



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Justice Committee

Komiti Whiriwhiri Take Ture

54th Parliament

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Inquiry into the 2023 General Election

**Report of the Controller and Auditor General,
General Election 2023: *Independent review of
counting errors***

**Petition of Daniel Bond: Allow for a “vote of no
confidence in any political party” in the next
election**

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Inquiry into the 2023 General Election

Summary of recommendations

The Justice Committee has conducted an inquiry into the 2023 General Election and makes the following recommendations to the Government:

Election operations

We recommend to the Government that it:

1. encourage the Electoral Commission to consider how it can improve its recruitment, training, payroll, and management processes, including:
 - hiring more experienced and skilled poll workers
 - simplifying its payroll system
 - ensuring staff are able to work with voters with disabilities
2. consider amending the candidate nomination provisions in Part 6 of the Electoral Act 1993 to refer to the Electoral Commission rather than the Returning Officer
3. consider removing the right to inspect candidate nomination forms
4. consider a single deadline for all candidate and party list nominations
5. consider amending section 142 of the Electoral Act to allow the Electoral Commission to determine the date and the methods of giving notice of nomination day and the process for nominations
6. consider amending section 146B of the Electoral Act to make the deadline for giving notice of the intention to submit bulk nominations one working day after the start of the regulated period
7. consider amending the Constitution Act 1986 to ensure the continuity of executive government in the event of a delay to the return of the writ—for example, a judicial recount or an emergency that requires adjournment
8. clarify what “accompany” means for scrutineers accompanying ballot boxes to a designated counting place for the preliminary count
9. consider an Electoral Act amendment to make it clear that an MP cannot be a scrutineer
10. review whether the scrutineer provisions remain fit for purpose, including whether they are clear about who should be able to appoint scrutineers, the parts of an election they should be appointed to observe, and the information they should be allowed to collect and share with their campaign teams
11. consider amending the statutory deadline, after which applications for party and logo registration cannot be processed by the Electoral Commission, to coincide with the start of the regulated period
12. consider requiring parties to provide a copy of their candidate selection rules with their party registration application, rather than within a month after registration
13. review the existing umbrella and component party provisions and consider whether changes to the rules are needed

14. consider vesting adjournment powers in the Electoral Commission Board rather than the Chief Electoral Officer
15. consider enabling the Electoral Commission to extend the time available for any electoral processes or deadlines affected by an unforeseen or unavoidable disruption that could affect the proper conduct of an election
16. consider a new power that permits the Governor-General, acting on the advice of the Prime Minister, in consultation with the Leader of the Opposition, to withdraw the writ issued for a general election where a national state of emergency will significantly interfere with the proper conduct of the election and requires the Prime Minister to advise the Governor-General of the earliest date the general election can be held (but no later than the day three months after the withdrawal of the writ)
17. consider the merits of a new statutory power to reconvene Parliament
18. consider legislation that makes seeking to disrupt an election event a specific offence with its own thresholds and penalties
19. consider whether the electronic voting service used by overseas voters could be extended to voters with disabilities who have difficulty voting because of accessibility issues
20. consider the extent to which New Zealand Sign Language services and resources are available in every electorate, or urban centre if it spans multiple electorates
21. ask the Electoral Commission to consider different ways of distributing the EasyVote card, including electronically, and to make it clear that the card is not required to vote.

Electoral law

We recommend to the Government that it:

22. review the rules that apply to election-day advertising, taking into account:
 - the growth of social media and advance voting, including what information can be added to a website on election day about enrolment, voting, and news media coverage
 - the potential to enable increased freedom of speech, particularly for the interactions of voters
23. consider (if the election-day advertising rules remain), whether to introduce harsher penalties for breaches and penalties for the candidates as well as the forum hosting the advertisement, and whether to relax time constraints to bring action of breaches
24. consider amending the campaign buffer zone provision to refer to the perimeter of the area in which votes are being issued and better clarify where the space applies, including the overhead space
25. consider how to ensure consistent rules for election advertising across the country. This should include the timing for when advertisements can be put up, the ability to override local council rules, and a requirement for New Zealand Transport Agency rules to be based on safety. If strict placement restrictions are necessary, they should be enforced
26. consider whether the election advertising expenditure limits should be adjusted once each parliamentary term, in the year before the election
27. consider removing the requirement for a street address in promoter statements in light of personal safety and security concerns of people participating in the election

28. consider whether the Electoral Commission should be required to hold contact details of all candidates, parties, and registered promoters, which would be available on request by any enrolled voter.

We recommend to the Government that it:

29. review the allocation criteria and current broadcasting regime. If the allocation remains in its current form, the appropriation should be increased for the 2026 General Election, given the significant increases in the cost of advertising since 2017
30. review the broadcasting rules and make the advertising rules “mode neutral”—that is, broadcasting would be treated the same as any advertising
31. consider whether parties and candidates be allowed to broadcast election programmes from the start of the regulated period, and the use of allocated money for internet advertising not be restricted to advertising run during the election period
32. consider amendments to section 80I of the Broadcasting Act to make both the broadcaster and the person who arranges the broadcast liable for breaches of the broadcasting rules at all times, not just in the election period.

We recommend to the Government, by majority, that it:

33. consider whether the broadcasting allocation should be removed and the election expense limit increased, with parties or candidates allowed to purchase as much broadcasting as they wish under the cap.

We recommend to the Government that it:

34. amend sections 147 and 157 of the Electoral Act and Regulation 18 of the Electoral Regulations 1996 to require the names of either all list candidates or a maximum of 120 to be included in the information published online by the Electoral Commission and provided to each Returning Officer for display in each polling place, not just the first 65 names
35. direct the Electoral Commission to continue enabling alternative ways to access polling booths. This should include later sessions for shift workers and on-site days at locations that are accessible to large workplaces such as factories and hospitals
36. encourage the Electoral Commission to better monitor the connection of polling sites to particular candidates or political movements and views, and avoid booths on premises that have direct connections with candidates or parties
37. consider stronger restrictions on polling booth sites, for example, requiring them to be policy- and viewpoint-neutral
38. review the treating offence in the Electoral Act to consider whether greater clarity can be provided. This should take into account cultural considerations and consider whether the provision of any food or drink at any polling booth should be prohibited.
39. clarify and publicise the requirement for enrolment for residents who are permanent residents or who hold a residence visa without an exit date
40. consider a longer-term legislative modernisation programme, which will require funding to provide for additional flexibility, or conditions in which electronic means are allowed, including:

- allowing an enrolment update to be made for an existing elector following a data match, with either postal or electronic confirmation (for example, a change of address)
- allowing electronic confirmation for a new enrolment, including any conditions (for example, requiring enrolment to be done online and verified using RealMe, a driver licence, or a passport)
- allowing a new enrolment to be actioned automatically following a data match that identifies a person as not enrolled, with either postal or electronic confirmation sent to the elector and clarifying how the Māori Electoral Option provisions would apply in this situation
- enabling alternative forms of enrolment inquiry to be undertaken by digital means, such as email
- amending the data-matching provisions in section 263B of the Electoral Act to allow the Electoral Commission to receive email and phone numbers to enable electronic communications to encourage enrolment
- allowing electronic confirmation for any update of an existing elector's enrolment record completed online or in writing
- allowing overseas electors to be sent electronic correspondence for enrolment update campaigns, to confirm a new enrolment, or for an enrolment update
- for integrity reasons, requiring electors who live overseas to re-enrol every three years (for New Zealand citizens) or every 12 months (for New Zealand permanent residents)
- improving the scope for information-sharing to update enrolment details
- allowing an individual to be automatically enrolled at birth or upon gaining residency or citizenship
- exploring allowing the use of Inland Revenue and other government data as an automatic enrolment tool

41. consider a review of the enrolment update requirements in section 89D of the Electoral Act to ensure that only information necessary for roll integrity is collected

42. consider options, subject to funding, to reduce the growing number of special votes and their impact on the official count, balancing access, timeliness, and integrity, including:

- ways of improving how voters' enrolment details are kept up to date
- processing special votes in the electorate where they were cast
- digital solutions, such as digital roll mark-off, print on demand, and electronic counts
- early processing of special votes before election day

43. consider changing the legislation to enable unpublished electors to be issued an ordinary vote using a unique identifier, should funding become available in the future.

We recommend to the Government, by majority, that it:

44. consider amending the cut-off date for enrolments and updates to enrolment details to be prior to polling day.

We recommend to the Government that it:

45. consider whether the Electoral Commission is required to send Māori Electoral Option information to electors for an out-of-cycle triennial body election that does not have a Māori ward or constituency
46. consider removing the requirement that returns be made available for public inspection and just require them to be publicly available on an internet site that the Electoral Commission administers
47. consider adding an overarching anti-collusion provision to the Electoral Act to aid enforceability of electoral finance rules
48. consider whether the Electoral Commission be given the power to require the production of documents to better enable it to manage its compliance function in relation to electoral offences
49. consider, for the avoidance of doubt, defining “free labour” and “free or discounted services” in the Electoral Act. The definition should make clear whether “person” is limited to natural persons for the purposes of free labour
50. consider amending the Electoral Act to explicitly confirm whether or not and what type of aggregation is required in calculating the thresholds for donations and loans
51. consider clarifying the Electoral Act’s requirements about reporting donations and loans for parties that apply to cancel their registration
52. review the expense return requirements for parties that do not contest the party votes or stand any electorate candidates.

Long-term trends in elections

We recommend to the Government that it:

53. consider whether electoral law should move towards a single voting period. Factors that should be considered include:
 - the appropriate balance between certainty and flexibility in the law
 - how advance voting affects campaigning
 - the effect that an emergency or disruption or an early election could have on advance voting services
54. consider whether the Electoral Commission should be funded to run local elections
55. review section 199A of the Electoral Act to extend the prohibition against publishing false statements to influence voters to the entire voting period rather than two days before and on polling day.

Other matters

We recommend to the Government that it:

56. review the rules related to the death of a candidate to ensure the proportionality of Parliament is maintained
57. consider how the provisions of the Electoral Act apply where a candidate dies after the close of nominations
58. amend section 55 of the Electoral Act to provide for the seat of a list MP who wins a by-election to be automatically vacated at the close of the day before the writ is returned
59. create infringement offences for minor breaches of electoral law

60. prosecute political parties for breaches of electoral law, rather than secretaries personally
61. consider whether parties with election expenses of less than \$50,000 need to have an auditor's report and whether to replace other audited returns with a financial review when income is less than a specified amount
62. modernise the wording and the operation of the Electoral Act
63. consider reviewing the layout and instructions of the ballot paper, including the order of candidates and parties
64. prohibit voters from taking photos of their ballot papers in polling places without permission of the Returning Officer
65. consider increasing the availability of electoral data for research purposes.

Other items of business

The committee has also considered the following items:

- Report of the Controller and Auditor-General, *General Election 2023: Independent review of counting errors*
- Petition of Daniel Bond: Allow for a "vote of no confidence in any political party" in the next election.

It recommends that the House take note of its report.

Background

Context of our inquiry

Terms of reference

By convention, the select committee with responsibility for electoral matters conducts a review of the previous General Election at the start of each term of Parliament. In February 2024, we initiated an inquiry into the 2023 General Election, with the following terms of reference:

Scope

The inquiry will examine the law and administrative procedures for the conduct of parliamentary elections in light of the 2023 General Election, with particular focus on the following major themes:

- Election operations, including but not limited to administration, logistics, and voting practices.
- Electoral law broadly, including advertising, party lists, polling places, registration on the general and Māori rolls, donations, and any changes to legislation since the previous General Election.
- Long-term trends in elections, including advance voting, turnout, the capacity of the Electoral Commission, and disinformation.

Aims

- To identify and recommend specific legislative changes to improve New Zealand's electoral system in time for the next General Election, where practicable.
- To make any other recommendations regarding legislative changes and policy questions that require further consideration, for the long-term health of our electoral system.
- To give the public the opportunity to have its say on the law and administrative procedures for the conduct of parliamentary elections and referendums.

We appointed the Ministry of Justice as advisers for our inquiry. We received written submissions from 96 individuals and organisations, and heard oral submissions from 22 submitters. Our report discusses submitters' views on the matters listed in our terms of reference, as well as several other matters that they raised.

The Electoral Commission's report on the 2023 General Election

Section 8(1) of the Electoral Act 1993 requires the Electoral Commission to report on certain matters related to the administration of the general election. The Commission published its report on 23 May 2024, and we held a hearing with it on the same day. Following the hearing, the Commission was appointed as an adviser for our inquiry. In its report, it makes

44 recommendations that aim to modernise and improve services to voters, most of which we endorse and discuss in this report.

Auditor-General's report on the independent review of counting errors

After the Commission released the official results of the election on 3 November 2023, a journalist queried the accuracy of party votes in one electorate. The Commission investigated and identified various errors. It subsequently amended and reissued the official results on 9 November 2023. After a discussion with the Commission, the Auditor-General decided to review the Commission's quality assurance processes for counting votes.

The resulting report of the Controller and Auditor-General, *General Election 2023: Independent review of counting errors*, was referred to us for consideration on 7 May 2024. We considered the report in conjunction with this inquiry. We held a hearing with the Office of the Auditor-General (OAG) on 23 May 2024, which we discuss later in our report.

Report of the Independent Electoral Review

In May 2022, the previous Government established the Independent Electoral Review. Between May 2022 and November 2023, an independent six-person panel reviewed the Electoral Act. The panel provided its final report to the Minister of Justice on 30 November 2023. The Minister released the report on 16 January 2024.¹ The report contains 143 recommendations that cover many aspects of parliamentary electoral laws. The Government is now considering the recommendations and will respond formally to the review.

We held an oral hearing with the independent panel on 4 March 2024. Our report briefly discusses some of the panel's recommendations that we consider relevant to our terms of reference.

Overview of the 2023 General Election

In the 2023 General Election, a total of 2,884,111 votes were cast. The enrolment rate of 94.7 percent of eligible electors was the highest since 2008. A total of 567,012 Māori were enrolled, which was an increase of more than 31,500 from 2020.

The overall turnout was 78.2 percent of enrolled electors, compared with a turnout of 82.2 percent in 2020 and 79.8 percent in 2017. Turnout for voters in Māori electorates was 68 percent. A total of 1,762,490 votes (61 percent) were cast in the advance voting period (2 to 13 October).

An important feature of the 2023 election was the number of special votes, which made up 21 percent of all votes cast. Voters who cannot be marked off a roll in a voting place must complete a special vote. This happens if a voter:

- is not enrolled by writ day, so their name is not on a printed roll at a voting place
- votes outside their electorate at a voting place not issuing ordinary votes for their electorate
- completes a takeaway or postal vote and people voting away from a polling place
- uses the telephone dictation voting service

¹ A copy of the report is available on the [Ministry of Justice's website](#).

