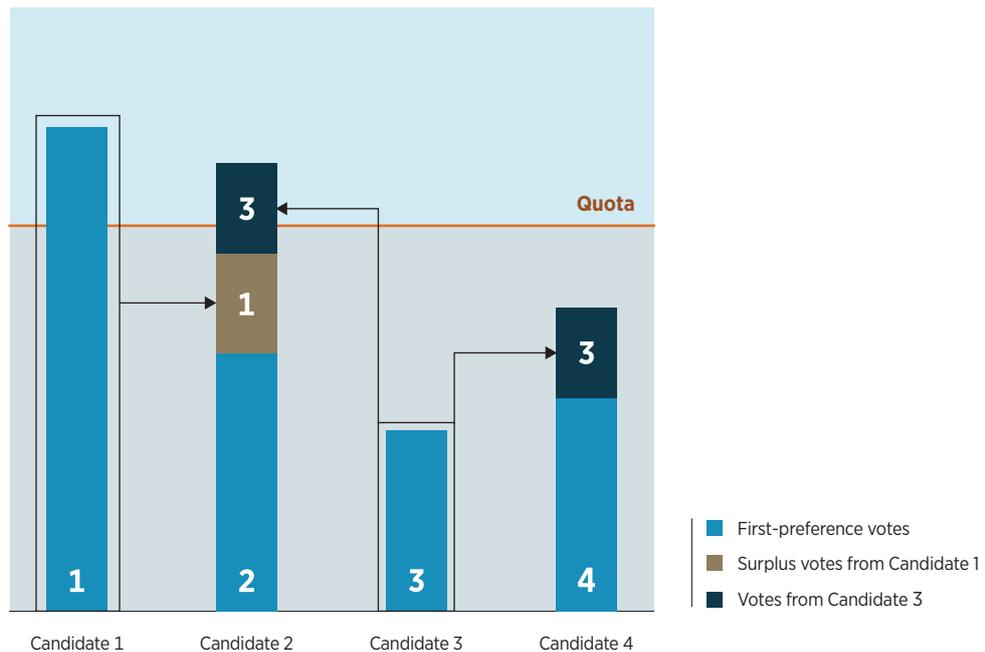
BOX 11.1: Upper House voting and vote counting (continued)

- **surplus votes**—when a candidate receives more votes than a quota, their votes are transferred (at a reduced value) to other candidates, based on the voters’ below-the-line preferences or the group voting ticket
- **votes from excluded candidates**—if there are still vacancies once all surplus votes have been distributed, the candidate with the fewest votes is excluded and each vote from that candidate is transferred at full value according to the voter’s below-the-line preferences or the group voting ticket.

Upper House elections typically involve surplus votes being distributed and votes being transferred from exclusions multiple times.

In the simplified example below, Candidate 1 achieves their quota based on first-preference votes and is elected. Because they achieved more than the quota, their votes are transferred to the voters’ next preference (Candidate 2) at reduced value. Candidate 3, with the lowest number of votes, is excluded and their votes are transferred to Candidates 2 and 4 (according to the voters’ preferences) at full value. After this, Candidate 2 has reached the quota and is elected.

Upper House vote transfers



Source: Electoral Matters Committee.

11.2 The 2018 Upper House results

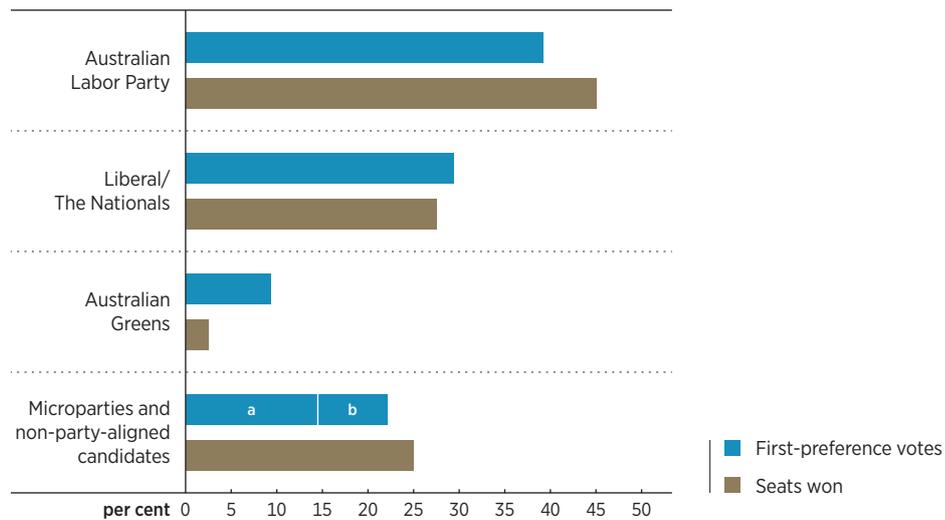
11.2.1 Results seen as problematic

Many of the submitters to this Inquiry argued that the 2018 election results were problematic. They noted results such as the following:

- Mr Rodney Barton MLC (Transport Matters Party) was elected, though he only received 0.6% of the primary vote in his region
- Mr David Limbrick MLC (Liberal Democrats) was elected, though he only received 0.8% of the primary vote in his region
- candidates from the Australian Greens received 12.9% and 8.4% of the primary vote in Southern Metropolitan and Eastern Metropolitan Regions but were not elected
- Mr Daniel Young from the Shooters, Fishers and Farmers Party received 7.8% of the primary vote in his region but was defeated by candidates receiving 3.8% and 4.8% of the primary vote
- overall the Greens received 9.3% of the first-preference votes across the state but only one member was elected (making up 2.5% of the Upper House).

In total, 10 microparty candidates were elected to the Upper House in 2018. This represents 25% of the Upper House. This is similar to the total number of first-preference votes for microparties and non-party-aligned candidates (22.1%), although it is larger than the share of first-preference votes received by any particular microparty. As noted above, though, there was a significant discrepancy between the proportion of first-preference votes received by the Greens and the number of their candidates elected (see Figure 11.1)

Figure 11.1 Proportions of first-preference votes and seats won at the 2018 election (Upper House only)



a. Votes for parties that won one or more seats across Victoria
 b. Votes for parties that did not win any seats across Victoria and for non-party-aligned candidates

Source: Electoral Matters Committee, based on VEC data.

11.2.2 Key factors contributing to these results

These results primarily came about due to the combination of three key factors:

- a large number of above-the-line votes for microparties
- several microparties apparently coordinating their group voting tickets, so that above-the-line votes flowed from multiple microparties to particular candidates
- Labor and the Coalition directing their above-the-line votes to microparties ahead of each other and the Greens.

The first key factor was that 22.1% of the first-preference votes in the Upper House were for microparties (that is, parties other than the Australian Labor Party, the Liberals, the Nationals and the Greens) or non-party-aligned candidates. These votes were spread across multiple parties, with no party receiving enough support for their candidates to be elected on first-preference votes. As vote counting continued, many microparty candidates were excluded and their votes were therefore transferred to their next preferences. Given the large number of votes for microparties, these transfers played a significant role in determining the election results. As most votes were above-the-line, the transfers were largely determined by the microparties’ group voting tickets.

