

**Submission in response to the Electoral Reform
Green Paper – Strengthening Australia’s Democracy**

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Introduction

The *Electoral Reform Green Paper – Strengthening Australia’s Democracy* covers a wide range of matters. This submission by the Victorian Electoral Commission (VEC) focusses on the subject of enrolment. Enrolment is the foundation of the electoral system. Structures and processes need to be in place to ensure that the register of electors is comprehensive and accurate. Without this, all other aspects of the electoral system would be fundamentally flawed.

Administration of enrolment

Even without changes to enrolment processes, there is a strong argument for fundamental changes to the administration of enrolment.

Currently, most enrolments are collected by the Australian Electoral Commission (AEC). The AEC provides enrolment information and roll products to the State and Territory electoral commissions under joint roll agreements between the Commonwealth and each State and Territory. The administrative structure of the AEC is dispersed and localised. There is a permanent divisional office, employing 3.2 staff, for each of the 150 electoral divisions across Australia, plus a State office in each of the States and the Northern Territory, and a National Office in Canberra. Because some of the divisional offices are co-located at the same premises and because the State offices are located in the same buildings as divisional offices, the total number of locations where the AEC operates full-time is 122 (of which 33 are in Victoria).

Between elections, the main function of the divisional offices is maintaining the electoral roll. In practice, though, relatively few enrolments and enrolment updates are made through divisional offices. In most cases people post an enrolment form (either of their own initiative or in response to a mail-out) to an AEC State office, from where they are redirected to divisional offices for data entry and processing. This is a very unwieldy procedure. The functions of divisional offices would be further reduced in the event of a move to automatic enrolment, which would eliminate the need to data-enter the details on enrolment forms. In the past, the organisation of regular habitation reviews of every address in an electorate was a substantial part of divisional offices’ work. However, now doorknocks are less frequent and are targeted, and could be as readily arranged at State level or through temporary offices.

The cost of the AEC’s divisional structure is substantial, involving the leasing, equipment and maintenance of offices and the payment and support of permanent employees who constitute a majority of the AEC’s total staff. This structure is outdated and expensive, and could be fundamentally changed.

Maintenance of the enrolment database is really a national function. Administration by a national body is particularly important in handling interstate transfers of enrolment. The

VEC therefore proposes that enrolment be the responsibility of a national body. This body could be a separate National Enrolment Authority. Each jurisdiction could refer its powers to the authority, creating a real partnership.

A national enrolment body could have three essential features. Firstly, it could do away with the costs and inflexibility of a permanent divisional office structure. Such a structure would be even more unnecessary in the event of a move to automatic enrolment. Secondly, this body would need to possess a strong spatial and mapping capacity. The AEC uses electronic mapping comparatively little in its enrolment maintenance work. The VEC has found electronic mapping tools extremely useful in locating electors. The VEC is developing a geocoding capacity, under which each elector and electoral address is allocated a point on a spatial database. Geocoding not only assists with the location of electors, but also with recoding to new electorates following a change of electoral boundaries, and with election planning through identification of the catchment areas of voting centres. Thirdly, the body could have highly developed data matching and data mining capacity, plus follow-up.

The VEC, in honing its continuous roll update programs, is now contributing up to 30% of enrolment transactions in Victoria, demonstrating that its approach can lead to significantly improved outcomes at the same cost.

Trends in enrolment

Electoral enrolment has long been compulsory in Australia. Although more than 90% of eligible Australians are enrolled, this still leaves very substantial numbers – currently some 1.2 million – who are missing from the roll. Many of these are young people who have never enrolled (only an estimated 73% of 18 year old Victorians are enrolled), while more are people who have been on the roll but have been removed because they have failed to update their enrolment after they change address.

People enrol by completing an enrolment form and sending it to an electoral commission. Electoral commissions can remind people of their obligations, or make enrolment forms easier to complete, but the individual still has to take the decisive steps of signing the form, ensuring that it complies with identity requirements and getting it to the electoral commission.