- votes from overseas
- is on the unpublished roll.²

We discuss enrolment and special votes, and the long-term trends in turnout and advance voting in more detail later in our report. Appendix C sets out a list of key dates.

² The unpublished roll contains the names of voters whose personal details, for safety reasons, cannot appear in the printed roll.

Election operations

Administration

We thank the Commission and the thousands of employees who worked during the election period. These employees performed a very good job, often in trying circumstances.

Recruiting and training staff

Most submitters who commented about the administration of the election referred to the quality and training of the staff. Their comments included praise for staff, various views on whether the training was adequate, and their experiences of issues with recruitment and management. Several submitters also expressed concerns about the effectiveness of the rostering and payroll systems. During the election, members also heard anecdotal reports that experienced election workers from previous campaigns had not been re-hired.

The Commission noted that it recruited people in more than 24,000 temporary roles in 2023, receiving a total of 47,542 job applications. It observed that recruiting for some roles was challenging, particularly in rural areas and for experienced electorate managers or certain post-election roles. The Commission observed that implementing its new online recruitment system addressed issues raised after the 2020 General Election. For example, it enabled more robust reporting and the Ministry of Justice criminal checks to be completed more quickly and efficiently. However, some applicants and staff found the system hard to use and were frustrated. The Commission is working to understand how it can improve the system and address the concerns raised.

The Commission trained its temporary staff using a range of methods. It acknowledged that the OAG's review recommended improving some areas of staff training, particularly quality assurance and post-election processes. The Commission has prioritised this training, and plans to develop better support for election staff.

Submitters also consider that more cultural sensitivity training is needed, and submitted that wrong advice was given to voters about the Māori roll. The Commission explained that improving services for Māori had been a continual focus in its preparations for the 2023 General Election. It had identified areas with historically low turnout and implemented a community-led approach to improve services and encourage participation. In areas with high Māori populations, this approach included working with local Māori to identify appropriate voting places, employing local people, and working with organisations with connections to communities. The Commission also operated 15 Kaupapa Māori voting places where services were provided in te reo Māori and English.

We were pleased to note that the Commission is working to improve its online recruitment system and training. However, we recognise that there are still some areas for improvement.

Recommendation

1. We recommend to the Government that it encourage the Electoral Commission to consider how it can improve its recruitment, training, payroll, and management processes, including:
 - hiring more experienced and skilled poll workers
 - simplifying its payroll system
 - ensuring staff are able to work with voters with disabilities.
-

Candidate nominations

The date by which nominations are due to the Electoral Commission must be noted in the writ. Polling day must not be earlier than the 20th day after nominations close. For the 2023 election, the nomination period was three weeks. Several submitters consider that the time frame for nominations was too short, with one suggesting that it should be extended to eight weeks.

The Commission also made some recommendations to amend the nominations process. The proposed amendments aim to streamline the process and address privacy concerns.

Recommendations

We recommend to the Government that it:

2. consider amending the candidate nomination provisions in Part 6 of the Electoral Act to refer to the Electoral Commission rather than the Returning Officer
 3. consider removing the right to inspect candidate nomination forms
 4. consider a single deadline for all candidate and party list nominations
 5. consider amending section 142 of the Electoral Act to allow the Electoral Commission to determine the date and the methods of giving notice of nomination day and the process for nominations
 6. consider amending section 146B of the Electoral Act to make the deadline for giving notice of the intention to submit bulk nominations one working day after the start of the regulated period.
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Candidate information

The Commission publishes on its website the names of candidates, the party they represent, and party lists. It does not publish biographical information, policies, or contact details. However, the Commission releases candidates' phone numbers and email addresses for the purposes of their candidacy, unless they ask it in advance not to do so. One submitter who organises events to meet the candidates commented that they had trouble getting candidates' details from the Commission. We learned that the Commission has apologised to the submitter for the difficulties they experienced. It will also reinforce in training and public information that contact details can be released.

Counting votes

Submitters expressed a range of views about the counting process. They included that the processes are appropriate if accuracy is emphasised, and that machines should not be used

to tally votes. One submitter was concerned that the counting errors would not have been detected if the media had not raised them. We discuss the counting errors in more detail on our section about the OAG's review.

Submitters commented on how the ability to enrol on election day and the number of special votes delay the release of the official vote count. They think the process for counting special votes needs to be sped up. We discuss enrolment and special votes, including recommendations on how to improve processes, in more detail later in our report.

One submitter suggested that special vote counts should be released in stages, as they are in Australia. We were advised that the Australian Electoral Commission publishes regular updates of the count following election day. However, this is only the total counted rather than the actual results. Although the progressive reporting of results provides some information to the public, significant investment in staff resource has been needed. Published results have also had to be corrected after the completion of quality assurance processes. Further, the official count for federal elections can take about 4.5 to 5 weeks.

Section 6 of the Constitution Act 1986 provides that Ministers can remain in office for 28 days after they cease to be MPs. One submitter was concerned that a constitutional crisis could be created if the vote count is not fast enough. The Commission makes a recommendation that aims to ensure the continuity of executive government if the return of the writ is delayed.

Recommendation

7. We recommend to the Government that it consider amending the Constitution Act 1986 to ensure the continuity of executive government in the event of a delay to the return of the writ—for example, a judicial recount or an emergency that requires adjournment.

Scrutineers

Section 160 of the Electoral Act provides for the appointment of scrutineers at each polling place. Section 174 specifies that election-night counts can be conducted at a designated place if it is not feasible to count at the voting place. Any scrutineer present when voting closes can accompany the ballot boxes to the designated place. The Commission makes three recommendations to clarify the scrutineer-related provisions in the Act. We note that the purpose of accompanying the ballot box is to ensure that there is no tampering.

We understand that ballot boxes are always sealed with a non-reusable security seal when being moved to the counting place, and that there is a process for signing and counter signing when a ballot box is opened and closed. The same process is also applied to the vote packets within a ballot box. We note that ballot boxes are sealed before they are moved and any scrutineer present can observe the sealing as ballots are placed in the sealed boxes. Scrutineers can also be present when the boxes are unsealed and counted.

Recommendations

We recommend to the Government that it:

8. clarify what “accompany” means for scrutineers accompanying ballot boxes to a designated counting place for the preliminary count
 9. consider an Electoral Act amendment to make it clear that an MP cannot be a scrutineer
 10. review whether the scrutineer provisions remain fit for purpose, including whether they are clear about who should be able to appoint scrutineers, the parts of an election they should be appointed to observe, and the information they should be allowed to collect and share with their campaign teams.
-

Party registrations

The Commission makes two recommendations related to party registrations. They aim to provide more certainty about which parties are eligible to contest the election and to use the broadcasting allocation. The recommendations would also make the registration processes more efficient for the Commission.

Recommendations

We recommend to the Government that it:

11. consider amending the statutory deadline, after which applications for party and logo registration cannot be processed by the Electoral Commission, to coincide with the start of the regulated period
 12. consider requiring parties to provide a copy of their candidate selection rules with their party registration application, rather than within a month after registration.
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Umbrella parties

The Electoral Act enables parties to jointly contest general elections by allowing one or more (registered or unregistered) parties to be a component party of another registered (umbrella) party. Only registered parties must report party expenses, donations, and loans. To avoid this loophole in disclosure requirements, the Independent Electoral Review recommended that unregistered parties should not be allowed to be a component party in this type of arrangement. The Commission recommends that the umbrella and component party provisions be reviewed, particularly regarding the transparency of funding.

Recommendation

13. We recommend to the Government that it review the existing umbrella and component party provisions and consider whether changes to the rules are needed.
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Logistics

Planning for extreme weather events

Some submitters suggested that electoral planning needs to take into account that more frequent extreme weather events could cause disruptions to postal services. The Commission stated that its election planning involves a range of activities to mitigate the potential risks from these types of events. This included developing plans to reduce the effect of disruptions to postal services.

On election day, several regions across the South Island experienced severe weather-related events. Three voting places closed early and 13 voting places across the Selwyn, Waimakariri, and Kaikōura electorates had to move their election-night counts. Regulation 24B of the Electoral Regulations 1996 allows a person affected by a significant event to make a special vote. The Chief Electoral Officer approved three voters to use the telephone dictation service due to a localised weather event. Although they registered to use the service, in the end none used it to vote.

The Commission noted that it has previously made relatively broad recommendations about the need to review emergency provisions. It considers that the current provisions only appear to address short-term disruptions that affect polling day. They would not provide for a significant emergency that occurred after Parliament had dissolved or after the writ was issued that affected candidate nominations, advance voting, or completing the count. The Commission endorsed the recommendations of the Independent Electoral Review regarding emergency powers.

Recommendations

We recommend to the Government that it:

14. consider vesting adjournment powers in the Electoral Commission Board rather than the Chief Electoral Officer
15. consider enabling the Electoral Commission to extend the time available for any electoral processes or deadlines affected by an unforeseen or unavoidable disruption that could affect the proper conduct of an election
16. consider a new power that permits the Governor-General, acting on the advice of the Prime Minister, in consultation with the Leader of the Opposition, to withdraw the writ issued for a general election where a national state of emergency will significantly interfere with the proper conduct of the election and requires the Prime Minister to advise the Governor-General of the earliest date the general election can be held (but no later than the day three months after the withdrawal of the writ)
17. consider the merits of a new statutory power to reconvene Parliament.

Intentionally disrupting an election

In its report, the Commission noted that it plans to work with relevant agencies before the next election to mitigate risks that have been identified as less likely but more consequential. At present, if people were to take steps to intentionally disrupt a general election, New Zealand could only respond where a criminal threshold had been met; and taking into account the rights of freedom of expression and freedom of political thought.

Recommendation

18. We recommend to the Government that it consider legislation that makes seeking to disrupt an election event a specific offence with its own thresholds and penalties.

Logistical issues experienced at polling places

Submitters shared their experiences of issues that occurred at polling places. They included places running out of appropriate ballot papers, the eRoll system not working effectively, and

long queues. A submitter suggested that the issues could be mitigated by ensuring that each polling booth has electronic and printed rolls and enough ballot papers. Several submitters were also concerned as to how these issues affected Māori, including whether they were able to vote on the Māori roll.

Nationwide outage of eRoll application

The eRoll mobile phone application is used by staff at voting places to check which electorate a voter is eligible to vote in. It can also identify whether a person needs to complete an enrolment form or a special vote. The Commission first used the application at the 2020 General Election.

On election day, eRoll experienced a nationwide outage, resulting in staff having to revert to the back-up manual process. The Commission's technology provider determined that load testing had not fully stress tested the application in the way that it would be used on election day. The Commission plans to conduct more robust testing for future elections.

We were concerned to hear about the issues with the eRoll application. We urge the Commission to ensure that it has printed rolls and sufficient stocks of voting papers at every polling booth as a backup if the eRoll fails.

Insufficient supplies of voting papers

During our consideration, the Member for Mount Roskill noted that his electorate experienced a high number of special votes. He recalled that people were turned away from multiple voting places in the electorate. The Commission explained that its electorate managers comprehensively analyse voting places in their election planning. This includes factors like previous traffic and the levels of ordinary and special votes. Commission staff use this analysis to estimate what will be needed for the upcoming election and always plan on overstocking. During the voting period, staff restock papers. The Commission said it is aware that some voting places temporarily ran out of papers. This included voting papers for shared neighbouring electorates, enrolment forms, and special vote declaration forms. The Commission acknowledged that this was not acceptable. Elsewhere, it said, people may have seen staff rushing in materials and believed that they had run out, whereas staff were merely restocking supplies. The Commission added that it received some complaints from voting places that were very popular, with long queues. We urge the Commission to ensure that it has sufficient supplies of special voting papers available at voting places.

Security of ballot papers and polling places

Several submitters expressed concern about the security of ballot papers and polling places. A submitter described his experience as a scrutineer and being told that the polling place at Whangaruru School was closed because of security risks. When he and his party queried electoral officials about it, he was instead told that the polling place was closed because of staffing issues. He asserted that this amounts to what he thinks is "serious misconduct by the highest levels—operational levels—of the Electoral Commission". The submitter also tabled documents, obtained through the Official Information Act 1982, which in his view substantiate these claims.

The Electoral Commission's power to appoint voting places under section 155 of the Electoral Act is delegated to the Chief Electoral Officer. We wrote to the Chief Electoral

Officer under Standing Orders 241 and 242(1) to inform him of the allegations and give him the opportunity to respond to the allegations.

The Chief Electoral Officer explained that making changes to advertised voting places is not something that the Commission takes lightly. However, situations can arise that require it to make quick decisions to provide certainty to voters. The situation at Whangaruru School was one such example. In the days leading up to election day, the Returning Officer became aware of a dispute in the local community, including threats against the school staff. On Thursday 12 October, the Returning Officer provided a memo to her Regional Manager recommending that the Chief Electoral Officer decide to close the school as a voting place. The memo was forwarded to the Chief Electoral Officer for a decision. He also received advice from the Commission's security team who liaised with the Police. The team provided a report on the evening of 12 October to the Returning Office and Chief Electoral Officer that concluded that there would not be any security risks to the electoral staff or voters. Before the Chief Electoral Officer approved the memo to authorise closing the school as a voting place on the morning of Friday 13 October, the Director Voting Services advised him that there had been difficulties getting staff to work there. Staff had also been reallocated to other voting places.

The Chief Electoral Officer stated that he was aware of all these factors when he approved the memo. He was satisfied that, as the nearest voting place was 5.6 kilometres away, voters would still be able to vote in the area. The Chief Electoral Officer therefore formally decided not to open Whangaruru School as a voting place.

On the afternoon of election day, Saturday 14 October, the Chief Electoral Officer approved a response to queries about the use of Whangaruru School as a voting place from the media and a party secretary. This response made it clear that the voting place did not open because of staffing issues, not security issues.

The Chief Electoral Officer noted that the decision to close the voting place was not only based on the contents of the memo. Emails from his security adviser, the Returning Officer, and the Director Voting Services were also factors in the decision. He explained that these additional factors were not recorded in the memo because things were moving at speed. However, the Chief Electoral Officer told us that he is clear about the reasons for his decision, and he stands by his response on election day, which was accurate.

Voting practices

Accessibility for voters with disabilities

Section 155(4) of the Electoral Act requires at least 12 polling places in each district to have access that is suitable for disabled people. In 2023, the Commission surpassed this requirement, with 1,495 fully accessible voting places and 962 voting places that were accessible with assistance.