The 22.1% vote for microparties and non-party-aligned candidates is an increase since the 2014 election (19.7%) and much larger than the 2010 and 2006 elections (9.5% and 9.0%). Microparty votes therefore had a larger impact on the election results in 2018 than they had at previous elections.

The second key factor was that several microparties appear to have coordinated their group voting tickets. The clearest examples of this were:

- eight microparties directed their 3rd preferences (that is, the first preference after their own two candidates) to Mr Rodney Barton MLC (Transport Matters) in Eastern Metropolitan Region
- eight microparties directed their 3rd preferences to Mr Clifford Hayes MLC (Sustainable Australia) in Southern Metropolitan Region
- seven microparties directed their 3rd preferences to Mr Stuart O'Neill of the Aussie Battler Party in Western Metropolitan Region.⁷²⁸

These preference arrangements led to some candidates with low numbers of first-preference votes receiving votes via multiple other microparties. Some candidates were able to build up enough votes from enough other parties to reach the quota (see Box 11.2).

Media reports stated that Mr Glenn Druery was hired by several microparties to negotiate preference deals that were partly responsible for this situation (see further discussion in Section 11.3.3).⁷²⁹

The third key factor was that Labor and the Coalition directed their above-the-line votes towards microparties ahead of the Greens and each other. Surplus votes from these parties played a key role in determining the fifth person elected in some regions. In particular:

- Labor and Liberal above-the-line votes flowed to Mr Clifford Hayes MLC (Sustainable Australia) ahead of Ms Sue Pennicuik (Greens)⁷³⁰; the Liberal above-the-line votes ultimately decided the election in favour of Mr Hayes, accounting for 26.5% of his final vote tally
- Labor above-the-line votes played a key role in electing Mr David Limbrick MLC (Liberal Democrats) and Mr Andy Meddick MLC (Animal Justice Party)⁷³¹ rather than the Liberal candidates Mrs Inga Peulich and Mr Joshua Morris; Labor above-the-line votes accounted for 26.4% of Mr Limbrick's total and 24.2% of Mr Meddick's.

The case studies in Box 11.2 illustrate how the three factors set out in this section worked together to elect microparty candidates.

⁷²⁸ Smaller numbers of parties appear to have taken part in coordinated preferencing in other regions.

⁷²⁹ Royce Millar and Benjamin Preiss and Ben Schneiders, "'Hire me and get into parliament": the preference whisperer's message', *The Age*, 14 December 2018, <<https://www.theage.com.au/politics/victoria/hire-me-and-get-into-parliament-the-preference-whisperer-s-message-20181214-p50mdh.html>> accessed 2 May 2020.

⁷³⁰ In Southern Metropolitan Region.

⁷³¹ In South-Eastern Metropolitan Region and Western Victoria Region respectively.

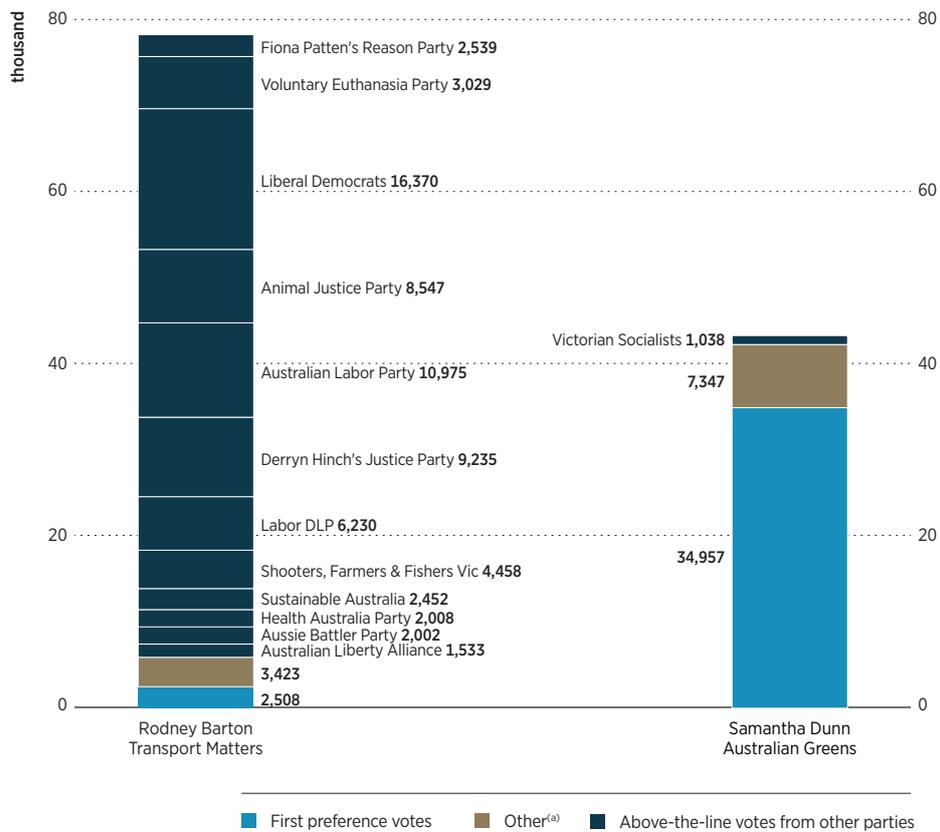
BOX 11.2: Case studies: how Mr Rodney Barton MLC and Dr Catherine Cumming MLC were elected

The results for Eastern Metropolitan and Western Metropolitan Regions illustrate different ways that microparty candidates were successful in 2018.

Eastern Metropolitan Region

In Eastern Metropolitan Region, Mr Rodney Barton MLC (Transport Matters) received 2,508 first-preference votes and Ms Samantha Dunn (Greens) received 34,957. Eight microparties gave Mr Barton their third preferences in their group voting tickets. As those parties were excluded, Mr Barton gained an additional 38,203 votes from above-the-line votes for those parties.

All of the other parties except for one (the Victorian Socialists) gave higher preferences to Mr Barton than to Ms Dunn, so that his total continued to build through transfers. This included 10,975 surplus votes from Labor Party above-the-line votes. Though Ms Dunn received 7,347 votes from below-the-line preferences, Mr Barton’s total from the flow of preference votes was higher and he was elected.



