Recommendations for change

The Victorian Electoral Commission (VEC) raises 10 recommendations for consideration by Parliament. The VEC would welcome the opportunity to be involved in further consideration of these matters. A summary of the response to recommendations made by the VEC in its Report to Parliament on the conduct of the 2014 Victorian State election is included in Appendix 23.

Digitisation of information

To facilitate the transition away from traditional print advertising and postal services, the VEC proposes new definitions are added to section 3 of the Electoral Act 2002 to allow references to ‘publicly advertise’ information and ‘deliver’ material to include providing the information and material by electronic means. Further, the VEC proposes that related references to giving or receiving information in the Electoral Act 2002 (e.g. ‘post’, ‘notice in writing’, ‘publish’) are reviewed in light of these new definitions to permit a more holistic response to the community’s changing expectations for accessing and receiving electoral services.

Recommendation 1: It is recommended that section 3 of the Electoral Act 2002 is amended to capture electronic means for wherever the law requires the VEC to ‘publicly advertise’ information or ‘deliver’ material, and that references to giving or receiving information or material are reviewed in accordance with these definitions. See page 31.

Witnessing provisions on enrolment forms

In the absence of a valid document of identification (i.e. a driver licence or a passport), enrolment forms provide for an elector be an authorised witness and attest to the identity of an elector. The law requires a witness to include their enrolled address on the enrolment form. In many cases, election staff or support workers are able to confirm a person’s identity but are reluctant to add their enrolled address on an enrolment form belonging to a person not personally known to them.

Recommendation 2: It is recommended that section 23(3)(c) of the Electoral Act...
Electronic Assisted Voting

Part 6A of the Electoral Act 2002 was updated prior to the 2018 State election to allow for the provision of electronic assisted voting for electors who cannot otherwise vote without assistance because of blindness, low vision, or a motor impairment. Other groups of electors with limited voting options who would benefit from access to electronic voting include those with mobility issues, those experiencing homelessness, Antarctic electors (as defined in section 3 of the Electoral Act 2002), and those affected by declared emergency situations.

Recommendation 3: It is recommended that the prescribed class of eligible electors who can access electronic assisted voting be extended 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. See page 58.

Preparing for emergency situations

Providing the Electoral Commissioner with broader power to adapt provisions of the Electoral Act 2002 to ensure the proper administration of an election during a declared emergency situation that arises during the election timeline would enable greater flexibility to respond to any such situation. The VEC notes such arrangements exist in Canada under section 17 of the Canada Elections Act 2000.

Recommendation 4: It is recommended that the Electoral Act 2002 is amended to allow the Electoral Commissioner to make alternative arrangements to ensure the proper administration of an election in the event of a declared emergency situation. The change should remove the need for voting to be suspended or adjourned under sections 97 and 97A of the Electoral Act 2002, respectively, for declared emergency situations. See page 56.

Processing early votes

Changes to the Electoral Act 2002 in 2018 introduced early processing of postal votes from 8.00 am and early votes from 4.00 pm on election day (see section 110J). This was implemented successfully and contributed to the VEC counting 79% of total votes on election night. However, the sorting and reconciliation of increasing numbers of early votes for other districts placed additional pressure on election staff who worked long hours through election weekend in order to deliver ballot papers to their respective districts for further counting. More than 1.37 million early votes were cast at the 2018 State election, representing 36.77% of total votes. The increase in early voting is expected to continue. For future elections, earlier access to early votes on election day, using the same timeline as for early processing of postal votes, will assist to optimise the number of votes that are able to be counted on election night.

Recommendation 5: It is recommended that the Electoral Act 2002 is amended to allow the processing of early votes to commence at 8.00 am on election day in a manner determined by the VEC that does not include the inspection of the ballot papers. See page 62.

Extending counting days

In order to ensure the accuracy and integrity of counting is maintained, the VEC recommends extending the time period for the return of the writs from 21 days to 23 days from election day for possible re-counting activities. In effect, this extension has a negligible impact on the election timeline as it moves the deadline from Saturday under the current timeline to the Monday immediately afterwards.

Recommendation 6: It is recommended that section 61(4)(c) of the Electoral Act 2002 is amended from 21 to 23 days. See page 67.
Signage at voting centres

The Electoral Legislation Amendment Act 2018 introduced restrictions on the number (two) and size (600 mm x 900 mm) of signs that are permitted to be displayed by a candidate or party within 100 metres of each designated entrance of a voting centre. The implementation of this provision caused some confusion in respect to the counting of signs, particularly those for endorsed candidates for the Legislative Council. These candidates and their parties requested clarification on how many signs the candidates could display if the party chose not to display any signs. In effect, this opens the new provision to the scenario where five endorsed candidates in a group/party could translate to 10 signs for that group/party. In addition, the changes did not provide direction to identify the person liable for displaying the sign(s).

Recommendation 7: It is recommended that section 158A of the Electoral Act 2002 is amended to provide clarity around the liability and number of signs permitted to be displayed within 100 metres of a voting centre. See page 79.

Expanding direct enrolment to include changes of address

As the direct enrolment program has evolved, the legislation providing for direct enrolment has not changed. The information available to the VEC is not specific to just new enrolments and also applies for those who have changed address and failed to update their details.

Recommendation 9: It is recommended that section 23A of the Electoral Act 2002 is expanded to permit the VEC to initiate an update to an elector’s enrolled address based on available information. See page 21.

The indexation requirement

A comprehensive review of Victoria’s funding and disclosure laws is planned to follow the 2022 State election. In the meantime, the VEC notes that all caps, donation disclosure thresholds and funding amounts specified in Part 12 of the Electoral Act 2002 are subject to an annual CPI indexation on 1 July each year. For example, the donation cap at implementation was $4,000 for its year. 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.

Recommendation 10: It is recommended that the indexation requirement in Part 12 of the Electoral Act 2002 is removed from political donation disclosure thresholds and donation caps. See page 73.

Regulating and securing our online electoral environment

The increasing dependency on technology for electoral administration (by the VEC) and electoral campaigning (by others) creates an expectation that the VEC can properly regulate and secure the online environment. The current statutory scheme regulates this area through parts of the Electoral Act 2002, as well as various ‘computer offences’ in the Crimes Act 1958, which may not be suited to this new and evolving electoral environment.

Recommendation 8: It is recommended that the Electoral Act 2002 is amended to include new provisions that equip the VEC to respond to online threats to the integrity of an election. This may include new offences for forgery, manipulation, interference, tampering or other misuse specific to online electoral systems or transactions, as well as expanding the existing authorisation requirements for electoral matter to specifically include electoral matter published using social media and instant messaging services (as distinct from the internet generally). See page 80.