Submitters commented on the barriers that prevent disabled people from being able to vote independently. One submitter considers that the requirement for a person to state their name is unfair on disabled people and any form of communication should instead be recognised. We note that section 167 of the Electoral Act requires a voter to verbally give or confirm their

name before a voting paper can be issued. However, voters who cannot meet this requirement because they do not understand English or have a physical disability can communicate by a gesture or any other means. We therefore consider that better training is needed about the alternative approaches to identify a person for accessibility reasons.

Services for voters with vision impairment

According to Blind Low Vision NZ, more than 180,000 New Zealanders are blind, deafblind, or have low vision. Section 170 of the Electoral Act provides for those who may need assistance to vote because of a disability or difficulty in reading or writing in English. The assistance can be from any person nominated by the voter or from voting place staff. The person assisting may go behind the voting screen with the voter and assist them to mark their ballot paper or mark it according to the voter's instructions. Some submitters are concerned that having to rely on third parties to mark their ballot violates the right to a secret ballot.

We sought advice on whether voting options are available that would allow visually impaired voters to cast a fully secret ballot. We were particularly interested in Braille ballots. In the United Kingdom, tactile voting devices are allowed for blind or low vision voters, which enable them to mark their own ballot. The devices attach to a ballot paper and have flaps marked in Braille or large text that cover the boxes on the ballot so the voter knows where to mark. To mark their ballot paper independently, blind and partially sighted voters can also use an audio device to listen to candidate lists. Polling places must provide a large-print sample of a ballot paper at every polling place, but votes must be cast on an ordinary ballot paper.

In New Zealand, section 170(6) of the Electoral Act already contains regulation-making powers that would let blind and low vision voters use devices to vote without assistance. To date, no regulations have been made under this section. However, we were advised that Braille or large print ballots would need to be counted separately, which could compromise the secrecy of the person's vote.

Telephone dictation services

Some submitters consider that telephone and electronic voting options need to be further developed to protect voters' right to a secret ballot. We note that the electoral legislation does not provide for fully electronic voting at present. We understand that, in its absence, the telephone dictation service has been designed to offer as much anonymity as possible.

Since 2014, the telephone dictation service has been offered for voters who cannot mark their ballot paper due to impaired vision or another disability.³ The service is available for all elections, by-elections, and referendums. In 2023, the telephone dictation service received 743 registrations (740 domestically and 3 from overseas) and 723 votes were cast (721 domestically and 2 from overseas).

Voters using this service make two telephone calls. To ensure anonymity, voters receive a unique registration number and answer an identification question, which establishes their eligibility. When the voter makes the second call to vote, they state their voting choice to a

³ The service is enabled under Regulations 23A and 45B of the Electoral Regulations.

person who does not know who they are. Two operators listen to the call, to assure the voter that their vote is recorded correctly. The first operator reads out the options on the ballot paper and marks it according to the voter's directions. The second operator confirms to the voter how the ballot paper has been marked. We were pleased to learn that the two-step process adds a layer of anonymity. However, we consider that, more generally, better awareness and training for assisting disabled people to vote is needed. This includes taking reasonable steps to ensure that voting services are accessible.

Submitters also suggested that the telephone voting service should be extended to local government elections and referendums. We agree, and consider that information about the service should also be available at voting booths.

Electronic voting

We note that recent changes to the Electoral Regulations enabled overseas voters to mark their voting papers digitally and insert their normal signature onto the special vote declaration. Overseas voters can now download their voting papers, insert their signature, and upload them online.

Recommendation

19. We recommend to the Government that it consider whether the electronic voting service used by overseas voters could be extended to voters with disabilities who have difficulty voting because of accessibility issues.

New Zealand Sign Language support

Submitters emphasised the importance of ensuring that information about candidates, policies, and how to vote is accessible in different formats. For example, one submitter suggested that New Zealand Sign Language (NZSL) support should be available to Deaf voters at voting places and for the preparation of election materials.

We sought advice on the feasibility of providing centralised NZSL options or resources at voting booths. At the 2023 General Election, the Commission had NZSL interpreters in locations of specific interest to Deaf communities. NZSL interpreters were provided in three voting places in Auckland, Wellington, and Christchurch. The Commission consulted representatives of the Deaf community and advocacy groups about voting services for that community. This included holding workshops with groups to discuss engagement and generate ideas for improving the Commission's services.

Recommendation

20. We recommend to the Government that it consider the extent to which New Zealand Sign Language services and resources are available in every electorate, or urban centre if it spans multiple electorates.

EasyVote cards

EasyVote packs are posted to electors in the lead-up to an election. About 3.4 million packs were posted in 2023. The main component of the pack is a personalised EasyVote card that helps staff at voting places quickly find the voter on the printed roll when issuing their voting

papers. In 2023, EasyVote packs also included voting locations, a brochure explaining how to vote, the candidates for the voter's electorate, and the party lists. In 2023, 75 percent of people surveyed who voted said they took their EasyVote card.

Although EasyVote packs contain useful information, voters do not need to have received a pack to vote. The Commission encourages voters to use their EasyVote card to make voting quicker and simpler. It estimated that issuing voting papers is 40 percent faster if a voter brings their card.

Some submitters highlighted issues with EasyVote cards. Anecdotally, members also heard about problems. They included voters not receiving their cards and electorate staff not realising that a person could vote without the card.

The Commission acknowledged that concerns were raised about how long it took voters to receive their packs in 2023. It reported that producing the EasyVote packs is a large operation for the Commission, its print providers, and New Zealand Post. Production can only start after nominations close. The amount of information provided in the pack increases complexity and reduces the speed of production. Changes to postal services since 2017 have also affected delivery time frames. The Commission is exploring whether it should only provide the card in the EasyVote pack and provide the other information digitally. This would enable it to provide the card sooner.

We note that 82 percent of surveyed electors were aware they could vote without their EasyVote card. However, we are concerned that nearly one-fifth of voters did not know that they could vote without the card. As a result, voters who did not receive their card or lost it thought they were unable to vote. The Commission recognises that it needs to consider how it informs and educates people about the EasyVote card.

Recommendation

21. We recommend to the Government that it ask the Electoral Commission to consider different ways of distributing the EasyVote card, including electronically, and to make it clear that the card is not required to vote.

Voting in the future

Submitters expressed a range of views about how voting should occur in the future. One submitted that online voting should be considered and the electronic option available to overseas voters extended. Conversely, other submitters did not think that online voting should be introduced. Alternatives proposed by submitters to the current options included postal voting, which would be easier for rural voters, or email voting.

Given the security issues, we consider that there should be no move at this stage towards electronic voting, except for continuing to strengthen and streamline the process for overseas voters and potentially people with accessibility needs.

Electoral law

Changes to legislation since the last General Election

Our terms of reference included looking at changes to legislation since the 2020 General Election. Since then, the Electoral Amendment Act 2022 and the Electoral (Māori Electoral Option) Legislation Act 2022 have been passed. See our sections about donations and registration on the general and Māori rolls for discussion of the effect of these changes.

Advertising

Inconsistency of rules between advance voting period and election day

In 2023, 61 percent of votes were cast in advance. This compares with 68 percent in 2020, 47 percent in 2017, and 29 percent in 2014. We note, however, that the Electoral Act is still largely based on the idea of people voting in person, at a physical polling place within their electorate, on a single polling day. Section 197(1)(g) of the Act prohibits a person from publishing, distributing, or broadcasting any statement that could influence voters on election day. This includes through print and radio advertising, billboards, and posting on social media or other online platforms. Material uploaded before election day can remain on online platforms. However, publishing new material or actively directing others to sites that contain influencing material is not allowed. On the other hand, section 197A of the Act allows election advertising during the advance voting period except within 10 metres of the entrance to polling places during opening hours (known as buffer zones).

Some submitters commented on the inconsistency of the rules applying to the advance voting period and election day. Several submitters favoured relaxing the advertising and campaigning rules on election day. Reasons for this view included the widespread adoption of advance voting and thinking that the rules are too strict and no longer fit for purpose. Conversely, several submitters think that advertising and campaigning during the advance voting period should be prohibited. Risks to the integrity of the process and the potential to influence voters were some reasons for this view.

The penalties for breaching sections 197 and 197A of the Electoral Act are fines of up to \$20,000. Several submitters expressed concern about breaches of election-day advertising restrictions, with one suggesting that harsher penalties are needed.

We understand that the Commission provides guidance and ensures compliance with election advertising rules in the Act. For most electoral and advertising offences, the Commission must report suspected breaches of the rules to the New Zealand Police. The exception is offences that are so inconsequential that there is no public interest in reporting them. For the 2023 General Election, the Commission made 20 referrals for breaches of election-day rules.

We explored how the penalties for breaches of the electoral advertising provisions compare with other OECD countries. It is difficult to compare penalties because advertising offences vary, but we note the following:

- **Australia:** Broadcasting any election advertisements is prohibited from the end of the Wednesday before the relevant polling day until the close of the poll on polling day. This requirement only applies to broadcasters; it does not apply to streaming services, online services, print media, or outdoor advertising. Penalties are imposed for breaching conditions of broadcast licences. They vary substantially depending on the kind of broadcaster.
- **United Kingdom:** Prohibitions on campaigning in polling places are the only restrictions on election-day advertising. Broadcast standards prevent broadcasters on television and radio from discussing election issues while polling stations are open.
- **Canada:** Election advertising in an electoral district is not allowed on election day before the close of all polling stations in that district. The penalty, on summary conviction, is a fine of up to C\$20,000 or imprisonment for a term of no more than one year, or both. The penalty, on conviction on indictment, is a fine of up to C\$50,000 or imprisonment for a term of no more than five years, or both.

Given the increase in advance voting, the Commission has recommended since 2014 that the rules be reviewed for election day and during the advance voting period. It reports that it has frequently received complaints at recent elections about the inconsistency of the rules. In 2023, it received numerous complaints about activities online and on social media. The Commission also makes a recommendation to amend the definition of the campaign buffer zone, to address disruptions to voting that occurred in some open-space voting locations in 2023.

We share the Commission's view regarding the inconsistency, and agree that the rules should be reviewed. We also understand that the rules relating to the placement of election advertisements are inconsistently applied across the country. The Green Party member would like councils to be encouraged to provide at least one site on public land that allows hoardings.

Recommendations

We recommend to the Government that it:

22. review the rules that apply to election-day advertising, taking into account:
 - the growth of social media and advance voting, including what information can be added to a website on election day about enrolment, voting, and news media coverage
 - the potential to enable increased freedom of speech, particularly for the interactions of voters
23. consider (if the election-day advertising rules remain), whether to introduce harsher penalties for breaches and penalties for the candidates as well as the forum hosting the advertisement, and whether to relax time constraints to bring action of breaches.

24. consider amending the campaign buffer zone provision to refer to the perimeter of the area in which votes are being issued and better clarify where the space applies, including the overhead space
 25. consider how to ensure consistent rules for election advertising across the country. This should include the timing for when advertisements can be put up, the ability to override local council rules, and a requirement for New Zealand Transport Agency rules to be based on safety. If strict placement restrictions are necessary, they should be enforced.
-

Funding of advertising

Candidates, political parties, and third-party promoters⁴ are subject to expenditure limits for any election advertisement published during the three-month regulated period before an election. This aims to promote fairness in election campaigning. For the 2023 General Election, the spending limits (including GST) for the regulated period (14 July to 13 October) were:

- \$32,600 for an electorate candidate
- \$1,388,000 for parties contesting the party vote plus \$32,600 per electorate contested by candidates for the party
- \$15,700 for unregistered third-party promoters
- \$391,000 for registered third-party promoters.

Many of the submitters who commented on advertising funding were concerned about disparities between incumbent political parties, and about those with more access to donations. Some considered that a “level playing field” is needed. Their suggestions to achieve this included each party having the same funding allocation or capping the amount from donations that can be used for advertising.

Third-party promoters

Submitters commented on the provisions for third-party promoters, expressing a range of views. The Commission registered 32 promoters for the 2023 General Election. Most promoters were organisations, such as unions and issue-based organisations. Three promoters were individuals. One submitter suggested that the advertising spending limit for third-party promoters should be lowered to \$15,000 and that their names or branding be banned from broadcast events. Another submitter proposed that third-party promoters should be prevented from using money from overseas people to fund advertising during the regulated period.

Promoter statements

Section 204F of the Electoral Act provides that all election advertisements in any medium (including the internet) must clearly display a promoter statement. This must state the name and street address of the promoter. A post office box is not permitted. One submitter believes that the Act should be amended to require political organisations’ names and logos on the advertisement in readable size. One submitter maintains that having a home address

⁴ Section 204A of the Electoral Act defines a promoter as a person who initiates or instigates an election advertisement that is published or is to be published.

on hoardings could lead to harassment, while another thinks that PO boxes and email addresses are insufficient. Instead, the Commission could hold full contact information.

We understand that election participants have expressed privacy and safety concerns to the Commission about the requirement to display this information, saying it has deterred some people from participating. We recognise these concerns and make several recommendations to address them.

The Commission also proposes one other recommendation, which aims to provide more certainty for advertising expenditure limits.⁵

Recommendations

We recommend to the Government that it:

26. consider whether the election advertising expenditure limits should be adjusted once each parliamentary term, in the year before the election
27. consider removing the requirement for a street address in promoter statements in light of personal safety and security concerns of people participating in the election
28. consider whether the Electoral Commission should be required to hold contact details of all candidates, parties, and registered promoters, which would be available on request by any enrolled voter. Authorisation statements of registered promoters, candidates, and parties would only require the name of the authorising person, not their contact details. Any person authorising advertisements would register their contact details with the Commission so they could be contacted. There is no change recommended to the rules for unregistered promoters.

Broadcasting allocation

Part 6 of the Broadcasting Act 1989 sets out the process for determining the electoral broadcasting allocation of funding for parties to use on television, radio, and online advertising. The Act states that the same amount of public money that was allocated at the preceding general election will be deemed to have been appropriated unless an Act of Parliament expressly provides otherwise. At present, the amount is \$4,145,750 including GST, which has not increased since 2017.

Section 78(2) of the Act lists the criteria that the Commission must have regard to when allocating the money appropriated by Parliament to eligible parties. They are:

- the number of people who voted at the preceding general election for a party and its candidates
- the number of people who voted at any by-election held since the preceding general election for any candidate for the party
- the number of members of Parliament who were members of that party immediately before Parliament expired or dissolved
- any relationships that exist between parties

⁵ Since 2011, the spending limits for candidates are adjusted by Order in Council on 1 July each year. Consequently, three different limits apply over a parliamentary term and the limits change part way through election year.