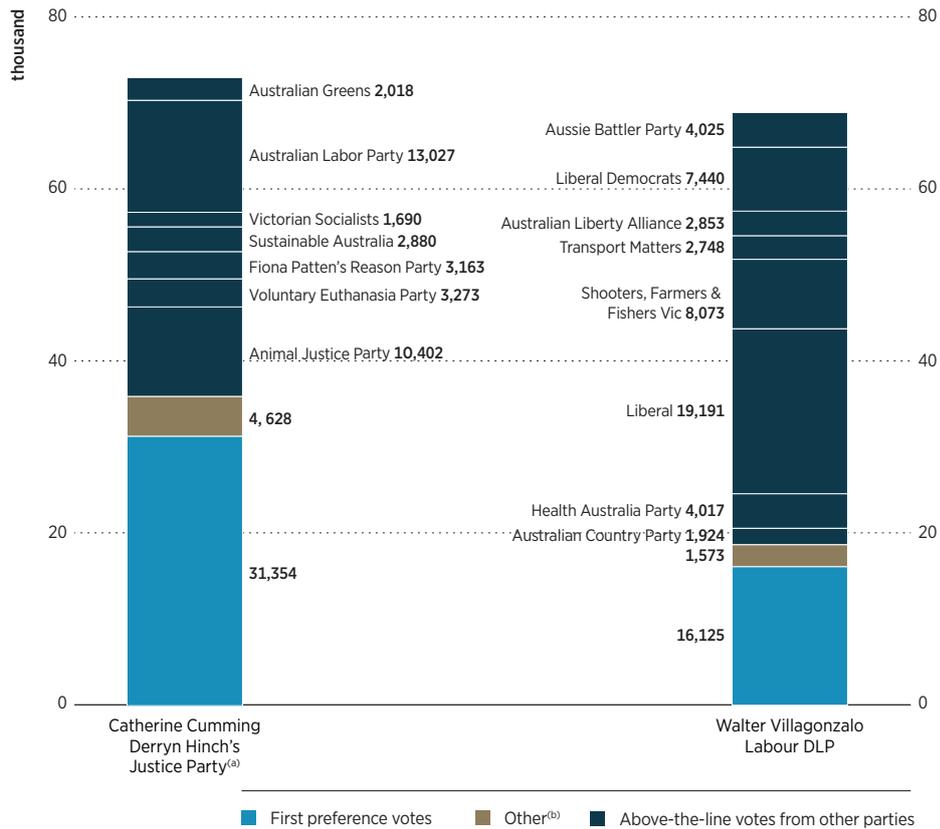
a. Includes below-the-line votes and above-the-line votes for some parties or groups with low numbers.

Source: Electoral Matters Committee, based on VEC data.

BOX 11.2: Case studies: how Mr Rodney Barton MLC and Dr Catherine Cumming MLC were elected (continued)

Western Metropolitan Region

In Western Metropolitan Region, both Dr Catherine Cumming MLC (standing for Derryn Hinch’s Justice Party) and Mr Walter Villagonzalo (Labour DLP) received significant numbers of first preference votes. Although a number of microparties directed their preferences to the Aussie Battler Party’s candidate, that candidate was excluded and the votes passed to their next preferences.



- a. Dr Cumming stood as a member of Derryn Hinch’s Justice Party but subsequently left the party.
- b. Includes below-the-line votes and above-the-line votes for some parties or groups with low numbers.

Source: Electoral Matters Committee, based on VEC data.

After three Labor candidates and one Liberal candidate were successful, those parties’ remaining candidates were excluded. The surplus votes from the Labor and Liberal parties’ successful candidates were transferred, as were the votes from other parties that were excluded. In the end, Dr Cumming and Mr Villagonzalo were the last two candidates remaining in the count and Dr Cumming was successful, with 72,435 votes, compared to Mr Villagonzalo’s 67,969.

BOX 11.2: Case studies: how Mr Rodney Barton MLC and Dr Catherine Cumming MLC were elected (*continued*)

The surplus votes from the Labor and Liberal parties were critical to the outcome. If Labor's 13,027 surplus votes from above-the-line votes had gone to Mr Villagonzalo, he would have been successful. Dr Cumming had the Labor Party's 26th preference in the group voting ticket, meaning that the 26th preference on Labor's group voting ticket was critical to deciding who was elected.

11.3 Concerns about the existing system

A large number of submitters to this Inquiry argued that the results of the 2018 election were problematic. They noted outcomes like the ones set out in Section 11.2 and argued that these did not reflect the will of the voters. However, some submitters disagreed, believing that the system was producing democratic results.

The disagreements about the system mostly reflected different answers to the following two questions:

- Should the final result reflect first preferences?
- Are voters making an informed choice when voting above-the-line?

The arguments relating to these two questions are explored in Sections 11.3.1 and 11.3.2.

Several other concerns about the system were also raised, which are discussed in Section 11.3.3.

11.3.1 Should the final results reflect first preferences?

'... in 2018 The Greens gained a 9.25% first preference vote share in the Upper House, yet only gained one seat. The Liberal Democrats got a quarter of this (2.5%) yet got two seats. Even Labor got four times the Greens' share but 18 times the number of seats!'⁷³²

Many submitters criticised the system by comparing the first-preference votes to the final outcome. Based on this comparison, they argued that the final results did not reflect parties' level of support in the community.

Other submitters argued that the situation had resulted in inequitable representation for voters:

In the Upper House: Transport Matters received 0.62% of the [first-preference] vote and one seat; the Greens received 9.25% of the vote and one seat; while Derryn Hinch's Justice Party received only 3.75% and 3 seats. So 22,051 Victorians who voted for

⁷³² Kate Watts, *Submission 72*, p. 1.

Transport Matters have the same representation in Parliament as 331,479 Victorians who voted Green; and the 134,226 Victorians who voted for Derryn Hinch have three MPs to advocate for them.⁷³³

As discussed above, first-preference votes are only part of what determines who is elected. The candidates elected with low first-preference votes were successful because of large numbers of later preferences (see Section 11.2). Some submitters argued that it is perfectly legitimate for candidates to be elected based on these preferences, regardless of how many first-preference votes they received.⁷³⁴ Indeed, that is a deliberate feature of Victoria’s electoral system.

However, the validity of these preferences was called into question by multiple submitters, who believed that most people voting above-the-line did not know where their votes would flow after their preferred candidates were excluded or elected.

11.3.2 Are voters making an informed choice when voting above-the-line?

Arguments that voters are not making informed choices

‘I utterly believe in preferences and preferential voting as vastly more fair than so-called “first past the post” voting. What I do not believe in is “preferences” that have been neither seen nor comprehended by most of those who are conned into approving them, usurping the place of the genuine preferences.’⁷³⁵

Many submitters argued that voters did not understand where their votes would flow when voting above the line.

It was argued that most people do not understand how the Upper House electoral system works. Mr Colin Smith, for example, noted that election campaigns largely focus on the Lower House and believed that voting for the Upper House ‘is actually done by many voters in a state of surprise that it has to be done at all, and in a fit of impatience to get the hell out of there’. He argued that the ‘quick and dirty option’ of voting above the line is therefore very appealing to the average voter.⁷³⁶ Participants at the Committee’s forums with people from culturally and linguistically diverse backgrounds (see Section 3.3.1) stated that the Upper House ballot paper is confusing, particularly noting the size and number of elements on the paper.

Multiple submitters argued that group voting tickets were difficult for voters to interpret. Some suggested that the format was not easy to follow.⁷³⁷ Dr Kevin Bonham

⁷³³ Ann Birrell, Bronwen Feenstra, Phillip Walker, Tony Guttman & Bob Hale, *Submission 78*, p. 4.