In the lead-up to elections, the Victorian Electoral Commission (VEC) and Australian Electoral Commission (AEC) launch communication campaigns to remind people to enrol. These campaigns and the impetus of the election itself lead to a flood of enrolments at that time. Before the 2007 Federal election, the AEC conducted a massive enrolment drive, which resulted in the proportion of eligible Australians on the roll increasing from 90.2% in June 2006 to 92.3% by the election. This was a considerable achievement, but such efforts may not be sustainable given the unprecedented cost (about \$30 million) of the 2007 campaign.

The VEC recognises that, outside election time, electoral enrolment is not high on most people's priorities. Between elections, electoral commissions make it easy to enrol or update enrolment by sending enrolment forms to those whose circumstances show that they are likely to need one. The electoral commissions use databases of State and Commonwealth government agencies: Australia Post and Centrelink have major databases used by the AEC, while the VEC uses data supplied by VicRoads to write to new driver's licence holders and those changing their address, and by the Residential Tenancies Bond Authority to write to tenants who have recently lodged bonds. The most productive source of information for the VEC has been the Victorian Curriculum and Assessment Authority (VCAA), with the VEC sending birthday cards (and enrolment forms) to students turning 17. The birthday card program has been so successful that the AEC is currently implementing a similar program for the other States and Territories.

Mail-out programs have become the electoral commissions' primary means of keeping the electoral roll up to date. However, they face the issue that only a minority of those contacted return completed enrolment forms. The AEC conducts targeted doorknocks of those who fail to respond, but these doorknocks have only partial success. Furthermore, the effectiveness of the mail-out programs in general appears to be declining. The birthday card program, for example, originally had a response rate of more than 40%, but is now down to less than 20%. It may be that people in general are becoming more inclined to throw out what they see as junk mail without reading it. Electors who do not respond to mail-outs are largely taken off the roll through the objection process, and many of them do not realise this until they find that they are not on the roll when they attempt to vote at the next election.

Recent research reveals negative correlations between voter turnout on the one hand, and high income, professional employment, university education, mobility and apartment living on the other.¹ There appears to be a growing group of young, mobile, affluent, inner city dwellers, who have relatively little connection with their local community and are comparatively disinclined to participate in the electoral system. This group is relatively impervious to traditional forms of follow-up. For one thing, it is almost impossible for election officials conducting doorknocks to gain access to the secure apartment blocks that are proliferating in the city and inner suburbs.

There appears to be a growing expectation, especially among younger people, that updating enrolment should not require physically completing a form, and that information provided to one government agency on change of address should enable another government agency to change the person's details on its database.

¹ Rob Hoffman: Demographic Influences on Electoral Participation in Contemporary Australia, B.A Arts (Honours) thesis, Swinburne University of Technology, October 2009.

Automatic enrolment

Under a system of automatic enrolment, an electoral authority would enrol people itself, based on information it held, instead of waiting for individuals to take the initiative and send an enrolment form to the electoral authority. Such a system would reverse the responsibility for registration from the individual to the government.

There has been disagreement in principle on automatic enrolment. In the Minority Report in the Victorian Electoral Matters Committee's Report to Parliament on voter participation and informal voting, the Coalition members of the Committee argued that:

This measure would turn upside down over 150 years of democratic practice in Victoria.

For government to assert the right to enrol citizens, even without their knowledge, is fundamentally undemocratic and an abrogation of the long-held civic rights of individuals.²

It is up to Parliament to decide such matters. However, it should be pointed out that enrolment has long been compulsory (since 1911 in the Commonwealth and since 1923 in Victoria). Both the Victorian and Australian electoral commissions have “demand” powers, enabling them to require agencies to provide information for enrolment purposes. The electoral commissions have long used such information to identify people who appear eligible to enrol or to update their enrolment. The difference between the current situation and automatic enrolment is that, instead of the electoral commission writing to people inviting them to complete an enclosed enrolment form, the electoral commission would write informing them of their new enrolment details.

A Bill providing for automatic enrolment has been introduced in the New South Wales Parliament, with bipartisan support. The Bill:

- empowers the NSW Electoral Commissioner to enrol eligible NSW residents and to update the details of electors who are already enrolled, based on reliable data held by other government agencies;
- requires the Electoral Commissioner to notify a person (by letter, email or SMS text message) of the proposed change to the person's enrolment details, and to give the person at least seven days to provide any reasons why the change should not be made. The Electoral Commissioner is to send notices to the person's most recent address according to information received from other government agencies.