- any other indications of public support for a party, such as the results of opinion polls and the number of people who are members of the party
- the need to provide a fair opportunity for each registered political party to convey its policies to the public by broadcasting election programmes on television.

We understand that the legislation provides no guide to weighting the criteria and requires the Commission to use its judgement when considering all the criteria.

Several submitters maintain that the criteria for the broadcasting allocation are complex, time-consuming to apply, and out of date. The criteria also favour larger, established parties and reinforce the advantages of incumbent parties. One submitter suggested that the criteria be reviewed to achieve fairer starting points for political parties. Another submitted that broadcasting time for each party should be allocated so that media coverage is more equal.

The Commission supports a review of the broadcasting allocation. It also recommends several amendments to strengthen provisions in the Broadcasting Act related to when election programmes can be broadcast and liability for breaches. We also agree that there is merit in reviewing the broadcasting allocation to consider whether it is fit for purpose. The ACT New Zealand member suggested that the broadcast allocation be done away with entirely and the money left with taxpayers. The Labour and Green party members disagree with recommendation 33.

Recommendations

We recommend to the Government that it:

29. review the allocation criteria and current broadcasting regime. If the allocation remains in its current form, the appropriation should be increased for the 2026 General Election given the significant increases in the cost of advertising since 2017
30. review the broadcasting rules and make the advertising rules “mode neutral”—that is, broadcasting would be treated the same as any advertising
31. consider whether parties and candidates be allowed to broadcast election programmes from the start of the regulated period, and the use of allocated money for internet advertising not be restricted to advertising run during the election period
32. consider amendments to section 80I of the Broadcasting Act to make both the broadcaster and the person who arranges the broadcast liable for breaches of the broadcasting rules at all times, not just in the election period.

We recommend to the Government, by majority, that it:

33. consider whether the broadcasting allocation should be removed and the election expense limit increased, with parties or candidates allowed to purchase as much broadcasting as they wish under the cap.

Other matters related to advertising

Some submitters think that incumbent MPs have advantages because they can access parliamentary services to support campaigning activity before the official election period begins. They suggested that this could be addressed by restricting support from

Parliamentary Service and counting any support towards the campaign expenditure limit during the regulated period. Alternatively, MPs could be prohibited from using Parliamentary Service funding during the election period. We were advised, however, that section 3B of the Parliamentary Service Act 2000 defines the funding entitlements for parliamentary purposes. Section 3B(2) provides that the entitlements do not include funding for any communication that explicitly seeks or discourages voting support, financial support, or membership for a party or candidate. The entitlements also do not include funding for an election advertisement published during the regulated period.

Submitters also put forward the following views related to advertising:

- Paid advertisements against other parties and their candidates could constitute hate speech and regulation of this type of advertising is needed.
- More funding and support are needed for accessible advertising and materials for disabled people. Audio descriptions should be required for television and video material displayed in non-verbal formats.
- Parliamentary resources could be used to support advertising. For example, all registered parties could use the Parliament TV channel to share policies ahead of each election.

Party lists

Under the Electoral Act, candidates must be enrolled to vote and a New Zealand citizen to be nominated for a parliamentary election. Section 71 of the Act requires registered parties to follow democratic procedures when selecting candidates. This allows participation from current members of the party, delegates selected by current financial members, or a combination of both. Submitters had differing views on the procedure for determining party lists. One submitter noted that different parties currently take different approaches, which they consider appropriate. However, another submitter maintains that the current approach is a conflict of interest because the people who benefit the most decide party lists. To mitigate this conflict, the submitter proposed changing how party lists are selected. This included limiting candidates to standing three times on a list without being elected and introducing an upper age limit for MPs.

One submitter was concerned that only the top 65 list candidates are listed on Commission documents. Sections 147 and 157 of the Electoral Act and Regulation 18 of the Electoral Regulations specify that, where there are more than 65 candidates on any list, only the first 65 candidates should be listed. We share the submitter's concern.

Recommendation

34. We recommend to the Government that it amend sections 147 and 157 of the Electoral Act and Regulation 18 of the Electoral Regulations to require the names of either all list candidates or a maximum of 120 to be included in the information published online by the Electoral Commission and provided to each Returning Officer for display in each polling place, not just the first 65 names.

Polling places

Access to polling places

Most submitters who commented on polling places discussed access, including ensuring accessibility for disabled people and improving access for Māori, particularly in remote and rural areas. A submitter commented that voting places were in isolated places and not well advertised, and suggested that community consultation could improve accessibility. Other proposals to improve accessibility included providing more mobile polling booths, as well as advance voting and shared electorate voting places.

The Commission's report sets out its approach to selecting polling places. It uses feedback from communities to consider how to best meet their needs. For example, the Commission engaged with local contacts to address patterns of low voter turnout by Māori voters in Auckland. The contacts recommended that the Commission use Manurewa, Papakura, Ruapōtaka, and Ōrākei Marae. We observed that marae are trusted locations for Māori and understand that receiving approval for locations continues to be a barrier for Māori. The Commission told us that it received requests for voting places that were too late in the process for it to respond to. It said it is pleased to see that there is demand and it will continue to work to expand in this area.

The Commission noted that providing election day voting services in small rural locations was challenging due to various factors, including recruiting staff and transporting supplies. To better meet the needs of voters in rural and remote communities, the Commission expanded the mobile model for the 2023 General Election. The Commission provides a mobile "pop-up" voting service to remote communities, using trained staff from outside the area. This usually occurs during the weekend before election day.

The Commission assesses each voting place for suitability, using a range of criteria. They include a location's convenience, suitable operating times, shared electorate voting, political neutrality, disability and mobility access, storage, and security. It also plans for as many voting places as possible to be fully accessible. Before finalising the voting places, the Commission gives all registered parties a proposed list for consultation.

In 2023, the Commission selected a diverse variety of voting places. They included malls, supermarkets, marae, schools, educational facilities, community centres, sporting and faith-based venues, and other community spaces. We were pleased to see the increasing variety of voting places but consider that access should be further extended.

Recommendation

35. We recommend to the Government that it direct the Electoral Commission to continue enabling alternative ways to access polling booths. This should include later sessions for shift workers and on-site days at locations that are accessible to large workplaces such as factories and hospitals.

The use of Manurewa Marae as a voting place

The Commission noted that concerns were raised about the selection of Manurewa Marae as a voting place, given that its chief executive was an election candidate. The Commission

stated that it was aware of a candidate's involvement with marae management during the selection process. Before agreeing to use the venue, it received an agreement that the candidate would only enter the voting place to vote. The Commission was also assigned a designated contact person and ensured that marae staff knew the election advertising rules. Despite these arrangements, some people questioned the political neutrality of this venue. The Commission plans to review its guidance on political neutrality when selecting voting places. We agree that this review is necessary.

We heard evidence that this marae was not a neutral polling place and that its alignment with a particular party and candidate was apparent. In conjunction with this, the offering of food linked to voting exacerbated this. We consider the selection of the marae by the Commission to have been unwise.

One submitter expressed concern that Manurewa Marae was used as a polling place. They also maintain that the marae breached the treating rules by providing food and drink. Section 217 of the Electoral Act defines the offence of treating. It applies to anyone who gives or provides food, drink, or entertainment if done for the purpose of corruptly influencing a person to alter their voting behaviour or procure the defendant's election. Another submitter considers that the treating offence should be removed because it disproportionately affects Māori. Therefore, the offence is inappropriate for New Zealand elections.

The Commission noted that it received complaints about the provision of food and other activities at Manurewa Marae while the voting place was operating. It advised marae management that food and activities could be provided to everyone coming to the marae, for the purposes of manaakitanga (the process of showing respect, generosity, and care for others). Based on the information it received, the Commission did not consider that the marae met the test for treating.

Some of us found the Commission's stance on this matter unconvincing given the clear alignment of the marae to a particular party and candidate.

The offence of treating has been in electoral legislation since the 1850s and pre-dates the secret ballot. We understand that there are complex cultural considerations in providing food and drink. Further, parties and candidates want more certainty around what is allowed, including the place of manaakitanga. We note that the treating offence in the Act and case law do not allow the Commission to provide the desired level of certainty. We consider that any enticement which directly or indirectly influences a person to vote in a particular manner is undermining of electoral integrity. We acknowledge that this may have an awkward interface with the concept of manaakitanga in some circumstances. We agree with the Commission that the offence of treating needs to be reviewed.

Recommendation

We recommend to the Government that it:

36. encourage the Electoral Commission to better monitor the connection of polling sites to particular candidates or political movements and views, and avoid booths on premises that have direct connections with candidates or parties
37. consider stronger restrictions on polling booth sites, for example, requiring them to be policy- and viewpoint-neutral

38. review the treating offence in the Electoral Act to consider whether greater clarity can be provided. This should take into account cultural considerations and consider whether the provision of any food or drink at any polling booth should be prohibited.
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Enrolment

Although enrolment in New Zealand is compulsory, uptake is not universal. In 2023, 94.7 percent of the estimated eligible voting population were enrolled to vote. This compares with 94.1 percent in 2020 and 92.4 percent in 2017. Some submitters referred to enrolment generally and suggested ways of expediting enrolment. They included automatic enrolment when a citizen turns 18 based on administrative data such as birth certificates, National Health Index numbers, and social welfare benefits. We propose some suggestions to improve enrolment processes later in this section of our report.

We note that there was some confusion at the 2023 election about voter eligibility and enrolment requirements for New Zealand residents.

Recommendation

39. We recommend to the Government that it clarify and publicise the requirement for enrolment for residents who are permanent residents or who hold a residence visa without an exit date.
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Increase in enrolments after writ day

Since the 1990s, New Zealanders have been able to enrol after writ day. Election-day enrolment was introduced before the 2020 election. Between 31 July 2023 and election day on 14 October, the Commission received 909,406 enrolment-related applications. These consisted of voters who were registering to vote or updating their details. Although the overall total was similar for the previous election, in 2023 about two-thirds (602,454 applications) were after writ day (10 September) when the electoral rolls for issuing ordinary votes close for printing. This was an increase of 38.5 percent from 2020. About 450,000 enrolments or updates occurred during the voting period, of which 110,000 were on election day.

The Commission notes that the increased enrolment activity after writ day has contributed to substantial growth in the number of special votes. In 2023, special votes accounted for 21 percent (602,488) of the total votes. This compares with 17 percent in the 2017 and 2020 elections, and 14 percent in 2014. Across the whole voting period, special votes included:

- 97,273 voters who enrolled during the voting period
- 133,973 voters who moved electorates during the voting period
- 149,057 voters voted outside their electorate, and 109,492 votes were cast away from a voting place or overseas.

The Commission recognises that there will always be a percentage of special votes under the current system. This is because not all voters can attend a voting place or be marked off a roll, such as those on the unpublished roll. However, the Commission partly attributed the substantial growth over the past decade to fewer voters being enrolled by writ day. Special

votes take longer to issue and process than ordinary votes, placing pressure on services at voting places, particularly on election day. This can also affect the timeliness of completing the official vote count.

The Commission noted that most special voters are not new voters. Rather, they are voters who had previously enrolled but have not kept their details up to date. In 2023, 79 percent of enrolment transactions after writ day were from voters who had previously enrolled and were updating their details. The Commission makes several recommendations to help ensure that the enrolment details of more voters are kept up to date. It considers that this could help make the process smoother for voters and reduce the number of special votes. The changes could also result in the preliminary count on election night being closer to the official result. The recommendations are set out in more detail below.

Updating the enrolment details of voters

The Commission considers that enrolment-related communications under the rules in the Electoral Act are unsustainable. In its report, the Commission highlighted the challenges it has with the legislation.

The Commission's enrol online service allows people to enrol or update their details using their New Zealand driver licence, New Zealand passport, or RealMe as proof of identity. The Commission noted that digital transactions now account for 59 percent of all monthly transactions. However, under the Electoral Act, the Commission must send enrolment correspondence by post or personally serve it. Because eligibility to enrol is partly based on where a voter lives, the Act requires the Commission to verify voters' addresses by sending a letter when a person enrolls or updates their enrolment details.

At present, the number of enrolled electors is 3.7 million. The Commission sends enrolled electors a minimum of three letters in a three-year period. It sends electors of Māori descent two additional letters, containing information packs about the Māori electoral option, at least six months before the general election and the triennial local elections. Anyone who updates their enrolment details also receives additional correspondence.

The Commission noted that changes to postal services have resulted in substantial printing and postage cost pressures and longer delivery times. Since 2020, postage rates for the Commission have increased by 64 percent. The requirement for postal correspondence to overseas voters is also inefficient and takes longer because of changes in international postal services.

The Commission has data-matching partnerships with the New Zealand Transport Agency Waka Kotahi, the Ministry of Social Development, and the Department of Internal Affairs. The Commission can undertake data matches to identify unenrolled individuals or those with out-of-date enrolment details. However, the data-matching provisions in the Electoral Act do not allow agencies to provide email or telephone contact details to the Commission. The Commission must send a letter to an elector who must sign and return an enrolment form or update their details online. Further confirmation by post is required once the elector has enrolled or updated their details.

The Commission considers that it needs more efficient, effective, and timely ways to communicate with the public. It also needs legislative changes so it can use alternative

methods while maintaining the accuracy and integrity of the electoral roll. The Commission explained that Australia has used a direct enrolment scheme for the past 12 years to keep its roll up to date. This involves using information that people have provided to the government, to directly enrol them or update their details. Australia can use emails, text messages, or post, if needed, to contact people to verify their details. The Commission proposes a similar scheme for New Zealand. It makes recommendations that would enable it to undertake enrolment updates using existing government data, as well as consider alternatives to the nationwide enrolment inquiry. The Commission recognises that implementing automatic enrolments for new enrolments would have implications for electors of Māori descent who can choose when they first enrol what roll they want to be on. It suggested that this could be addressed by only allowing automatic enrolment updates for voters who have already enrolled and chosen the Māori or general roll.

Section 89D of the Electoral Act provides that enrolment update correspondence must contain the particulars on the roll for the elector to whom it is addressed. This includes date of birth and occupation. The Commission reports that it receives complaints from electors after each mailout expressing privacy concerns that the correspondence contains too much personal information. It notes that names and addresses are the most important details to update.