⁷³⁴ Chris Curtis, *Submission 40*, p. 5; Proportional Representation Society of Australia (Victoria-Tasmania), *Submission 67*, p. 2 (though the Proportional Representation Society expressed concern about the current Victorian system because ‘nearly all the voters very likely marked a 1 above-the-line without knowing what the flow of their subsequent preferences would be’).

⁷³⁵ Colin Smith, *Submission 98*, p. 3.

⁷³⁶ Colin Smith, *Submission 98*, p. 1.

⁷³⁷ Colin Smith, *Submission 98*, p. 2.

argued that some group voting tickets were designed in ways that made it very difficult to understand what impact they would have.⁷³⁸ Adding to the difficulty, two submitters suggested that the group voting tickets were difficult to find on the VEC's website.⁷³⁹

In several cases, 20th or later preferences on major parties' group voting tickets were important in determining who was elected.⁷⁴⁰ It could be argued that voters were not making an informed decision because they did not understand the importance of the later preferences in the group voting tickets.

To support the idea that voters did not understand the group voting tickets, some submitters suggested that the preferences on some tickets were unlikely to reflect voters' wishes.⁷⁴¹ Dr Kevin Bonham noted what had happened with voting for the Commonwealth Senate since group voting tickets were abolished and voters were required to choose their own preferences. His analysis indicated that microparty voters rarely directed their preferences to another specific party and often preferred the major parties or Greens rather than other microparties. This suggests that voters may have preferred a different pattern to what the group voting tickets for many microparties provided in 2018.⁷⁴²

It was also argued that voters were confused by the fact that there are different rules for voting for the Commonwealth Senate. In Commonwealth elections, voters can fill in multiple preferences above the line. Two submitters who acted as scrutineers at the 2018 election told the Committee that they had observed significant numbers of voters marking their Victorian ballot papers in this way.⁷⁴³ Although these votes were counted as formal, the votes were not transferred in the way that the voters had intended (see Section 2.4.3 of this report for further discussion).

Arguments that voters are making informed choices

'If voters do not want to accept the party's preference allocation, they are free to vote below the line.'⁷⁴⁴

Mr Chris Curtis believed that voters were making a conscious choice when voting above the line:

It is argued that the system we have is distorted because of group voting tickets. It would be if it were compulsory to choose one of them, but it is not. If voters do not want to accept the party's preference allocation, they are free to vote below the line. If they

⁷³⁸ Kevin Bonham, *Submission 58*, p. 7.

⁷³⁹ Name withheld, *Submission 90*, p. 1; Colin Smith, *Submission 98*, p. 2.

⁷⁴⁰ The Labor Party's 20th preference in South-Eastern Metropolitan Region, the Liberal Party's 22nd preference in Southern Metropolitan Region and the Labor Party's 26th preference in Western Metropolitan Region all played major roles in the outcomes for those regions.

⁷⁴¹ See, for example, The Nationals, *Submission 86*, pp. 1–2 (with source).

⁷⁴² Kevin Bonham, *Submission 58*, pp. 6, 8; see also Antony Green AO, *Submission 103*, p. 15; Colin Smith, *Submission 98*, p. 3.

⁷⁴³ Ben Ramcharan, *Submission 15*, p. 1; Timothy Burn, *Submission 21*, p. 1.

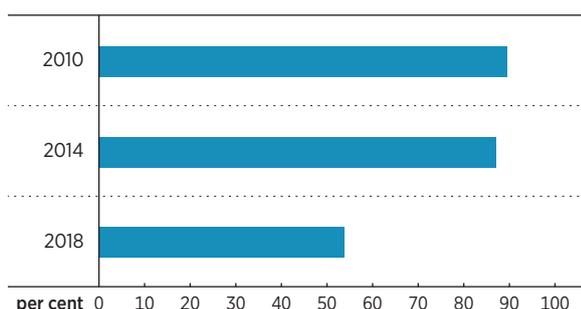
⁷⁴⁴ Chris Curtis, *Submission 40*, p. 16.

vote above the line, they have chosen to accept their party’s preference allocation. They can make the effort to find out where the party’s preferences go, or they can choose to trust their party. If they choose to trust their party, their vote is not inferior.⁷⁴⁵

The voting pattern of voters for Fiona Patten’s Reason Party provides an interesting illustration of this. In 2018, 46.3% of votes for Fiona Patten’s Reason Party were below-the-line. This is significantly more than in the previous two elections (when it was named the Sex Party), in which only 10.4% and 12.9% of votes were below-the-line (see Figure 11.2).⁷⁴⁶ The reason may be connected with the preferences in the group voting tickets.

In all regions, the Reason Party gave higher preferences to a number of microparties over the Greens in its group voting tickets. However, in at least two regions, it would appear that many Reason Party voters who voted below the line gave higher preferences to the Greens than the microparties on the Reason Party’s group voting ticket.⁷⁴⁷ A possible interpretation of this is that at least some voters may be considering a party’s group voting ticket when voting and choosing to vote below the line when they do not agree with the preferences in the group voting ticket.

Figure 11.2 Above-the-line votes for the Sex Party/Fiona Patten’s Reason Party, 2010 to 2018



Source: Electoral Matters Committee, based on VEC data.

11.3.3 Other concerns

The ‘preference whisperer’

A number of submitters expressed concern about the activities of Mr Glenn Druery, sometimes referred to as the ‘preference whisperer’. He was believed to be responsible for some of the apparent coordination of preferences discussed in Section 11.2 above.

Ms Sally Woodward wrote:

⁷⁴⁵ Chris Curtis, *Submission 40*, p. 16.

⁷⁴⁶ Electoral Matters Committee calculations based on VEC data (‘Votes received’ spreadsheets on the VEC’s election results webpages).

⁷⁴⁷ 55.7% of the below-the-line voters for the first Reason Party candidate in Southern Metropolitan Region and 45.2% in Eastern Metropolitan Region preferred the Greens over at least one of the microparty candidates preferred by the Reason Party— Electoral Matters Committee calculations based on VEC data (‘Votes received’ and ‘Distribution of preferences’ spreadsheets on the VEC’s election results webpages <<https://www.vec.vic.gov.au>>).

It was widely reported in the media that aspiring candidates were paying serious money for the services of Glenn Druery who had promised them he would get eight people elected to the Legislative Council through tactical preference harvesting. Significantly, he also reportedly told those same people they had no chance of getting elected on their own.

It is clear that in the 2018 Victorian Election, preference harvesting was purely tactical and largely devoid of preference allocation based on ideology. Its goal was twofold: give the candidates a chance at victory via carefully calculated preference flows; and keep preferences away from larger parties with significant first-preference support.⁷⁴⁸

Noting the reports of money paid by candidates to be part of the arrangements coordinated by Mr Druery, Ms Sue Pennicuik told the Committee:

... whether it is technically 'legal' or not, I believe the exchange of money in this way to 'win' a seat in parliament – at the very least, undermines public confidence in the electoral system and if it is not illegal now, it should become so.⁷⁴⁹

Dr Kevin Bonham similarly called for outlawing 'payments to consultants to coordinate or advise on preference flows between parties, and any form of payment to anyone that is contingent on a candidate winning a seat', though he noted that it may be difficult to define in legislation and difficult to enforce.⁷⁵⁰

Undesirable incentives

It was also argued that the current system provides incentives for parties to set preferences in their group voting tickets in ways that are not related to ideology. As a result, group voting tickets may not reflect voters' likely preferences.