If Parliament did legislate for automatic enrolment, careful implementation would be required. Each agency gathers information for its own purposes, according to varying

² Electoral Matter Committee: *Inquiry into voter participation and informal voting in Victoria. Report to Parliament*, July 2009. p. 215.

schedules. In some cases, clients' addresses may be points for contact rather than residential locations. The electoral commissions would need to clarify these matters with the agencies, and establish business rules on the use of agency data. For example, if two agencies provided matching information on an elector's new address, this might be regarded as sufficiently reliable for the commission to update that elector's enrolment. Electoral authorities would need to ensure that only those eligible were enrolled. In particular, there would have to be precautions against enrolment by non-citizens.³ People would have the opportunity to alert the electoral commission to any errors, but it would be the commission's responsibility to minimise the number of mistakes in the first place.

Automatic enrolment could be expected to greatly increase the completeness and accuracy of the roll. It should especially improve enrolment by young people, who are the largest single group whose enrolment rates are below average. Current controversies about proof of identity would be largely superfluous. However, automatic enrolment would not be a panacea. There would inevitably be a teething period after the system was introduced. Some people would fall through the cracks, because they would not appear on any of the databases, or information about them would be insufficiently reliable.

Online enrolment

The VEC would support moves towards online enrolment. There is a strong trend towards online transactions in all areas of society, and online enrolment would recognise this trend. The AEC has pointed out that a high proportion of enrolment forms received at the 2007 Federal election were sourced from the internet. Currently, people can fill in an enrolment form on the VEC and AEC websites, but they then have to download it, sign it and forward it to the electoral commission. Online enrolment would enable the whole process to be completed online, greatly improving convenience for electors. In the absence of a signature, some form of proof of identity would be needed; a driver licence number should be sufficient in most cases.

Election day enrolment

Election day enrolment might be introduced either as a stand-alone measure or in conjunction with automatic enrolment (in which case the numbers enrolling on election day should be considerably reduced). The VEC sees the main purpose of election day enrolment as catering for people who have been removed from the roll. Legislation might also provide for enrolment updates on election day, which would increase the numbers concerned.

People who insist that they should be enrolled but whose names cannot be found on the roll may cast a declaration vote, completing their ballot papers and also a declaration including their details. After election day, these declarations are checked to determine whether these people are entitled to be enrolled and so whether their votes should be admitted to the count.

³ There are already precautions to this effect. During 2007-08, the VEC wrote to 115,021 potential electors, and 1,589 of these advised the VEC that they were non-citizens.

The number of people in this position is significant. Statistics for the 2006 Victorian State election are as follows:

Type of declaration vote	Number checked by VEC	Number admitted to count
Early	1,499	518
Absent	33,237	4,461
Unenrolled	39,667	2,617
TOTAL	74,403	7,596

Of the 74,403 whose names could not be found on the roll and who claimed a vote, 66,807 were not admitted to the count.⁴ This figure is almost the equivalent of the enrolments for two electoral districts. It does not include an unknown number who could not be found on the roll and who simply went away. Similarly, at the 2007 Federal election, 143,470 of 167,682 provisional votes were rejected – equivalent to 1.5 electoral divisions.⁵

Overlapping this group are electors who enrol too late for the election. In 2006, the VEC processed more than 40,000 enrolment transactions after the close of the rolls.⁶ In 2007, 100,370 people provided an enrolment form to the AEC between the close of rolls and polling day.⁷

The people turning up to voting centres are making a genuine attempt to vote. Overwhelmingly, they are people who have been enrolled in the past, have been taken off the roll by objection because they have failed to update their enrolment when they changed address, and who are unaware of this fact or who want to avoid a fine. Under current law, the great majority of these declaration votes have to be rejected, because the claimants have been correctly removed from the roll.

In the interests of maximising legitimate voter participation, it would be desirable to find some way of allowing these votes to be counted. The introduction of election day enrolment promises significant improvements.

Experience overseas

Several English-speaking countries allow people to enrol up to election day.

⁴ Victorian Electoral Commission: *Report to Parliament on the 2006 Victorian State election* (VEC 2006 Report), p. 78.