Recommendations

We recommend to the Government that it:

40. consider a longer-term legislative modernisation programme, which will require funding to provide for additional flexibility, or conditions in which electronic means are allowed, including:
 - allowing an enrolment update to be made for an existing elector following a data match, with either postal or electronic confirmation (for example, a change of address)
 - allowing electronic confirmation for a new enrolment, including any conditions (for example, requiring enrolment to be done online and verified using RealMe, a driver licence, or passport)
 - allowing a new enrolment to be actioned automatically following a data match that identifies a person as not enrolled, with either postal or electronic confirmation sent to the elector and clarifying how the Māori Electoral Option provisions would apply in this situation
 - enabling alternative forms of enrolment inquiry to be undertaken by digital means, such as email
 - amending the data-matching provisions in section 263B of the Electoral Act to allow the Electoral Commission to receive email and phone numbers to enable electronic communications to encourage enrolment
 - allowing electronic confirmation for any update of an existing elector's enrolment record completed online or in writing
 - allowing overseas electors to be sent electronic correspondence for enrolment update campaigns, to confirm a new enrolment, or for an enrolment update

- for integrity reasons, requiring electors who live overseas to re-enrol every three years (for New Zealand citizens) or every 12 months (for New Zealand permanent residents)
- improving the scope for information-sharing to update enrolment details
- allowing an individual to be automatically enrolled at birth or upon gaining residence or citizenship
- exploring allowing the use of Inland Revenue and other government data as an automatic enrolment tool

41. consider a review of the enrolment update requirements in section 89D of the Electoral Act to ensure that only information necessary for roll integrity is collected.

We are interested in the potential cost and time frame for the Commission's suggested changes. The Commission told us that it would need "a couple" of election cycles. It observed that it has taken Australia about 12 years to reach an enrolment rate of about 97 percent between elections. The Commission also recognises that many New Zealanders still transact through the post so it would need to not remove this option. It said it expects that it would need some additional funding, particularly for its IT systems, which are quite old.

Reducing the number of special votes

The number of electors on the unpublished roll has been gradually increasing. In 2023, there were 26,720 electors compared with 16,915 in 2014. For safety reasons, these electors must cast a special vote because their name and address cannot appear in the printed roll used for ordinary votes. The Commission recommends that an unpublished elector be allowed to use a unique identifier that protects their personal safety while enabling them to cast an ordinary vote.

In addition to the recommendations above that aim to improve enrolment, the Commission proposes several options for considerations that could reduce the number of special votes.

Recommendation

We recommend to the Government that it:

42. consider options, subject to funding, to reduce the growing number of special votes and their impact on the official count, balancing access, timeliness, and integrity, including:
- ways of improving how voters' enrolment details are kept up to date
 - processing special votes in the electorate where they were cast
 - digital solutions, such as digital roll mark-off, print on demand, and electronic counts
 - early processing of special votes before election day
43. consider changing the legislation to enable unpublished electors to be issued an ordinary vote using a unique identifier, should funding become available in the future.

Election day enrolments

Several submitters supported the right to enrol and vote on the same day because it maximises accessibility. However, another submitted that the ability to register on election day contributed to a lengthy official vote count. They suggested closing enrolment one week before election day.

National Party, New Zealand First, and ACT New Zealand members of the committee consider that the system of vote counting needs to be improved. Amending the cut-off date for enrolments and updates to enrolment details to be prior to polling day would be one way of doing so. Those members pointed to the fact that Australia has high rates of enrolment but does not allow same-day enrolments.

We asked the Commission what identification would be needed if a voter presented at a voting booth on election day and wanted to enrol. The Commission explained that a person needs to complete a form while an electoral official observes them. Identification is not needed. Commission staff then carry out a range of integrity checks. They include verifying a person's address and residency status, and ensuring that an individual is not impersonating someone else and does not have multiple enrolments.

National Party members expressed concern that the onus for verification is on the Electoral Commission, not the individual. This contrasts with other parts of everyday life that require a person to confirm their identity. We asked whether requiring a person to verify their identity would improve the integrity of the system and speed up the counting of votes. The Commission said it thinks that this could slow things down because many people do not have the identification needed to enrol online, such as a driver licence or passport. It told us that deciphering handwriting was one factor that contributed to the delay in processing enrolments. The Commission considers that having more people enrolling online would mitigate these delays.

The Labour and Green parties strongly oppose any restrictions on the ability to enrol, including any restrictions on same-day enrolment. We know that approximately 110,000 people either enrolled or updated their enrolment details on election day (over 3 percent of the total vote cast). This is a very significant number of votes that could affect the outcome of an election and the constitution of the government. We consider any restriction on enrolment to be an effective disenfranchisement. We are deeply concerned with any suggestion that there should be changes put in place making it harder for people to enrol and vote. We consider that efforts should be made in the opposite direction—exploring ways to enable automatic enrolment and automatic updating of the roll, and improving the accessibility of voting places and voting more generally for everyone.

Recommendation

44. We recommend to the Government, by majority, that it consider amending the cut-off date for enrolments and updates to enrolment details to be prior to polling day.

Changes to the Māori Electoral Option

As of 13 July 2023, 506,099 Māori were enrolled to vote, with 51 percent (259,872) on the Māori roll and 49 percent (246,277) on the general roll. The total had increased by almost 61,000 to 567,012 by the election.

Before 2023, electors of Māori descent could only choose which roll to be on when they first enrolled to vote and during a four-month option period every five years after each census. The four-month option period last occurred in 2018. The Electoral (Māori Electoral Option) Legislation Act 2022 replaced the four-month option period with a continuous option. It

commenced on 31 March 2023. Māori can now choose their roll when they first enrol and then change rolls at any time except:

- in the three months before a general election
- in the three months before the triennial local elections
- before a parliamentary by-election if the change would move the elector into the electorate where the by-election was being held.

Some submitters specifically referred to the Māori roll. Most discussed barriers and confusion about registering on the Māori roll, including whether people could change rolls through the special vote process. Another suggested that better understanding is needed of the enablers for Māori to enrol and vote and the effects of the legislative change. A submitter disagreed with the ability for Māori to transfer between the rolls more than once a term, citing the potential to create a strategic advantage. They considered that transferring between the rolls should only be allowed once a term.

Between 31 March and 13 July 2023, 14,587 voters of Māori descent changed rolls. Of these, 8,109 changed from the general roll to the Māori roll and 6,478 changed from the Māori roll to the general roll.

The Commission noted that some Māori voters who were already enrolled wanted to change rolls during the exception period (the three months before the election). This included on election day. Roll changes for these voters were processed after the election. During this period:

- 10,670 people attempted to move from the general roll to the Māori roll
- 9,716 people attempted to move from the Māori roll to the general roll.

The Commission considers that this activity suggests that more work is needed to raise awareness that Māori who are already enrolled cannot change roll type in the three months before the election. We think that consideration should be given as to whether a person of Māori descent can be registered on one roll for general elections and a different roll for local elections.

The Commission is required to send option information to Māori electors at least six months before the general election and the triennial local elections.⁶ It noted that it understood when the option changes were introduced that the exception period for local body elections would apply to local body elections but exclude out of cycle elections. However, it has since received clarification that the option exception period also applies to a triennial local body election held out of cycle, such as the 2024 Tauranga City Council election.

Recommendation

45. We recommend to the Government that it consider whether the Electoral Commission is required to send Māori Electoral Option information to electors for an out-of-cycle triennial body election that does not have a Māori ward or constituency.

⁶ For local elections, voters on the Māori roll vote in Māori wards or constituencies where they have been established.

Donations

The Electoral Amendment Act 2022 made a number of changes to the political donations regime, including:

- lowering the public disclosure threshold for donations to parties from \$15,000 to \$5,000
- lowering the threshold for large donations that must be declared within 10 working days in an election year from \$30,000 to \$20,000
- requiring parties to report the number of donations under \$1,500 that are not made anonymously
- requiring the amount of monetary and in-kind donations received to be stated separately
- amending the definition of “donation” to specify that a donation received by a person would be a party donation if there are reasonable grounds to believe it was intended for the benefit of the party.

Submitters had contrasting views about donations. Some submitters maintain that all donations should be banned. The majority of submissions about donations agreed that transparency and accountability are a fundamental principle of democratic elections. A majority were also concerned about the regulation of donations. Those with this view commented about the potential for donations to undermine elections, cause distrust, and cause voters to lose faith in politicians and democratic processes. They were also concerned about the perception of undue influence.

Other submitters were concerned about the rights of donors to privacy and freedom of expression. Although one submitter agreed that the public needs transparency, they oppose the lowered threshold. The submitter considers that \$15,000 is not a large enough amount to lead to improper influence.

Some submitters consider that better regulation and oversight is needed to avoid undue influence. A majority of them suggested that increasing reporting requirements or requiring more frequent disclosure of political donations would reduce the public perception that donors can buy political outcomes. Several submitters were concerned about the potential influence that lobbyists and wealthy donors could have on democratic processes.

Proposed limits on donations

Numerous submitters considered that more regulation or a cap on political donations is needed, with many agreeing that only individuals should be allowed to donate. The caps proposed by submitters ranged from \$2,000 per person annually to \$10,000 for individuals and businesses.

The Independent Electoral Review (IER) recommended a range of changes related to political donations and state funding, including:

- specifying that only individuals who are enrolled to vote are allowed to donate or lend to political parties or individual candidates
- limiting the amount that a registered elector can donate or lend to a party or its candidates to \$30,000 per election cycle
- reducing the amount that can be donated anonymously from \$1,500 to \$500.

One submitter had conducted a survey that included the public's views on the IER's political finance recommendations. The survey indicated support for the recommendations to restrict donations to individuals and cap individual donations.

Without commenting on any limit, National Party and New Zealand First members consider that the disclosure limits should be standardised so they are the same for parties and candidates. They also think that the distinction between party and candidate donations needs to be clarified. A donation would be a candidate donation if it was intended to help the candidate win their seat. A donation would be a party donation if it was intended to help the party win the election.

The Green Party member would like:

- limits on third party and political party donations during a whole electoral term as well as the electoral period
- more frequent reporting in the electoral period
- only registered voters to be allowed to make donations
- prohibitions on donations from corporates or other organisations.

State funding

Some submitters proposed that election spending could be regulated more equitably through state funding. Suggestions to implement this included a central fund split between parties based on the number of candidates registered, or criteria like the broadcasting allocation. Another submitter believes that parties should be funded entirely by donations. However, in the event of state funding, they submit that tax credits would be a better model than the broadcasting allocation.

To balance the effects of its recommendations on political donations, the IER recommended a modest increase in the state funding provided to political parties. At present, state funding is available through the broadcasting allocation (\$4,145,750 including GST) and the Election Access Fund | Te Tomokanga—Pūtea Whakatapoko Pōtitanga. The latter fund aims to support disabled people to put themselves forward as candidates in parliamentary general elections and by-elections. Its purpose is to remove or reduce cost barriers faced by disabled people by covering the disability-related costs of seeking selection or campaigning as a candidate. Between July 2021 and January 2024, the total amount of funding paid out was \$45,375 including GST, with \$19,465 returned unspent. The Commission reported that this was only a small proportion of the total available funding of \$1 million.

The Commission makes a range of recommendations related to the reporting of electoral finances. The recommendations aim to make the processes more efficient and certain provisions clearer, and give the Commission additional powers to help it undertake its compliance function.

Recommendations

We recommend to the Government that it:

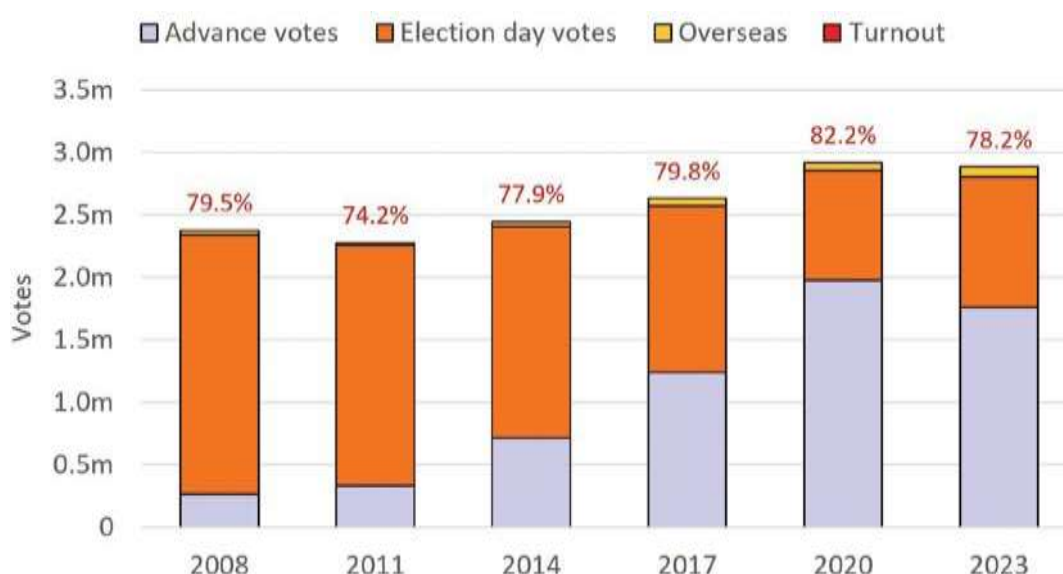
46. consider removing the requirement that returns be made available for public inspection and just require them to be publicly available on an internet site that the Electoral Commission administers
 47. consider adding an overarching anti-collusion provision to the Electoral Act to aid enforceability of electoral finance rules. This could make clear that democratic context means that any deception or avoiding of transparency requirements is likely harmful to the public interest, whether or not further criminal offending is involved
 48. consider whether the Electoral Commission be given the power to require the production of documents to better enable it to manage its compliance function in relation to electoral offences
 49. consider, for the avoidance of doubt, defining “free labour” and “free or discounted services” in the Electoral Act. The definition should make clear whether “person” is limited to natural persons for the purposes of free labour
 50. consider amending the Electoral Act to explicitly confirm whether or not and what type of aggregation is required in calculating the thresholds for donations and loans
 51. consider clarifying the Electoral Act’s requirements about reporting donations and loans for parties that apply to cancel their registration
 52. review the expense return requirements for parties that do not contest the party votes or stand any electorate candidates.
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Long-term trends in elections

Advance voting

The graph below shows the increase in the number of advance votes in the past 15 years.