Mr Colin Smith argued that the current system rewards candidates willing to do deals with 'with a pretty ruthless disregard for policy agreement and/or disagreement'.⁷⁵¹ That is, smaller parties that enter into as many preference-swapping deals as possible have an advantage over parties that may be more selective.

Dr Kevin Bonham explained that the system creates an incentive for parties to make preference deals with parties that receive smaller numbers of votes rather than those with more support. Parties with smaller numbers of votes are more likely to be excluded, so that their votes will flow to other parties. In contrast, there is no incentive to deal with parties that receive larger numbers of votes that are less than the quota (for example, 9-12% of the vote), as they are less likely to be excluded.⁷⁵² As a result, the system creates an incentive for microparties to reach agreements which direct votes away from parties with shares of the vote that are close to quotas.

⁷⁴⁸ Sally Woodward, *Submission 35*, p. 1 (with sources).

⁷⁴⁹ Sue Pennicuik, *Submission 100*, p. 4.

⁷⁵⁰ Kevin Bonham, *Submission 58*, pp. 2, 9.

⁷⁵¹ Colin Smith, *Submission 98*, p. 2.

⁷⁵² Kevin Bonham, *Submission 58*, p. 6.

Unclear instructions

Mr Thomas Killip believed that the below-the-line instructions on Upper House ballot papers were potentially confusing. Currently, the Electoral Act prescribes that the instructions should be ‘Place the numbers 1 to at least 5 in these squares to indicate your choice.’⁷⁵³ However, Mr Killip thought that some voters may interpret that as meaning that they could only give up to five preferences.

Research has been conducted about similar phrasing above the line on the Commonwealth Senate ballot paper. The research found that a significant proportion of the people interviewed did not understand the instructions. After being presented with the text of the instructions, only 56% of people understood that they were allowed to number every box and 62% either believed or were unsure whether their vote would be disqualified if they numbered more than six boxes.⁷⁵⁴

11.4 Changes that were advocated

A variety of changes to Upper House voting and vote counting were proposed during the Inquiry. Most of these changes were intended to address the concerns set out in Section 11.3. However, other submitters opposed particular changes and the Committee notes that there were significant disagreements about what (if anything) should be changed.

This section explores these debates.

11.4.1 Changes to above-the-line voting

‘Group voting tickets hand almost total control over preferences to political parties, allowing them to manipulate preferences in a way they would never achieve if voters had to be persuaded to complete their own preferences.’⁷⁵⁵

A significant number of submitters argued against the current system of above-the-line voting. They recommended either:

- removing above-the-line voting altogether (to make ballot papers similar to those used in the Australian Capital Territory and Tasmania), or
- retaining above-the-line voting but getting rid of group voting tickets and allowing voters to indicate multiple preferences above the line (as with voting for the Commonwealth Senate).

With either change, group voting tickets would be eliminated, and voters would indicate their preferences directly. More voters would therefore have a clear understanding of where their preferences would flow if their preferred candidates were unsuccessful or

⁷⁵³ *Electoral Act 2002*, Schedules 1A–1B.

⁷⁵⁴ The Australia Institute, *Polling—Optional preferential voting in the Senate*, 2018, p. 3.

⁷⁵⁵ Antony Green AO, *Submission 103*, p. 18.

were elected with a surplus. This should reduce concerns (as set out in Section 11.3.2) that many voters currently do not know where their votes will go.

Both changes are likely to result in smaller and less confusing ballot papers. Eliminating group voting tickets would reduce the incentive for parties to run candidates purely in order to ‘harvest preferences’ (that is, entering deals where multiple parties redirect their preferences to one party).⁷⁵⁶ This may be particularly relevant to Victoria, where 18 of the 20 parties contesting the 2018 election ran candidates in all regions. The changes may also encourage uncompetitive parties to merge with like-minded parties or not run.⁷⁵⁷ Mr Antony Green AO noted that the number of groups running for the New South Wales and Commonwealth upper houses reduced after group voting tickets were eliminated.⁷⁵⁸

In favour of removing above-the-line voting altogether, the Proportional Representation Society considered that above-the-line voting was unnecessary. The Society argued that it had been introduced at the Commonwealth level to make voting easier,⁷⁵⁹ but this was not needed in Victoria, where voters only need to number five squares below the line.⁷⁶⁰ Mr Malcolm Mackerras AO wanted to remove above-the-line voting because he believed voters should express preferences for individual candidates, rather than parties.⁷⁶¹

In favour of voters indicating multiple preferences above the line, it was argued that harmonising the voting systems for the Victorian and Commonwealth upper houses would make voting easier for electors. Mr Thomas Killip argued that ‘Not having above the line preferencing deprives voters of the easiest way of preferencing candidates by party, the main way Victorian voters chose who to vote for ...’⁷⁶²

Several submitters noted the group ‘5 above or 5 below’, which advocates for voters being able to number at least five squares above the line or five below. That group has argued that this system would enable voters (rather than political parties) to decide where their votes would go and that ‘5 above or 5 below’ is a simple message for voters.⁷⁶³

‘When a voter votes above the line, he or she is choosing one set of preferences over all others and doing so in the knowledge that his or her party has made an arrangement that it believes is in the interests of his or her party.’⁷⁶⁴

⁷⁵⁶ Sally Woodward, *Submission 35*, p. 2; Chris Curtis, *Submission 40*, p. 18; Antony Green AO, *Submission 103*, pp. 2, 12, 16; Commonwealth Parliament Joint Standing Committee on Electoral Matters, *Interim report on the inquiry into the conduct of the 2013 federal election: Senate voting practices*, May 2014, pp. 7, 23–5, 31, 51–2.

⁷⁵⁷ Kevin Bonham, *Submission 58*, p. 8.

⁷⁵⁸ Antony Green AO, *Submission 103*, pp. 3, 12.

⁷⁵⁹ Previously, voters had been required to express preferences for all candidates.

⁷⁶⁰ Proportional Representation Society of Australia (Victoria-Tasmania), *Submission 67*, p. 4.

⁷⁶¹ Malcolm Mackerras AO, *Submission 12, Supplementary 2*.

⁷⁶² Thomas Killip, *Submission 89*, p. 1.

⁷⁶³ 5 above or 5 below - reform Victorian upper house voting, Facebook posts, 25 November 2018, 7.37 pm and 8.34 pm, <<https://www.facebook.com/5aboveor5below/posts/341439676668780>>, accessed 30 March 2020.

⁷⁶⁴ Chris Curtis, *Submission 40*, p. 16.