⁵ Joint Standing Committee on Electoral Matters: *Report on the conduct of the 2007 federal election and matters related thereto* (JSECM 2007 Report), p. 60.

⁶ Calculated from VEC 2006 Report, pp. 26-27.

⁷ JSECM 2007 Report, p. 48.

In New Zealand, electors can enrol up to the day before polling day. The roll used in polling places is as at the issue of the writ for the election. Electors who have enrolled after the issue of the writ are given a special vote, which is checked after the close of voting to determine whether the voter is on the roll and the vote should be admitted. At the 2005 election, 102,914 enrolment forms were received in the month between the issue of the writ and the day before polling day, resulting in a net increase to the roll of 35,363 electors (1.35% of the total). About 50% of the enrolments were received in the last week.⁸

In Canada, people meeting the eligibility requirements can register when they turn up to vote; 6.1% of all voters registered at the polls at the 2008 general election.⁹

Nine states in the United States have some form of election day registration (EDR). In these states, eligible citizens who are not found on the voting lists are asked to show a valid ID to a poll worker, who checks it and registers them on the spot. At the 2008 Presidential election, voter turnout as a proportion of the voting eligible population was 7.8 percentage points higher in states with EDR than in states without EDR.¹⁰ Proponents of EDR argue that the voter turn-out rate in these states is consistently higher than in states that do not have this system, and that it has not led to fraud or administrative inconvenience.¹¹ A sceptic on such matters conceded that “largely in elections in which there is higher citizen interest, election day registration can enhance turnout”, but was concerned about the possibility of last-minute fraudulent registrations.¹²

How would election day enrolment work?

This section first examines how election day enrolment might operate if it provided purely for enrolments, and then how it might work for enrolment updates. If applied to enrolments, the purpose of the system would be to enable voting by eligible people who had been removed from the roll and who were mostly not aware of this fact. The logical place for the system to operate would be at voting centres, both on election day and during the early voting period. Enrolment on the spot seems preferable to the New Zealand system (under which electors can enrol through normal channels up to the day before polling day), because under that system there would still be substantial numbers of people turning up to voting centres who are not enrolled. It would be confusing to have both the New Zealand system and election day enrolment, as it would create two categories of people who could not be found on the roll – those who had enrolled late and those who were not enrolled at all – who would need to be treated differently but who could not be readily distinguished from each other.

⁸ New Zealand Electoral Act 1993 and information from Electoral Enrolment Centre.

⁹ Elections Canada: *Report of the Chief Electoral Officer of Canada on the 40th General Election of October 14, 2008*, p. 24, http://www.elections.ca/gen/rep/re2/sta_2008/stat_report_e.pdf, downloaded 9 October 2009.

¹⁰ Calculated from United States Election Project: 2008 General Election Turnout Rates, http://elections.gmu.edu/Turnout_2008G.html, downloaded 14 October 2009.

¹¹ Demos fact sheet: “Same Day Registration”, www.demos.org/pubs/EDR_factsheet.pdf, downloaded 12 October 2009.

¹² Curtis Gans: “Making it easier doesn’t work”, Committee for the Study of the American Electorate, 13 September 2004, www.american.edu/ia/cfer/research/csae_09132004.pdf, downloaded 9 October 2009.

A prerequisite for a system of election day enrolment is for every voting centre to have an electronic look-up roll for the entire State. Such equipment is much more feasible than in the past. It would enable election officials to check whether a claimant to vote is enrolled in another electorate.

People who could not be found on the electorate roll would be directed to the declaration voting area. Here they would be checked against the electronic roll. Those who were not apparently enrolled would be invited to enrol and vote. They would complete a form that would act as both an enrolment form and a declaration vote form. The applicants would have to declare that all the information provided was true and complete and that they understood that giving false or misleading information was a serious offence. They would also have to provide a proof of identity and address from a prescribed list. The driver licence would be the most common type. Applicants who did not have such a proof would need to nominate two sources from the prescribed list. The voters would then vote and place their ballot papers in the declaration envelope.