Elector turnout and votes by type, 2008–2023



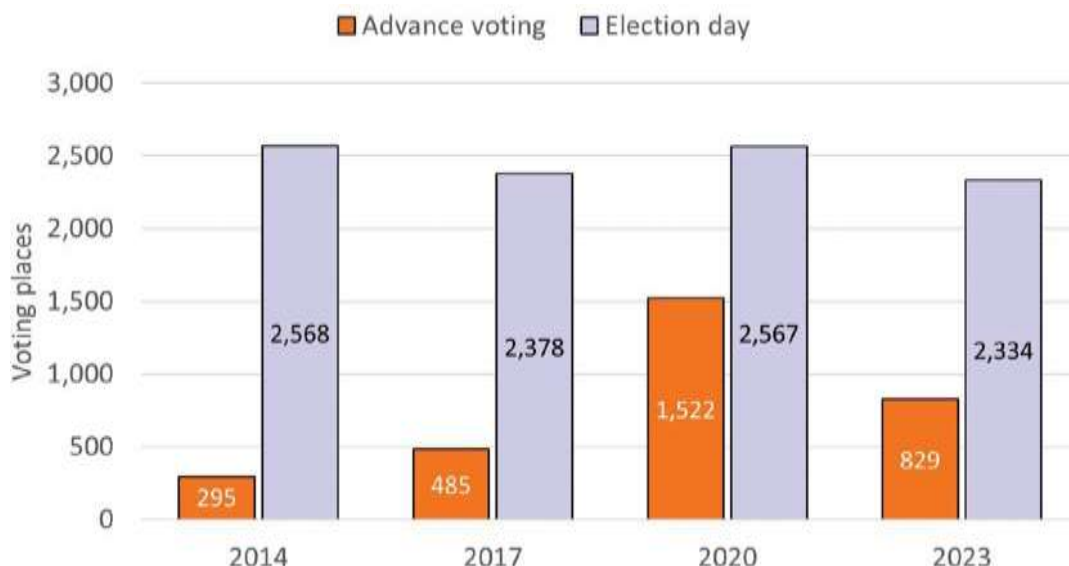
Advance voting is largely at the Commission's discretion. The Act provides minimal formal regulation of advance voting. This is because, as noted earlier in our report, the Electoral Act is mostly premised on the idea of people voting in person, at a physical polling place within their electorate, on a single polling day. Regulation 19 of the Electoral Regulations requires each electorate to maintain at least one advance voting place for special votes, up to the day before election day. It also enables an advance voting place to be maintained outside the electorate for special votes. In practice, the legislation's lack of prescriptiveness allows the Commission to choose the location and opening hours of advance voting places and the advance voting period.

In the 2023 General Election, advance voting was open for 12 days before election day (2 to 13 October). In 2023, more than 61.4 percent of votes (1.762 million) were cast in advance. This compares with 68 percent in 2020, 47 percent in 2017, and 29 percent in 2014. We note that messages encouraging people to vote early due to COVID-19 may have contributed to the particularly high advance turnout for the 2020 election.

After the 2014 election, the Justice Committee of the 51st Parliament recommended that the Government improve the accessibility of advance voting places. This could be achieved by increasing their number and opening hours, and providing more consistency between voting places for advance voting and on election day. The committee also proposed a 12-day advance voting period.

The table below shows the number of advance voting places and election-day voting places between 2014 and 2023. We understand that the number of voting places increased in 2020 during advance voting and on election day because of public health measures to protect voters and staff.

Number of voting places, 2014–2023



Of the submitters who commented on the advance voting period, one submitter thinks that voting should be limited to one day. However, the majority generally favoured maintaining advance voting because they consider it makes it easier for people to vote. In one submitter's view, more advertising is needed to inform people that advance voting is an option.

One submitter suggested that a two-week voting period should be provided for in legislation. We acknowledge that a statutory minimum advance voting period would have funding implications for the Commission due to increased costs of securing voting places⁷ and the reduced flexibility of a minimum period.

National Party and New Zealand First members agree that the advance voting period should be codified in legislation. Labour Party members are of the view that any codification should ensure that at least two Saturdays are available for voting.

Recommendation

53. We recommend to the Government that it consider whether electoral law should move towards a single voting period. Factors that should be considered include:

- the appropriate balance between certainty and flexibility in the law
- how advance voting affects campaigning

⁷ For example, the Commission reported that it faced increased costs to secure voting places. In 2023, the cost of advance voting and election day places was \$2.072 million, 20 percent more than the Commission budgeted.

- the effect that an emergency or disruption or an early election could have on advance voting services.
-

Turnout

In the 2023 General Election, turnout was 78.2 percent of enrolled electors. This compares with turnout of 82.2 percent in 2020 and 79.8 percent in 2017. Turnout in the Māori electorates was 68 percent. In 2023, the gap in turnout between Māori and non-Māori was the smallest it has been in four elections.

Submitters discussed the factors that influence voter turnout. They expressed concern about turnout for particular groups, including young people, disabled people, older people, Māori, and minority groups. A submitter noted that academic literature over many decades shows that the existence of barriers decreases the likelihood of a person voting at current and subsequent elections. Being inconvenienced when going to the polls is one such example. Submitters provided other examples including accessibility for disabled people and older people, and reduced access for young people with irregular working schedules.

Suggestions to improve turnout included:

- targeted campaigns in te reo Māori and culturally appropriate outreach programmes
- adequate and equitable funding for electoral education and outreach programmes for Māori and minority groups
- a requirement for the Commission to encourage equitable participation across population groups.

The Commission noted that its 2023 advertising campaign was based on research into the barriers to participation. It used a range of channels to inform voters, including the enrolment update letter, social media, and websites. The Commission recognises that postal and digital communication do not reach all people, so it also used community-based information and education. It worked with a range of government agencies to provide information about community interests, disseminate information, provide cultural competency support, and co-host events.

The Commission works with communities that have had consistently lower rates of participation over successive electoral cycles. Its work with these communities included the following:

- **Māori:** The Commission worked extensively with Māori across the country, including with marae, hapū, iwi, community providers, and kaupapa Māori organisations.
- **Pasifika:** The Commission worked with Pasifika in community settings and at gatherings of significance for the population.
- **Ethnic communities:** The Commission worked with ethnic communities including through places of worship, cultural interest groups, and community providers. It obtained advice from the Ministry for Ethnic Communities about language and cultural competency and provided information about enrolling and voting in 28 languages. The Commission also held information events with a range of groups.
- **Youth:** The Commission's youth advisor team held face-to-face events with young voters at community events, school presentations, and career expos. The team also

worked with tertiary organisations and hosted online events, which provided information about enrolment and participation.

- **Disabled people:** The Commission worked with community providers and used their networks to ensure that its information was accessible for all voters.

The Electoral Commission's capacity

Submitters recognised the important role that the Commission plays, including enabling diverse populations to participate in the electoral process. Several submitters consider that the Commission's mandate should be extended, including administering local government elections and developing civics education resources for schools. Another submitter would like the Commission to have more powers to hold political parties to account in terms of auditing and registering political parties.

The Commission provides an extensive public information and education programme to inform people about voting. It has ongoing work to explain how the Mixed-Member Proportional (MMP) voting system works. This includes information and civics education resources that align with the curriculum and are available for teachers to use. The Commission also provides *Kids Voting—Te Pōti a Ngā Tamariki*, a programme designed for schools to provide in the weeks leading up to a general election.

In its inquiry into the 2022 local elections, the previous Justice Committee recommended giving the Electoral Commission responsibility for administering local elections. The previous Government agreed to consider making the Electoral Commission responsible for administering local elections as work programme priorities allowed. It noted that this would be a significant long-term project over more than one parliamentary term.

We sought the Commission's views about a single approach to elections, including whether such an approach would increase turnout and improve systems generally. The Commission told us that it had discussed this matter with its Australian colleagues, some of whom also operate elections at a state level. The Commission said that a range of factors create complexity, including the range of voting systems used in local body elections, and funding.

Recommendation

54. We recommend to the Government that it consider whether the Electoral Commission should be funded to run local elections.

Civics education

Several submitters consider that civics education would help to improve participation for various groups. Some submitters think that it should be compulsory at schools to encourage young people to vote when they turn 18. Others submit that community-based civics education could enable the disabled community and older people to better participate.

One submitter noted that turnout in the 2023 election was lower than in 2020. They would like the number of informal and disallowed votes to be monitored. This is because they believe that these types of votes could indicate decreased public trust or other factors that reduce the capacity to vote.

In its interim report on its inquiry into the 2020 General Election, the previous Justice Committee recommended, by majority, that the Government support further public and political debate on strengthening civics education in the school curriculum. The previous Government's response considered that the Independent Electoral Review was best positioned to undertake detailed consideration of this matter.

The final report of the IER acknowledged that some submitters requested that civics and citizenship education be made compulsory in schools. However, it noted that, although New Zealand does not have a standard civics education curriculum, it is a topic within the social sciences curriculum. Further, the current curriculum generally sets a direction for learning rather than compulsory requirements, which the IER considers is appropriate. The IER recommended that a funding model be developed to support community-led education and participation initiatives. This model should also provide for "by Māori for Māori" activities.

The Green Party member considers that the Commission's scope and funding should be expanded to cover more civics education material and promotion.

Disinformation

Submitters commented on the increase of misinformation, disinformation, and hate campaigns, and how they could affect voters' behaviour. Submitters pointed out that disinformation can be easily spread, by a range of sources. The ability for it to be spread online at little or no cost and the potential for manipulating content also create challenges. Some submitters consider that the Electoral Act is insufficient to address these challenges, particularly when disinformation is published online. They proposed tools to combat it including empowering the Commission to develop a neutral website that contains factual evidence and corrects inaccurate information. Other suggestions included considering the effect of Artificial Intelligence, as well as the appropriateness of penalties and the definition of publishing false statements in the Electoral Act.

Some submitters emphasised the importance of combatting disinformation, including cyber threats, because it jeopardises the integrity of the electoral system. They suggested that the risk could be countered by education, easily accessible fact-checking resources, work with social media platforms, legislation, and civic engagement. The Green Party member supports state funding for equitable transparent information and parties and polices, like the Vote Compass tool.

Other submitters were concerned that addressing disinformation could impinge on free speech. One submitter opposes the use of the terms "disinformation" and "misinformation" within electoral legislation because they think it could suppress important debate about matters of public policy and stigmatise parts of the community. The submitter suggested that these issues could be addressed by equipping society with critical thinking skills and a range of views.

Concerns about undue influence

Some submitters expressed concern about the increasing influence on voters from a range of groups. They include the mainstream media, former politicians, overseas governments, and other private interests like wealthy individuals, businesses, and faith-based groups.

Submitters were also concerned about the lack of clarity of the affiliations, funding, and political biases for thinktanks and lobby groups.

The Commission is responsible for administering the rules in the Electoral Act. It responds to complaints about election advertising that appear to breach promoter statements, authorisation requirements, or election-day rules. As the responsible electoral management body, the Commission also plays a role in tackling misinformation. It does so by providing reliable and identifiable information about elections. The Commission corrects, and if necessary, escalates any concerns about the spread of false information about enrolling or voting. At the 2023 General Election, it published videos and information addressing factual issues that could be the subject of incorrect information.

The Commission also works closely with agencies that have the following roles:

- The Advertising Standards Authority (ASA) regulates advertising.
- The New Zealand Media Council considers complaints about editorial content, including from online media and blogs. The ASA and the Media Council are industry self-regulatory bodies and cannot impose civil or criminal penalties.
- The Broadcasting Standards Authority considers complaints about broadcasting on radio and television. It is a co-regulatory body, which can impose civil penalties, including payment of costs and compensation and broadcasting stand-down periods.

During the 2023 General Election cycle, the Commission worked with online social media providers. It established escalation mechanisms to report breaches of the election advertising rules and to report misinformation or disinformation about the election process.

Section 199A of the Electoral Act provides that it is an offence and a corrupt practice⁸ to knowingly publish false statements that intend to influence voters on polling day or the two days before. We received advice that the number of complaints related to this provision is low. For the 2023 election the Commission received two complaints about alleged breaches of section 199A, neither of which required further action. Given the increase in advance voting, we consider that the time frame for the prohibition should be extended.

Recommendation

55. We recommend to the Government that it review section 199A of the Electoral Act to expand the prohibition against publishing false statements to influence voters to the entire voting period rather than two days before and on polling day.

Polling

Submitters were particularly concerned about the effect of polling by political parties, lobby groups, and other groups like the media, particularly during the advance voting period. They consider that polling could be used to manipulate public opinion, undermining the fairness and integrity of the electoral process.

⁸ Under section 100 of the Act, anyone convicted of a corrupt practice offence is placed on the corrupt practices list and is not eligible to enrol or vote for three years from the date of their conviction.

Several submitters proposed prohibitions on political polls within certain periods before an election. Another submitter suggested that the media should not report polling once voting starts. We note that polling voters on how they voted is not allowed at any point during the voting period. Polls relating to the election generally are prohibited on election day. The ACT New Zealand member suggested that political polls should be allowed on election day, including exit polls.

Other matters

Mixed-Member Proportional settings

Some submitters and the IER consider that the threshold for getting into Parliament is too high. They proposed thresholds of 3 or 4 percent, rather than 5 percent. The Green Party member agrees that the threshold should be lower. National and New Zealand First members consider that the threshold should remain at 5 percent.

The D'Hondt and Sainte-Laguë formulas are apportionment methods for allocating seats in parliaments with proportional representation. A submitter recommended that the D'Hondt formula should be used instead of the Sainte-Laguë formula. We sought advice on how recent election results would have been affected if the D'Hondt formula had been used. We were advised that, all else being equal, the D'Hondt method would likely have resulted in small differences to the composition of Parliament.

Death of a candidate

During the advance voting period, the ACT candidate for Port Waikato passed away, triggering a by-election. This was the first time this situation has arisen since the introduction of MMP. Party votes in the Port Waikato electorate were counted in the 2023 General Election results but electorate votes were not. A by-election was held on 25 November 2023 to elect an electorate MP for Port Waikato. A submitter felt disenfranchised because several parties chose not to stand a candidate in the by-election. The submitter suggested that the votes of the original election should be counted if a party does not stand a replacement candidate.

Section 153A of the Electoral Act sets out the process if an electorate candidate dies after nomination day and before election day. Voters can continue to cast party votes but the electorate vote is cancelled. Section 153E of the Act requires the Commission to notify the Governor-General that a new election is needed for that district. The election is conducted as if it were a by-election. If a candidate dies after polling closes but before the results are announced, a by-election is only needed if they received the most votes in the electorate.

Some submitters consider that the wording of the Electoral Act has resulted in the creation of an extra list MP this term. The number of list MPs is calculated as 120 minus the number of electorate MPs. However, because the election was delayed in the Port Waikato electorate, the number of electorate MPs was 71 rather than 72. Several submitters were concerned that the legislation distorted the number of seats and should be amended. One proposed that a by-election should only occur if the deceased or disqualified candidate had already won the seat.