Mr Chris Curtis argued in favour of group voting tickets, which he considered to be ‘perfectly democratic’.⁷⁶⁵

He argued against allowing multiple preferences above the line because:

- the introduction of this system at the Commonwealth level had been followed by an increase in the informality rate (it rose from 3.0% to 3.9%, and it probably would have been higher if not for savings provisions which meant that many votes that did not follow the instructions were counted as formal⁷⁶⁶)
- it would go against the principle that voters elect people and not parties
- it may lead to more votes exhausting (that is, votes that stop being counted because all of the voter’s preferred candidates have been excluded or elected).⁷⁶⁷

Mr Curtis considered that, instead of getting rid of group voting tickets, it would be better for the VEC to provide assistance to voters to vote below the line, to restrict group voting tickets to only 12 preferences and to reduce the number of candidates by introducing barriers to nomination and election (see Section 11.4.4).⁷⁶⁸

Mr Antony Green AO was in favour of allowing multiple preferences above the line, but noted that it would lead to greater complexity in counting Upper House ballot papers.⁷⁶⁹

11.4.2 Changes to below-the-line voting

Some submitters argued that there was a need to change the rules for filling out ballot papers below-the-line.

Mr Chris Curtis argued that people voting below the line should be required to indicate a minimum of 12 preferences (rather than the current minimum of five). This would reduce the number of votes that ‘exhaust’ (that is, votes that stop being counted because their preferred candidates are excluded or elected).⁷⁷⁰ The Committee notes that, at the 2018 election, 44.5% of below-the-line ballot papers exhausted (though many of these partly counted towards successful candidates before exhausting).⁷⁷¹

The Proportional Representation Society called for the introduction of Robson Rotation, in which the order of candidates’ names within parties or candidate groups on ballot

⁷⁶⁵ Chris Curtis, *Submission 40*, p. 4. However, Mr Curtis did recommend restricting the number of preferences on a group voting ticket to 12 to reduce the incentive for people to create ‘phoney parties’ to harvest preferences.

⁷⁶⁶ Antony Green AO, *Submission 103*, p. 11.

⁷⁶⁷ Chris Curtis, *Submission 40*, pp. 3, 15.

⁷⁶⁸ Chris Curtis, *Submission 40*, pp. 4–5.

⁷⁶⁹ Antony Green AO, *Submission 103*, p. 20.

⁷⁷⁰ Chris Curtis, *Submission 40*, p. 17.

⁷⁷¹ Electoral Matters Committee calculations based on VEC ‘distribution of preferences’ data.

papers is randomly varied from one ballot paper to another.⁷⁷² This would reduce any advantage that candidates might have due to ‘donkey voting’ and would reduce the influence of the parties on which of their members are elected.

Robson Rotation is used in Tasmania and the Australian Capital Territory. Mr Antony Green AO argued that it had been successful there but would not be as effective in Victoria. In those jurisdictions, the quotas for election are much smaller than Victoria, making it easier for voters to become familiar with individual candidates. In addition, only one chamber is contested on election day. In contrast, Victorian Upper House elections take place at the same time as the higher-profile Lower House elections. Mr Green argued that rotating candidates’ names would therefore provide little benefit to voters, while complicating printing and counting processes.⁷⁷³

Mr Allen Hampton OAM called for displaying all candidates in random order on Upper House ballot papers rather than grouped by party. He believed that party groupings are unnecessary, given that party affiliation is printed with each candidate. He argued that not displaying candidates in parties or groups would allow for more compact ballot papers and would be better for ungrouped candidates (whom he considers are disadvantaged by the current arrangements of being placed at the end of the ballot papers with no above-the-line box).⁷⁷⁴

11.4.3 Changes to the electorates

Several submitters called for making electorates bigger, with more members elected from each one, or making the entire state one electorate for the Upper House (as in New South Wales). Either of these changes would reduce the quota that a candidate needs to be elected.

Lowering the quota for election is likely to reduce the impact of preference flows and make it easier for candidates to be elected on first-preference votes. It is likely to reduce some of the discrepancies between parties’ total first-preference votes and the number of seats they win (see Figure 11.1).

In support of changing the electorates, several submitters argued that the current regions do not reflect communities in a meaningful way.⁷⁷⁵

A range of alternative electoral structures were put forward.⁷⁷⁶ Some proposals included increasing the total number of members in the Upper House.

⁷⁷² Proportional Representation Society of Australia (Victoria-Tasmania), *Submission 67*, pp. 4–5, 18.

⁷⁷³ Antony Green AO, *Submission 103*, pp. 5, 21.

⁷⁷⁴ Allen Hampton OAM, *Submission 105*, p. 2.

⁷⁷⁵ Jeff Waddell, *Submission 11*, p. 15; Australian Greens Victoria, *Submission 87*, p. 6.

⁷⁷⁶ Australian Greens Victoria, *Submission 87*, p. 6; Sue Pennicuik, *Submission 100*, pp. 5–6; Kevin Bonham, *Submission 58*, p. 8; Jeff Waddell, *Submission 11*, p. 15.

11.4.4 Greater barriers to candidates nominating and being elected

Some submitters proposed making it more difficult for smaller parties and non-party-aligned candidates to nominate or be elected. It was argued that this would lead to results that more closely matched first-preference votes and would reduce the number of candidates on the ballot paper, making it less confusing for voters.

Introducing first-preference vote thresholds for election

Some submitters suggested introducing a threshold of first-preference votes for election. Candidates or parties not achieving the threshold would be eliminated and their votes would pass to the voters' next preferences. This would make it impossible for candidates receiving low numbers of first-preference votes to be elected, regardless of how many votes flowed to them through preference distributions.

It was argued that thresholds would see the final results more closely align to people's first-preference votes.⁷⁷⁷ Ms Sue Pennicuik noted that thresholds are set for candidates at some European Parliament elections.⁷⁷⁸ Dr Kevin Bonham was generally opposed to thresholds, but considered that, if group voting tickets are retained, it would be better to have thresholds to reduce the impact of 'preference harvesting'. He suggested that a threshold around 4% would be appropriate in Victoria's current system.⁷⁷⁹

Others submitters considered thresholds to be undemocratic, as they may exclude candidates with more support than the ones allowed to remain in the contest⁷⁸⁰ and would override voters' support for smaller parties.⁷⁸¹ Dr Bonham also argued that it could lead to 'spoiler parties', who would run in an effort to reduce the vote of another party to below the threshold.⁷⁸²

Making it harder to nominate as a candidate

Submitters suggested several measures to make it harder to stand as a candidate:

- increasing the minimum party membership
- requiring a party to be registered at least 12 or 24 months before an election
- increasing the number of electors required to support a person nominating as a candidate

⁷⁷⁷ Anthony Williams, *Submission 45*, p. 1.

⁷⁷⁸ Sue Pennicuik, *Submission 100*, p. 3.

⁷⁷⁹ Kevin Bonham, *Submission 58*, p. 9.

⁷⁸⁰ Chris Curtis, *Submission 40*, pp. 4, 13-14, 20.