The envelopes would be forwarded to the electoral commission, which would check that the enrolment forms were completed correctly and that the applicants were not already enrolled. If an applicant had failed at the voting centre to provide a proof of identity and address, the electoral commission would contact the two sources nominated by the applicant (which would include the driver licensing authority, the local council and utilities) to confirm the applicant's identity and address. Arrangements would have been made beforehand to confirm the electoral commission's right to request these details from the authorities for this purpose, while satisfying privacy concerns. Applicants who passed this test would be enrolled (or the information would be forwarded to the AEC), and their votes would be admitted to the count. Those that failed the test could not be admitted to the count, and the electoral commission would send them a new enrolment form. Some of those enrolling at voting centres would have already submitted an enrolment form after the close of rolls; if the details on the forms matched, there would be no problem, while if the details differed, the voting centre enrolment would take priority.

This proposed scheme for election day enrolment has several advantages over the system for dealing with unenrolled votes. Currently, the great majority of unenrolled votes have to be rejected, because the applicants have been correctly removed from the roll. In the past, the AEC accepted a higher proportion of provisional votes and reinstated applicants on the roll at their claimed address, but as many of the applicants no longer lived at that address, they would then be removed from the roll by objection and go through the same process at the following election. This revolving door process inconvenienced both the AEC and the voters, and did not improve the accuracy of the rolls. In contrast, under election day enrolment most applications would succeed, boosting participation in elections. Applicants would be enrolled for their correct address, improving the completeness and accuracy of the rolls.

For enrolment updates, the system would work in much the same way. Election officials would first need to establish that the elector was enrolled for a different address from the current residence, and that the elector had lived at that residence long enough to be entitled to enrol for that place. Electors who did not satisfy this requirement would cast an absent vote for their old address. Those who did meet the requirement would complete a combined enrolment/declaration vote form, which would be checked at the electoral commission.

Potential issues – election fraud

In Australian State and Federal elections, election fraud is largely a myth. There have been no cases of organised fraud, such as impersonation or multiple voting, to steal the result of an election. There are isolated cases of individuals committing voting offences, but their effect has been insignificant. Nevertheless, electoral law and administration need to maintain reasonable precautions against election fraud, particularly in the case of major changes such as a move to election day enrolment.

In the United States, there has been practically no voter fraud attributable to EDR. Administrators from both sides of politics in EDR states consider that EDR actually works against voter fraud, because applicants have to appear in person before an election official and have to provide prescribed forms of identification. Several states write to new registrants after each election and investigate if the mail is returned as undeliverable. Returned mail almost always has an innocent explanation, such as the voter changing address after the election.¹³ Curtis Gans in 2004 argued that EDR is vulnerable to last-minute fraudulent registration because there is no time to check the validity of registrations on election day, but his argument seems to neglect the fact that applicants have to provide forms of identification before they are registered, and the minimal level of fraud that has occurred.¹⁴ However, it should be noted that the states in which EDR operates are generally small in population and do not have a history of significant election fraud.

Several checks would be built into the proposed Australian system. Firstly, the voting centre would have an electronic roll, and would see whether the applicant appeared to be already enrolled. Secondly, an application would have to pass the same tests as for an ordinary enrolment, and would also have to prove their identity and address. Thirdly, the vote would not be accepted immediately; it would be a declaration vote, and would be checked by the electoral commission before it could be admitted to the count.

¹³ Lorraine Minnite: “Election Day Registration: A Study of Voter Fraud Allegations and Findings on Voter Roll Security”, www.demos.org/pubs/EDRVF.pdf, downloaded 13 October 2009; “Voters Win with Election Day Registration”, www.demos.org/pubs/voterswin_09.pdf, downloaded 13 October 2009.

¹⁴ Curtis Gans: “Making it easier doesn’t work”, Committee for the Study of the American Electorate, 13 September 2004, www.american.edu/ia/cfer/research/csae_09132004.pdf, , downloaded 9 October 2009.

Potential issues – administrative overload

The main unknown with election day enrolment is the number of voters affected. If the numbers of enrolments at voting centres were similar to those currently applying for unenrolled votes, the work required to process them should be manageable. If the numbers were significantly greater, the increase would put pressure on the election officials at the voting centres and on electoral commission staff afterwards. It could lead to delays or increased costs or both.