Section 191 of the Act specifies the process for calculating the allocation of seats based on the party vote. The party votes received by each qualifying party⁹ are divided according to

⁹ This is parties that have reached the party vote threshold or have won an electorate seat.

the Sainte-Laguë formula until there are enough quotients for each party to allocate 120 seats in total. The number of seats allocated to each party is filled first with successful electorate candidates, with the remainder filled by list candidates. The Act contains a provision that is intended to avoid creating an overhang in Parliament. If an independent candidate or a member of a political party that did not contest the party vote wins an electorate seat, the total number of seats used to calculate the allocation of seats is reduced accordingly.

A similar provision does not exist if a candidate dies after nomination day and a by-election is triggered. Consequently, the number of successful electorate candidates in the 2023 election was reduced, requiring an additional list seat to be created to reach the total of 120. The election of the successful candidate after the Port Waikato by-election resulted in an additional seat. Because the successful electorate candidate had already been elected as a list MP, the next candidate on that party's list replaced them and became a member of Parliament. Given that the current provisions distort the size of Parliament, we consider that they are not fit for purpose.

Recommendations

We recommend to the Government that it:

56. review the rules related to the death of a candidate to ensure the proportionality of Parliament is maintained
57. consider how the provisions of the Electoral Act apply where a candidate dies after the close of nominations.

Process when a list MP wins a by-election

Section 55(1)(f) of the Electoral Act provides that a seat becomes vacant if a person resigns their seat by signing a written notice that is addressed and delivered to the Speaker. A submitter considers that this provision is ambiguous in situations where a list MP wins a by-election. In practice, they resign their list seat, become the electorate MP, and are replaced as a list MP. However, the submitter pointed out that the Act does not distinguish between how electorate MPs and list MPs resign. If the resignation were any later than the day the by-election writ was returned, they would already be the electorate MP when they resigned. Therefore, a new by-election would be needed. We agree that the Act should be amended to remove ambiguity.

Recommendation

58. We recommend to the Government that it amend section 55 of the Electoral Act to provide for the seat of a list MP who wins a by-election to be automatically vacated at the close of the day before the writ is returned.

Voting eligibility

Voting age

Of the submitters who referred to the voting age, most supported it being lowered to 16. One submitter did not agree that the age should be lowered, while another thought that eligibility

should be based on knowledge. Voters, regardless of their age, would be tested to show their awareness of the intentions of every political party on the ballot.

We looked into Scotland's voter turnout after it lowered the voting age. In Scotland, 16- and 17-year-olds were first allowed to vote in the 2014 referendum on independence. In 2015, this was extended for all Scottish and local elections. Research conducted in the context of the 2021 Scottish Parliament elections found the following:

- Young people who were enfranchised at ages 16 or 17 reported higher levels of turnout in the 2021 election than those who were first allowed to vote at age 18 or older. This was irrespective of their age, gender, region, or socio-economic background. This applies to young people who were first enfranchised for the 2014 referendum and those who were allowed to vote at 16 or 17 in subsequent elections.
- Voter participation during early adulthood years still declined. However, the decline appears to be smaller for young people who were allowed to vote in their first election at age 16 or 17.
- Despite initial indications of higher engagement immediately after the independence referendum, in the longer term enfranchisement did not positively affect wider political engagement beyond voting. Enfranchisement also did not appear to affect socio-economic inequalities in political engagement.

We were interested in the number of people who could not vote for the first time until they were aged 19 to 21 because they turned 18 within a year of a general election. We were advised that the Commission holds data about enrolled electors; it does not hold data about the eligible population broken down by exact date of birth. Further, many electors who turn 18 wait until an upcoming election event before enrolling.

The New Zealand First, National Party, and ACT members support the voting age remaining the same, while the Green Party member would like it to be lowered to 16. The Labour Party members consider that the Government should explore ways to lower the voting age.

Participation of voters in prison

Section 80 of the Electoral Act sets out who can be disqualified from registration as an elector. It includes a person who is detained under a sentence of imprisonment for life, preventive detention, or a prison term of three years or more. One submitter maintains that prisoners serving any length of sentence should be allowed to register to vote, while another opposed voting rights for prisoners. The Green Party member does not think that imprisonment should disenfranchise voters.

We note that more than 4,100 votes were taken in prisons at the 2023 General Election, compared with 3,500 votes at the 2020 election. This includes both sentenced prisoners and people on remand because the information is not recorded separately. The remand population varies daily.

Enforcement of electoral legislation

Several submitters think that the offences in the Electoral Act need to be reviewed. One submitter suggested that infringement offences could be created for more minor breaches of

electoral legislation. They also proposed that political parties should be prosecuted for breaches of electoral law, rather than party secretaries. We support these proposals.

We received advice about the feasibility of using infringement offences for certain minor breaches rather than referring matters to the Police. If this approach proceeded, consideration would need to be given to the types of offences that would be suitable and whether the penalty would still effectively deter offending. In its final report, the Independent Electoral Review recommended an overhaul and consolidation of offences and penalties as part of a redraft of the Act. It suggested that infringement offences could be used and that the Commission could play a role in enforcing low-level breaches, subject to appropriate resources and funding.

Recommendations

We recommend to the Government that it consider amending the Electoral Act to:

59. create infringement offences for minor breaches of electoral law
60. prosecute political parties for breaches of electoral law, rather than secretaries personally.

Auditing requirements

The Electoral Act requires party secretaries to provide certain information to the Commission within 90 working days after polling day. The information is a return detailing the party's election expenses and the expenses incurred by the party that were funded from the party's broadcasting allocation. The return must be accompanied by an auditor's report that states whether the party's election expenses have exceeded the maximum amounts allowed under expenditure limits and any case in which proper records of the party's election expenses have not been kept by the party secretary. The legislation contains no exemption to the requirement for an auditor's report.

In comparison, party secretaries must also file an annual return of party donations accompanied by an auditor's report. However, section 210A of the Act provides that an auditor's report is not needed if the total amount of donations is below \$50,000. The party must not have entered into a loan that year or have an unpaid balance of \$15,000 on a loan from a previous year.

Section 210H of the Act specifies that annual financial statements must be provided to the Commission with an auditor's report if the party's constitution or any other enactment requires it.

Several submitters maintain that the auditing requirements disproportionately affect smaller parties and are a considerable financial burden. They pointed out that election expenditure for small parties can be minimal but the reports can cost up to \$5,000. Submitters suggested that an auditor's report should not be required where a party's election expenses are below \$50,000. They also proposed that parties with income and expenses below \$100,000 should have their financial statements reviewed by a chartered accountant. We agree that the current requirements are too onerous on smaller parties.

Recommendation

61. We recommend to the Government that it consider whether parties with election expenses of less than \$50,000 need to have an auditor's report and whether to replace other audited returns with a financial review when income is less than a specified amount.

Accessibility

The Election Access Fund | Te Tomokanga—Pūtea Whakatapoko Pōtitanga was established by the Election Access Fund Act 2020, which commenced on 1 July 2021. The Commission administers the Fund, which opened for applications in October 2022.

One submitter considers that more support should be provided to have NZSL translators at events where a candidate who receives election access funding is present. They submit that disabled people who will be in the audience have the right to fully participate in the event.

One submitter maintains that electoral legislation needs to be overhauled. They suggested that this should include a rewrite of the Electoral Act to include appropriate, modern language regarding mental health and disability, and remove discriminatory provisions.

We agree that the wording and operation of the Electoral Act should be modernised more generally.

Recommendation

62. We recommend to the Government that it modernise the wording and the operation of the Electoral Act.

Ballot papers

Some submitters think that the formatting of ballot papers was unnecessarily confusing and that the instructions on ballot papers should be clearer. One suggested that candidate names and party lists should be randomised to prevent advantages for those at the top and bottom of the lists as a result of the current practice of listing candidates in alphabetical order.

Ballot papers for general elections and by-elections are prescribed forms under section 150 and Schedule 2, forms 11 and 12, of the Electoral Act. The Commission noted that ballot papers have not been reviewed since 1995. Therefore, it believes it is timely to consider whether improvements can be made.

The Commission considers that it should be illegal for people to take photographs of their ballots in polling places. It thinks this is needed to protect the secrecy of the ballot, which protects voters' privacy. The secrecy of the ballot also acts as a safeguard against bribery and intimidation by ensuring that a voter can never prove how they voted.

Recommendations

We recommend to the Government that it:

- 63. consider reviewing the layout and instructions on the ballot paper, including the order of candidates and parties
- 64. prohibit voters from taking photos of their ballot papers in polling places without permission of the Returning Officer.

Availability of electoral data for research purposes

For the Inquiry into the 2020 General Election, a submitter recommended a review of the uses of the electoral roll for scientific research, particularly with respect to data about electoral turnout.

Recommendation

- 65. We recommend to the Government that it consider increasing the availability of electoral data for research purposes.

Green Party of Aotearoa New Zealand differing view

Introduction

The select committee staff, chair, members, and submitters made this inquiry a discursive, collegial, and thoroughly debated process, despite different conclusions on some of the recommendations to improve further elections. We agreed on several administrative improvements, minor criticism of some aspects of how the 2023 General Election was managed, such as the eRoll outage, and these are well covered in the main report, so this differing view focuses on significant areas of disagreement only.

The Electoral Commission (ERC) report was comprehensive, and our questions were answered. The potential for the ERC also managing local government elections was raised, to improve turnout and potentially reduce costs.

The Independent Electoral Review (IER) covered many aspects and generally the Green Party policy position is supportive of a greater number of its 143 recommendations than the current Government parties.

Submitters raised useful points and spurred discussion in the committee.

The Green Party's values and principles include accessible, fair, and inclusive governance that honours Te Tiriti o Waitangi. We support constitutional transformative change; however, this view focuses on the specifics of a fair, inclusive general election process that protects our precious democracy.

Key points from the Green Party of Aotearoa New Zealand perspective

1. Voting age

The Green Party supports lowering the voting age to **16**, advocating for increased youth participation in elections. Evidence from Scotland showed an ongoing uptick in voter

participation in subsequent elections among young voters enfranchised at 16 or 17. Austria, Scotland, Brazil, Ecuador, and several other countries have a minimum voting age of 16 and some, including Indonesia and Greece, have a minimum voting age of 17.

2. Prisoner enfranchisement

The Green Party believes that all prisoners should be able to vote. We view disenfranchisement as an additional punishment unrelated to any offences that may have been committed.

3. Māori Electoral Option

The Green Party is interested in ensuring that the changes to the Māori Electoral Option (where Māori may now change between the general and Māori roll) are effectively communicated and that barriers to Māori participation in elections are addressed.

4. Election Day enrolment

The Green Party views same-day enrolment on the final day of voting as helpful to increasing turnout, especially among those voters that move frequently, or have just become eligible to vote. The more disadvantaged voters would be affected by removal of this current right. Over 3 percent of the total vote cast was by people enrolling on Election Day.

5. Electoral integrity

Concerns were raised about the **influence of donations** on elections. The Green Party supports the need for stricter regulations on political donations, suggesting that only enrolled voters should be allowed to donate, not organisations, and advocated for limits on donation amounts.

The Green Party also considers that more transparency for third-party promoters is necessary.

Public distrust of political institutions is increasing and the Greens believe that some of this is due to the public connecting donations from certain industry sectors with subsequent policy decisions.

6. Civics education

The Green Party believes in expanding the role of the Electoral Commission in civics education to improve voter engagement, particularly among young people and marginalised communities. The Greens also support making civics education compulsory in schools.

7. Disinformation

The Green Party member highlighted the importance of combatting misinformation and disinformation in the electoral process. We support state funding for transparent information dissemination and initiatives like the neutral **Vote Compass** tool to help voters understand party policies in relation to their priorities and views.

8. Accessibility

The Green Party advocates for improved accessibility in voting, including better resources for voters with disabilities, ensuring people's privacy is not compromised, and ensuring that

information is available in various formats, including **New Zealand Sign Language**, possibly delivered remotely rather than an interpreter at every booth.

9. Electoral law reforms

The Green Party member supports reviewing and modernising electoral laws to ensure fairness and transparency, including the rules around election-day advertising and the treatment of donations.

10. Number of MPs

The Green Party supports increasing the number of MPs as the country's population increases, potentially setting some proportionality between list and electorate seats that also maintains a population ratio for electorates.

11. Threshold for MMP party representation

The Green Party supports the IER recommendation lowering the threshold to 3.5 percent from 5 percent and removing the "coat-tail" provision.

12. Campaign expense limits

The Green Party supports campaign expense limits.

These points reflect the Green Party's focus on enhancing democratic processes, ensuring fairness in elections, increasing trust in democratic institutions, and promoting greater participation among all demographics, particularly youth and marginalised groups.

Report of the Controller and Auditor General, *General Election 2023: Independent review of counting errors*

Reason for the independent review

After the official results of the 2023 General Election were released on 3 November 2023, a journalist queried the accuracy of party vote results at one voting place. The Electoral Commission investigated and subsequently found that:

- three voting places had misallocated party votes to the wrong parties during data entry
- fifteen voting places had similar errors for candidate votes
- one electorate had special votes entered incorrectly
- five voting places had entered voting data for the wrong days
- one electorate had missed counting the votes in a ballot box during the official count.

None of these errors changed the candidate or party vote outcomes. However, the Commission had expected that its quality assurance (QA) process would have identified and corrected the errors before the official count was completed. The Commission published amended official results on 9 November 2023.

In December 2023, the Electoral Commission asked the OAG to review the effectiveness of its QA processes for counting votes and to recommend necessary improvements. The OAG agreed to undertake a review and publish its findings. The review:

- considered the 22 errors that the Commission had already identified
- examined:
 - the reason for the errors
 - the QA processes or controls related to the errors
 - the effectiveness of the design of the processes or controls
 - the effectiveness of the operation or implementation of the controls
 - the Commission's actions when it learnt about the errors
- made observations about potential improvements that could be made to the QA processes, and observations for improvement.

The OAG reviewed documentation relevant to the errors and interviewed relevant Commission staff, past and present. It considered the Commission's response when it discovered the errors, its governance arrangements for the election, and how risks associated with the election were managed. The OAG also observed the vote counting and QA checks for the Port Waikato by-election.

The OAG made seven recommendations to the Commission aimed at strengthening the vote counting and QA processes, and the documentation setting out processes.

The OAG's observations and recommendations

The OAG recognised that running an election is a significant, complex, and challenging undertaking for the Commission. During the election period, the Commission's core staff of about 170 full-time-equivalent employees increases to about 22,000.

Many aspects of the election are prescribed in legislation, which limits flexibility for the Commission. Although the Electoral Act has been amended, most of the processes for the vote count are manual and many processes are broadly like the provisions in the earlier 1956 legislation. The OAG observed that an electoral system that relies so much on manual processes is vulnerable to mistakes. This is particularly true when the people doing the processes are tired and under significant time pressure. The OAG considers that there is room to strengthen how votes are counted and recorded, and how this process is assured in the election.