⁷⁸¹ Proportional Representation Society of Australia (Victoria-Tasmania), *Submission 67*, p. 6.

⁷⁸² Kevin Bonham, *Submission 58*, p. 10.

- increasing the candidate deposit (or setting a sliding scale so that the deposit becomes larger the more candidates a party nominates in a region)
- ensuring parties have a threshold of members in each region in which they run.⁷⁸³

It was believed that making it harder to become a candidate would reduce the number of parties nominating in order to ‘preference harvest’. This may reduce the size of Upper House ballot papers

11.4.5 Changes to voting or the way votes are counted

The Proportional Representation Society called for a change to the way that surplus votes are transferred from successful candidates.

The Society recommended using the Weighted Inclusive Gregory Method or the Meek Method. These systems transfer surplus votes at different values, depending on the value the votes had when they were received by the elected candidate. In contrast, the current method transfers all of an elected candidates’ votes at the same value, regardless of whether they were received at full value or a reduced value.⁷⁸⁴

Mr Antony Green AO noted that, if group voting tickets were abolished, the number of exhausted votes would increase (that is, votes which stop being counted because all the candidates with preferences have been elected or excluded). To manage this change, he recommended a reconsideration of the way votes are transferred. Mr Green did not advocate for any particular change, but suggested seeking expert advice.⁷⁸⁵

Ms Anne Birrell saw mixed-member proportional representation as preferable to Victoria’s current system.⁷⁸⁶ This system is used in a number of jurisdictions internationally, including New Zealand. In New Zealand, voters have two votes for their single-house Parliament—one for a candidate and one for a party. Candidates are elected for 71 single-member electorates based on a first-past-the-post system. However, if the number of seats filled by successful candidates from a party is less than the proportion of its party votes, then the party receives additional seats so that the ratio of members of parliament is approximately equal to the ratio of party votes.⁷⁸⁷ A system similar to this would be an alternative way of reducing discrepancies between the total number of votes a party gets and the number of seats it has in Parliament.

⁷⁸³ Reason Party Victoria, *Submission 33*, p. 1; Sally Woodward, *Submission 35*, p. 2; Chris Curtis, *Submission 40*, p. 19.

⁷⁸⁴ Proportional Representation Society of Australia (Victoria-Tasmania), *Submission 67*, pp. 7–8.

⁷⁸⁵ Antony Green AO, *Submission 103*, p. 21.

⁷⁸⁶ Ann Birrell, public hearing, Melbourne, 21 October 2019, *Transcript of evidence*, p. 45.

⁷⁸⁷ Electoral Commission New Zealand, *What is MMP?*, (n.d.), <<https://elections.nz/democracy-in-nz/what-is-mmp>>, accessed 30 March 2020.

11.5 A future inquiry

The Committee recognises the large number of people and organisations calling for changes to the Upper House electoral system in this Inquiry. The Committee believes that these matters are worth investigation and consideration.⁷⁸⁸

However, any changes to the Upper House or the way it is elected would be serious matters that could have a significant effect on the Victorian Parliament. The Committee therefore believes that these matters should be investigated as part of a separate inquiry specifically focused on that topic.

Considering these matters as part of their own inquiry would allow the Committee to undertake more research and deeper consideration of the issues. It would also provide an opportunity for the community to have a say specifically on these matters.

FINDING 76: A large number of submitters to this Inquiry called for changes to the Upper House electoral system. The proposed changes involve serious and complex issues. Any changes could potentially have significant consequences for the make-up of Victoria's Parliament. Changes to the Upper House electoral system should therefore be carefully considered as part of an inquiry specifically focused on that topic.

RECOMMENDATION 49: That the Parliament refer an inquiry into possible reforms of the Upper House electoral system to the Electoral Matters Committee.

⁷⁸⁸ Some of these matters were considered as part of the previous Electoral Matters Committee's inquiry into the 2014 election. At that time, the Committee decided it was best to monitor the results of the 2016 changes to the Commonwealth Senate voting system before recommending any changes in Victoria—Electoral Matters Committee, *Inquiry into the conduct of the 2014 Victorian state election*, 2016, p. 80. Two Commonwealth elections have taken place since then, so that the Committee can now make a more informed analysis of the impact of those changes.

Appendix 1

About the Inquiry

A1.1 Inquiry process

On 28 May 2019 the Legislative Assembly referred an inquiry into the conduct of the 2018 Victorian state election to the Committee. The Committee was initially required to table its report by 1 June 2020. The tabling date was subsequently extended to 31 August 2020.

Submissions

The Committee called for written submissions through its website, Twitter, Facebook and in *The Age* in June 2019. The Committee also wrote to a range of key stakeholders inviting submissions, including political parties, non-party-aligned candidates, electoral experts and community groups.

In total, the Committee received 106 submissions from individuals and organisations.

A full list of submitters can be found in Section A1.2 of this appendix.

Public hearings

The Committee conducted four days of public hearings between 21 October and 25 November 2019. It received evidence from 13 separate organisations or individuals.

The public hearings were held in Melbourne, with some witnesses appearing by videoconference or teleconference.

The Committee spoke to witnesses from a number of political parties, community groups and individuals who were concerned about the conduct of the 2018 Victorian state election. The Committee also spoke to the Victorian Electoral Commission.

A list of the witnesses who attended public hearings is included in Section A1.3 below.

Community forums

The Committee undertook two community forums with members of a variety of culturally and linguistically diverse communities. These took place at Box Hill Town Hall on 10 March 2020 and in Melbourne on 12 March 2020.

The forums were conducted to learn more about the election experiences of people from culturally and linguistically diverse backgrounds and to identify the barriers they face to participation, to learn about their interactions with the VEC and to hear about potential improvements.

The forums were facilitated by the Eastern Community Legal Centre and AMES Australia.

Interstate meetings

The Committee held meetings with electoral bodies, parliamentary committees, community groups and academics in Canberra and Sydney in May and June 2020. These meetings were conducted by videoconference and teleconference. These meetings gave the Committee a better understanding of relevant activities and developments in other jurisdictions.

Section A1.4 lists the people that the Committee met with. These meetings were conducted in private but some of the Committee's key learnings have been included in this report.