In the United States, significant numbers of voters register on election day, ranging up to more than 18% of the total (541,876 votes of 2,910,369) in Minnesota in 2008. Advocates of EDR claim that EDR causes insignificant increases in costs and administrative difficulty, because it replaces the processing of provisional votes.¹⁵ However, this is not always the case. When EDR was introduced in Montana in 2006, some 4,000 people registered and voted on election day – a large number for a small state in an “off” year (a year without a presidential election). Election officials were caught off guard, and the results were poll worker confusion, diversion from their normal tasks, and long queues. One county had people in line voting at midnight.¹⁶ Even where EDR is well established, there can be delays; a county clerk in Minnesota considered a wait of 20 minutes to register to be acceptable.¹⁷ It is clear that substantial resources have to be devoted to processing registrations. In Minnesota, registration judges are appointed for each polling place. Similarly, in Canada, a registration officer is appointed for each polling station; registration officers comprised 18,644 of Elections Canada’s 236,380 staff at the 2008 general election.¹⁸

If election day enrolment were introduced in Australia, each claim for enrolment at a voting centre would probably take slightly longer to process than an unenrolled vote, because the enrolment form is more complicated than an unenrolled vote declaration form. Electoral commission checking of a claim for enrolment would also probably take slightly longer than the processing of a claim for an unenrolled vote, which in most cases simply requires a check whether the claimant is enrolled.

One risk is that the introduction of election day enrolment might change the psychology of enrolment. At present, electoral commission communication campaigns stress the close of rolls, and urge those eligible to act before it is too late. This leads to a flood of enrolments in the week or so up to the close of the rolls. If election day enrolment applied, the close of rolls would no longer be the absolute deadline for enrolment. People might be inclined to enrol

¹⁵ “Voters Win with Election Day Registration”, www.demos.org/pubs/voterswin_09.pdf, downloaded 13 October 2009.

¹⁶ Electionline.org: “Election-Day Registration: A Case Study” pp. 1-2, 4-6, *Briefing*, February 2007, <http://www.pewcenteronthestates.org/uploadedFiles/Election%20Reform%20Briefing%2016:%20Election-Day%20Registration%20A%20Case%20Study.pdf>, downloaded 9 October 2009.

¹⁷ *Ibid*, pp. 7-8.

¹⁸ Elections Canada: *Report of the Chief Electoral Officer of Canada on the 40th General Election of October 14, 2008*, pp. 40, 51, http://www.elections.ca/gen/rep/re2/sta_2008/stat_report_e.pdf, downloaded 9 October 2009.

and vote on the same day, rather than go to the trouble of making two transactions in a few weeks.

Election day enrolment should be a second chance for those who have failed to enrol in good time or have dropped off the roll without their knowledge, rather than a primary means of enrolling. It should be treated in the same way as unenrolled voting is now: that is, with minimal publicity, and with applicants being assisted at the voting centre. The aim should be to ensure that applications for election day enrolment are on the same scale as current applications for an unenrolled vote. There would be media coverage when the legislation changed, but this should be some time before the election. Electoral commissions would need to brief the political parties at the outset of the election, and would have to inform the media if asked. Information should make it clear that this is not a soft option: it would require completing an enrolment form and providing proof of identity and address, and would take some time.

Voting centre staff would need to be trained to process enrolment applications efficiently and correctly, turning away those who are already enrolled for a different address. Despite all precautions, it is likely that election day enrolment would create an additional administrative burden, particularly if it was extended to enrolment updates. Electoral commissions would be well advised to allocate additional staff and resources to cope with election day enrolment, at least until demand was clear.

Enrolment enforcement

As noted above, enrolment has long been compulsory at both the Victorian and Commonwealth levels. Section 23 of Victoria's *Electoral Act 2002* requires a person who is entitled to enrol to complete an enrolment form and forward it to the VEC, and an elector who has changed his or her principal place of residence to notify the VEC in writing. The penalty for failure to do so is 1 penalty unit (currently \$116.82). There are similar provisions in the *Commonwealth Electoral Act 1918*.

In practice, there have been very few prosecutions for failure to enrol. Partly this is the result of the relevant provisions. Under section 23(5) of the *Electoral Act 2002*, if a person forwards an enrolment form to the VEC, proceedings must not be instituted against that person for any offence allegedly committed before the form was forwarded.¹⁹ This effectively means that a person can enrol even after proceedings for failure to enrol have commenced, making the proceedings a costly waste of time. It also means that a person will not be prosecuted even though they may have failed to enrol or update their enrolment for a long time. Electoral commissions wish to reassure such people that they will not be punished for their past inaction, so that they will not be deterred from enrolling. Electoral commissions generally have encouraged enrolment rather than stressing its compulsory nature.