A1.2 Submissions

1	Jill Briggs	36	Dr Peter Ferguson
2	Ingrid Pezzoni	37	Louise Sampson
3	Gillian Williamson	38	Robert Humphreys
4	Ange Kenos	39	Jane Brownrigg
5	Sean White	40	Chris Curtis
6	Name withheld	41	Janet Hall
7	Ian Pershouse	42	Monique Keel
8	Tim McCurdy MP	43	Brad Vann
9	Chris Gillman	44	Xavier Cooper
10	Jacinta Smith	45	Anthony Williams
11	Jeff Waddell	46	Dr Joe Garra
12	Malcolm Mackerras AO	47	Kavitha Chandra-Shekeran
13	Terence Mills	48	Kallista Kaval
14	André Baruch	49	Christine Banks
15	Ben Ramcharan	50	Dr Campbell Aitken
16	Debbie Davie	51	Gary Pitts
17	Name withheld	52	Rebecca Leighton
18	Vanessa Bosanquet	53	David Reid
19	Pilar Duaso Amat	54	James McLaren
20	Michael Tandora	55	Stephanie Hodgins-May
21	Timothy Burn	56	Brendan Evans
22	Mike Deam	57	Dr Adrian Beaumont
23	Tim Hoffmann	58	Dr Kevin Bonham
24	Victor Breadon	59	Patrick Caplice
25	Josh McGee	60	Jarred Crowe
26	Patricia Young	61	Bianca Haven
27	Margaret Downie	62	Stephen Luntz
28	Robert Crouch	63	Dr Chris Culnane and Associate Professor Vanessa Teague
29	Phoebe Meyer	64	Mark Blades
30	Andy Blunden	65	Zoe Farr
31	Joslyn Tait	66	Daniela Tymms
32	Tasma Minifie	67	Proportional Representation Society of Australia (Victoria-Tasmania)
33	Fiona Patten's Reason Party Victoria	68	Dinesh Mathew
34	Campbell Gome	69	Liberal Party of Australia (Victorian Division)
35	Sally Woodward		

70	Henry Schlechta	88	Anthony Morphet
71	Michael Foster	89	Thomas Killip
72	Kate Watts	90	Name withheld
73	Dr Sophie Yates	91	Kim Nolan
74	Stawell ALP Branch	92	Victorian Electoral Commission (revised)
75	Leon Hanrahan	93	ScytI Australia
76	Nyssa Sims	94	Lima Cinco
77	Dr Beryl Langer	95	Roma Haley
78	Ann Birrell, Bronwen Feenstra, Phillip Walker, Tony Guttman, Bob Hale	96	Sally Miller
79	newDemocracy Foundation	97	Hon. Russell Northe MLA
80	Australian Labor Party Victorian Branch	98	Colin Smith
81	Jacqui Hawkins	99	Peter McLoughlin
82	Victorian Trades Hall Council	100	Sue Pennicuik
83	Daniel Crute	101	Malcolm Baalman
84	Matthew Sinapi	102	Name withheld
85	William Summers	103	Antony Green AO
86	The Nationals	104	NDIS Consumer Watch
87	Australian Greens Victoria	105	Allen Hampton OAM
		106	Trish Crossin

A1.3 Public hearings

Monday 21 October 2019

Name	Position	Organisation
Clare Burns	State Secretary	Australian Labor Party Victorian Branch
Kosmos Samaras	Assistant State Secretary	
Adam Wojtonis	Acting State Director	Liberal Party of Australia (Victorian Division)
Matthew Harris	State Director	The Nationals
Rohan Leppert	Acting State Director	Australian Greens Victoria
Michael Butler	Victorian Campaign Convener	
Wil Stracke	Assistant Secretary	Victorian Trades Hall Council
Ann Birrell	-	-

Tuesday 22 October 2019

Name	Position	Organisation
Iain Walker	Executive Director	newDemocracy Foundation
Hon. Russell Northe MLA	Member for Morwell District	-
Matthew Potocnik	-	NDIS Consumer Watch
Jeff Waddell	-	-

Monday 28 October 2019

Name	Position	Organisation
Warwick Gately AM	Electoral Commissioner	Victorian Electoral Commission
Liz Williams	Deputy Electoral Commissioner	
Glenda Frazer	Director, Elections	
Sue Lang	Director, Communication and Engagement	
Keegan Bartlett	Director, Electoral Integrity and Regulation	

Monday 25 November 2019

Name	Position	Organisation
André Baruch	State Director	Transport Matters Party
Jacqui Hawkins	Independent candidate for the seat of Benambra	-
Jill Briggs	Campaign Manager for Jacqui Hawkins	

A1.4 Interstate meetings

Tuesday 26 May 2020

Name	Position	Organisation
Tom Rogers	Electoral Commissioner	Australian Electoral Commission
Gina Dario	Assistant Commissioner, Roll Management and Community Engagement Branch	
Lee Evans MP	Chair	NSW Joint Standing Committee on Electoral Matters
Felicity Wilson MP	Deputy Chair	
The Hon. Robert Borsak MLC	Member	
The Hon. Ben Franklin MLC	Member	
The Hon. Courtney Houssos MLC	Member	
The Hon. Peter Primrose MLC	Member	
Paul Scully MP	Member	
Nathaniel Smith MP	Member	
John Schmidt	Electoral Commissioner	NSW Electoral Commission
Simon Kwok	Executive Director, Elections	
Philippa Brandon	Director, Communications	
Mary Karras	Chief Executive Officer	Ethnic Communities' Council of NSW
Terrie Leoleos	Speak My Language National Program Manager, Ageing and Disability	

Wednesday 27 May 2020

Name	Position	Organisation
Professor Ian McAllister	Distinguished Professor of Political Science	The Australian National University
Dr Jill Sheppard	Lecturer, School of Politics and International Relations	
Professor Patrick Dumont	Professor of Political Science, School of Politics and International Relations	
Daniel Coase	Senior Policy Adviser	Federation of Ethnic Communities' Councils of Australia
Shahnoor Shah	Policy and Project Officer	
Susan Laguna	Executive Director	Multicultural Disability Advocacy Association of NSW (MDAA)
Robina Yasmin	Governance Committee	

Wednesday 10 June 2020

Name	Position	Organisation
Senator the Hon. James McGrath	Chair	Commonwealth Joint Standing Committee on Electoral Matters
Milton Dick MP	Member	
Tony Pasin MP	Member	
James Stevens MP	Member	
Kate Thwaites MP	Member	

Minority report

Inquiry into the conduct of the 2018 Victorian state election - Minority Report

Tim Read MP

The Committee decided not to consider the content of submissions nor to hear from witnesses on the topic of reforming upper house voting. It was felt that this required a separate inquiry and this report recommends such an inquiry.

What must be added, is that an inquiry into upper house voting reform is urgent and must be held soon, to allow sufficient time for the Government to consider the report; present any changes to Parliament; and for the VEC to implement any recommendations. This is because the topic that dominated submissions was the gaming of upper house preference flows, by manipulation of group voting tickets.

It is worth noting that the topic of group voting tickets was also a prominent issue in the submissions and report into the 2014 Victorian State Election.

In 2018 most voters simply placed a 1 in the square above the line, corresponding to the party of their first choice. Preferences from that vote were distributed according to a group voting ticket that was not displayed on how to vote cards, nor was it widely circulated or easily found by most voters.

Parties attracting very small votes, some even less than one per cent, won seats by dealing with other microparties, to swap preferences on their group voting tickets. The dealing was organised by a “preference whisperer” in return for sums of money.

So votes cast for a microparty often elected members of a very different party that the voter may not have even heard of. The system is opaque and unrepresentative. It was deservedly condemned in most submissions to this inquiry.

It is therefore incumbent upon this committee to ensure that the promised inquiry into what is clearly the electoral issue of greatest concern to Victorians, reform of upper house voting, is completed during the life of this Parliament without delay.



Dr Tim Read

Member for Brunswick