¹⁹ Section 101(7) of the *Commonwealth Electoral Act 1918* is very similar.

Victoria's Electoral Matters Committee (EMC), in its recent report on voter participation and informal voting, stated that "The Committee expects that the VEC will enforce the electoral enrolment enforcement provisions of the *Electoral Act 2002* (Vic)", and recommended:

the Victorian Government examine legislative reform to achieve the following goals:

- maximising the electoral enrolment of eligible Victorians, including enforcement of the compulsory enrolment provisions of the *Electoral Act 2002* (Vic).²⁰

At earlier focus groups conducted for the VEC, young people have said that if compulsory enrolment is law, then that is what the electoral commission should advise them. Based on this research and the EMC's recommendation, the VEC has conducted a trial program taking a firmer line in its enrolment mail-outs. In its initial mail-out, stressing the benefits of enrolment, the response rate was 18%. The response rate to a reminder mail-out to those who did not respond the first time was 20%. The VEC's third mail-out informed people that they were to be removed from the roll and that the VEC would commence legal action if they did not re-enrol. The response rate to this third mail-out was 30%. The VEC is now considering prosecution of people who refuse to enrol.

In the absence of legislation providing for automatic enrolment and/or election day enrolment, a stronger approach by electoral commissions to compulsory enrolment may achieve results.

Enrolment by homeless people

The VEC supports the insertion of a new section of the *Commonwealth Electoral Act 1918* specifically providing for enrolment by homeless persons.

Section 96 of the Commonwealth Act provides for enrolment by itinerant electors. The section was originally created to cater for travelling seasonal workers such as fruit pickers and shearers, but also applies to homeless persons. Section 22(4) of Victoria's *Electoral Act 2002* provides that a person who is an itinerant elector under section 96 of the Commonwealth Act is also an itinerant elector under State law. Section 3A of the State Act specifies that an itinerant elector under section 22(4) includes a homeless person, and defines "homeless person".

There have been some difficulties with these provisions. The VEC has conducted many enrolment sessions at homeless centres in partnership with the organisations running those centres. Experience has shown that, when given the opportunity, many homeless people are willing to enrol and vote. However, their life circumstances mean that it is hard for them to maintain their enrolment. Homeless people stay in crisis or transitional accommodation for

²⁰ Electoral Matter Committee: *Inquiry into voter participation and informal voting in Victoria. Report to Parliament*, July 2009. pp. 29, 58.

unpredictable periods, which can last for months. The AEC has taken the view that once a homeless person has stayed in a place for more than a month, he or she has a “real place of living” (the Commonwealth equivalent of the State Act’s “principal place of residence”), and so is no longer entitled to be an itinerant elector. The person loses his or her itinerant elector status and has to enrol for the place of living. In theory (though hardly in practice), the person is liable to prosecution if he or she fails to enrol for that place.

These provisions may be suitable for seasonal workers. However, they are inappropriate for homeless people, and work against the objective of encouraging them to enrol and vote. Advocacy groups have proposed a variety of legislative changes to exempt homeless people from requirements. It would be preferable to create a new section of the Commonwealth Act covering enrolment by homeless persons. This section would define “homeless person” along the lines of section 3A of the State Act, including a person who lives in crisis or transitional accommodation. By definition, this address would not be a “real place of living” or “principal place of residence”. The homeless person would not be enrolled for that address but for the address under the hierarchy in section 96(2A) of the Commonwealth Act, and so would not have to update enrolment if he or she changed accommodation. Once the elector moved into permanent accommodation, he or she would cease to be entitled to be a homeless elector and would be bound by the same rules as everyone else. This proposed amendment would encourage enrolment by homeless people and make it easier for them to stay on the roll.

Conclusion

The VEC believes that the above proposals offer scope for substantial improvements to electoral enrolment in Australia. The VEC would welcome the opportunity to expand on these matters.

Steve Tully
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November 2009