Quality assurance processes that were ineffective and not done properly

The OAG stated that it would have expected to see robust, comprehensive, and well monitored QA processes, given the significance of public trust in an election outcome. The Commission had QA processes, including "reasonableness checks",¹⁰ at electorate and National Office levels, to check the counting of votes and detect problems. However, the electorate QA checks did not identify the errors because they were either not done or were not sufficiently rigorous. The National Office checks did not pick up the errors partly because the checks were not undertaken with sufficient rigour. OAG staff were told that some electorate managers unduly relied on the checks being carried out at the National Office. Meanwhile, it may have made assumptions about the rigour that electorate managers applied to their checks.

The OAG considers that, even if the QA processes had been completed, the actual processes were ineffective. The official count controls were not all well understood and not all controls were monitored. The Commission was also lacking:

- a system to provide evidence that the QA checks had been done or completed properly
- fully documented standard operating procedures for the QA steps that the National Office are expected to perform before finalising the official results
- a structured system for checking and assuring the Electoral Commission Board that the final checks were completed and any queries addressed before the results were announced.

The OAG recommended that the Commission review all vote counting and quality assurance checks to address gaps and vulnerabilities.

The OAG's review also identified a further issue with the official count. The Commission's instructions to electorate staff on how to resolve outstanding apparent dual votes were not universally implemented. Some dual votes were therefore included in the official results. The Commission was unaware that its instructions had not been followed so the matter was not

¹⁰ The reasonableness checks review that results have been entered against the correct voting place and stage of voting, that the spread of results is within an acceptable calculated range, and whether the results balance.

considered as part of the judicial recount process.¹¹ The Commission subsequently confirmed that the outcome would not have changed in any electorate even if the dual votes had been extracted.

The effect of unexpected events on Commission staff and processes

In the OAG's view, several factors contributed to a situation where mistakes were more likely to be made and not detected. These factors all put significant strain on the election workers who were already working extremely long hours to complete the post-election processes.

In 2023, about 143,000 (46 percent) more people enrolled or updated their enrolment details in the voting period than in 2020. Nearly 454,000 people enrolled during this period, including about 110,000 on election day. The Commission told the OAG that the total was considerably higher than the 319,000 enrolments it had projected. The Commission had used this projection to estimate the number of staff needed to process enrolments and count votes. It therefore did not have enough staff to process the volume of enrolments in the time it had allowed for this task to be completed. The Commission had planned to complete enrolment processing and close the electoral rolls for the official count by 18 October but did not do so until 25 October.

Another factor was that in 2023 about 602,000 special votes were cast, 100,000 more than in 2020. The Commission noted that special votes take about 10 times longer to issue and process than ordinary votes because they require more intensive eligibility checks. This extra work exceeded the Commission's projections that had informed its staffing levels, so again it did not have enough staff to keep up with processing.

The cumulative delays in the official count shortened the time the Commission had available to conduct the final QA checks that were needed before the election result could be announced. For example, a final QA process that would usually take two days was completed in a few hours on the day the official result was announced.

The OAG noted that many electorate managers and the Commission's senior management team were new to the roles and had not run an election before. This, as well as gaps in process documentation, made it hard for those involved to thoroughly understand the end-to-end vote count processes and important interdependencies in the post-election period. Consequently, the OAG considers that the leadership team and Board may not have fully appreciated the consequence of delays in completing enrolment processes. They also may not have appreciated that the delays would put pressure on the subsequent processes.

National Office staff who were responsible for carrying out QA checks on the official results were also preparing for the by-election in Port Waikato, following the death of a candidate. The Auditor-General considers that this further reduced the attention that National Office staff could give to the QA checks on the official results.

¹¹ Judicial recounts were held for the results of the Nelson, Tāmaki Makaurau, and Mt Albert electorates, where the candidate results were close after the official result. Although they resulted in small adjustments to the official results, none of the recounts changed the overall election or electorate result.

Other systemic factors that could have contributed to the errors

According to the OAG, its staff also observed other systemic factors that could have contributed to the errors:

- The Commission only found out how much funding it would have to administer the 2023 General Election in May 2022.¹² It also initially received less funding than it had requested. In the OAG's view, this led to the Commission having to make difficult trade-off decisions, and made it challenging to effectively plan for the election.
- Electorate managers had difficulty finding experienced people for important roles and recruiting in rural electorates.
- The Commission's new recruitment management system was complex, contributing to delays in recruiting, inducting, and training staff.
- Aspects of the guidance and training for Electoral Commission staff and election workers could be improved.
- Some electorate managers did not feel as prepared for the post-election period as they were for the earlier stages. Some staff would have liked more training on post-election processes.
- Election staff worked long hours for extended periods in the lead-up to election day and in the post-election period. The OAG pointed out that staff fatigue, particularly in the post-election period, is a significant operational risk that the Commission needs to manage.
- Staff had challenges accessing enough information technology hardware and systems to do their work efficiently and within time frames. For example, several electorate managers told the OAG that there were not enough laptops for staff.

To address these matters, the OAG recommended that the Commission:

- review and update standard operations manuals and instructions, to improve the clarity of information about quality control activities and why they are important, and to clarify accountability and responsibility for carrying them out
- complete the end-to-end description of the election process and inter-dependencies of activities, and identify controls that support the election process
- review the personnel requirements for recruiting and training election workers, and planning for contingencies (such as staff unavailability, system outages, and fatigue)
- review hardware requirements, to ensure that electorates have sufficient technology to complete tasks required of them
- review the information technology systems that support the election process to ensure they remain fit for purpose for both electorate and National Office functions.

Risk management

The OAG observed that the Commission had a well-structured risk management approach and governance arrangements in the lead-up to election day. However, it explained that some election staff mistakenly viewed their main goal as successfully running the election

¹² In Budget 2022, the Commission received a multi-year appropriation of \$229 million to provide electoral services, to enable enrolment and voting on election day, and to increase capability.

day, rather than producing the final election result. This was reflected in the Commission's planning, which focused more on external, rather than internal, risks.

The OAG agreed that it was appropriate to focus on election-day risks. However, in its view, an equally important risk was not identified—that is, the accuracy of the count and the effectiveness of the Commission's count processes and controls in the post-election period. The OAG thinks that this was a significant gap in risk management, resulting in the Commission not taking appropriate steps to manage that risk.

The OAG noted that the Commission's structured approach to risk management ceased a month before the election. It established a General Election Delivery Taskforce that focused on operational matters and acted as an escalation point for issues and risks. At this point, there was no formal risk analysis and the reporting to the Board was less structured. The OAG considers that the Commission did not have enough oversight or understanding of emerging risks. It therefore missed early opportunities to address issues when the delays in processing enrolments became apparent. The OAG recommended that the Commission enhance its risk identification processes and continue to apply programme and project management disciplines (including managing risks) throughout the election period.

The Electoral Commission's response

The Chief Electoral Officer apologised for the mistakes, on behalf of the Board and the Commission's staff, and said they deeply regret that the errors occurred.

The Commission observed that there will always be errors in a predominantly manual process. However, it acknowledged that its existing processes and controls did not always operate effectively in 2023. It emphasised the importance of the QA checks, and of New Zealanders feeling they can have trust in how elections are conducted and the results. The Commission has fully accepted the findings and recommendations. It told us that addressing the recommendations is its highest priority.

To strengthen the system to reduce future errors, the Commission's Board has:

- comprehensively reviewed the provision of the 2023 election, particularly in the post-election period
- adopted an updated assurance policy and audit plan that sets clearer expectations for managing and reporting controls activity
- commissioned audits on its post-election and enrolment processes to identify any further gaps or improvements needed to quality assurance controls
- initiated a review of operating manuals and training to improve the implementation of quality assurance controls during the provision of elections
- prioritised improvements to post-election processes to improve the integrity and timeliness of the official count
- approved short-term changes to strengthen the official count process for any by-election required before a full review of post-election processes is completed.

Our response

We thank the OAG for its review and report about the effectiveness of the Commission's quality assurance processes for counting votes. We recognise that the errors were caused by several factors that significantly strained election workers. They included substantial increases in the number of people enrolling or updating their enrolment details during the election period, and in the number of special votes. We were pleased to hear that addressing the OAG's recommendations is the Commission's highest priority and that it has undertaken a range of actions to reduce future errors. We also note that this inquiry report makes several recommendations that aim to improve enrolment processes and reduce the number of special votes. We hope that these will help to reduce the strain on election staff completing the post-election processes.

Petition of Daniel Bond: Allow for a “vote of no confidence in any political party” in the next election

The petitioner’s request regarding a vote of no confidence

The petition was presented to the House on 18 July 2023. It requests:

That the House of Representatives make available in the next general election the option of a vote of no confidence in any of the registered political parties.

The Petitions Committee of the 53rd Parliament began considering this petition. The Petitions Committee of the 54th Parliament resumed consideration and received a written submission from the petitioner. The petition was transferred to the Justice Committee on 27 June 2024.

The petitioner is 29 years old and has never voted because he has never fully had confidence in any of the available parties and is unable to cast a vote of no confidence.

The petitioner said that he and many others would like to have their say as to who governs the country. At a bare minimum, he would like voters to be able to inform the Electoral Commission, Parliament, and the public that they do not have the confidence to vote for the offered parties. The petitioner thinks that people are “basically voiceless” when they are not confident in any of the registered parties. At present, their options are to not vote at all, or, for the sake of voting, they must pick a party even if they do not agree with or want to vote for that party.

According to the petitioner, the last four elections show that an “enormous” percentage of enrolled voters are not voting. In the 2023 General Election, 829,396 enrolled voters (22.5 percent) did not vote. This compares with figures of 18.5 percent, 21.0 percent, and 23.2 percent in 2020, 2017, and 2014 respectively. The petitioner wondered whether these people did not have confidence in the parties on offer. He pointed out that these statistics do not include people who are not enrolled, so the number of eligible people not voting is even higher. In his view, this large portion of the public can no longer be ignored and they must be invited to voting booths by giving them an option to share their views.

The petitioner submits that all eligible voters have the right to freely express themselves. However, people who do not have confidence in any of the available parties have been denied the right to freely express their views in elections. He maintains that the denial of the right to express a vote of no confidence breaches the following sections of the New Zealand Bill of Rights Act (NZBORA) 1990:

- Section 2 (Rights affirmed)
- Section 12 (Electoral rights)
- Section 13 (Freedom of thought, conscience, and religion)
- Section 14 (Freedom of expression)
- Section 15 (Manifestation of religion and belief)

- Section 20 (Rights of minorities).

The petitioner observed that New Zealand is a country that claims democracy as one of its core attributes. He provided several dictionary definitions of “democracy”. They include “a system of government in which the people of a country can vote to elect their representatives” and:

a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections.

The petitioner suggests an adjustment to voting forms to better align future general elections with NZBORA and the definition of democracy. Voters would be given the option of a tick box and comment section that states “I have no confidence to vote for any of the available registered political parties.” Further, he would like the option added to all by-elections, referendums, and council elections, and systems to eventually be introduced that would enable voters to explain their reasons for choosing this option. The petitioner recognises that further discussions would be needed on how to handle a scenario where a majority of people voted “no confidence”.

Our response to the petition

We thank the petitioner for highlighting why some New Zealanders may choose not to vote. We thank him for his work to help people feel they can express their voice and opinion in elections.

The petitioner wondered whether the large percentage of non-voters choose not to vote because they do not have confidence in the parties on offer. We note that following each General Election the Electoral Commission surveys voters and eligible non-voters.¹³ Its objectives include understanding the level of engagement with the voting process, barriers to voting, and how to address those barriers, particularly amongst groups with historically lower levels of engagement. After the 2023 election, voters were asked for the main reason why they did not vote, and any other reasons. The main reasons given were personal barriers, not knowing who to vote for, and issues related to the voting process, such as not getting to the voting place on time, not being enrolled, or not knowing how to vote. The inability to express a vote of no confidence was not listed as a reason. We also note that the purpose of an election is to choose a government; allowing people to express a vote of no confidence would not support this purpose. Therefore, we do not recommend that an option to express a vote of no confidence be introduced.

¹³ A copy of the *Report into the General Election* is available on the [Commission's website](#).

Appendix A

Committee procedure

We met between 1 February and 24 October 2024 to consider the inquiry. We called for public submissions with a closing date of 15 April 2024. We received submissions from the organisations and individuals listed in Appendix B and heard oral evidence from 22 submitters. We heard evidence in Wellington and by videoconference. The Ministry of Justice and the Electoral Commission were appointed as advisers for this inquiry.

We met between 9 May and 24 October 2024 to consider the report of the Controller and Auditor-General, *General Election 2023: Independent review of counting errors*. We heard oral evidence from the Office of the Auditor-General.

The petition was referred to the Petitions Committee of the 53rd Parliament on 18 July 2023. On 6 December 2023, the petition was reinstated with the Petitions Committee of the 54th Parliament. It received a written submission from the petitioner. The petition was transferred to the Justice Committee on 27 June 2024.

Committee members

James Meager (Chairperson)
Hon Ginny Andersen
Jamie Arbuckle
Cameron Brewer
Tākuta Ferris
Paulo Garcia
Dr Tracey McLellan
Rima Nakhle
Tamatha Paul
Todd Stephenson
Hon Dr Duncan Webb

Celia Wade-Brown replaced Tamatha Paul for this inquiry.

Related resources

The documents we received as advice and evidence for this inquiry are available on the [Parliament website](#), along with the [recordings of our meetings](#) on the following dates:

- 29 February 2024
- 23 May 2024
- 25 July 2024
- 1 August 2024
- 8 August 2024.

Appendix B

List of submitters

Aaron Tily	Free Speech Union
Adair Davis	Gary Wills
Amelia Lockhart	Geoff Neal
Andrea Jones	Gill Harker
Andrew Riddell	Gordon Dickson
Anna Curnow	Graeme Easte
Annelies Windmill	Graeme Edgeler
Atama Moore	Gwynn Compton
Basil Walker	Isabella Prendeville
Billy Leonard	It's in the Ballot Production
Blind Low Vision New Zealand	Jack Tankersley
Brian Webb	Jane-Maree Howard
C V R Shastri	Jessica Stringer
Catherine Lea	Joanne Vowles
Chris Davis	John Clegg
Clare Kitt	Jozef Van Rens
Colleen Shaw	Julia McIntyre
Craig Atkinson	Justin Avi
Dallas Barnett	Karen Tilley
Daniel Osland	Kent Stevens
Darryl Smith	Kerion Treymane
David Hopkins	Kristy Elstone
Derek Walker	Lara Greaves
Disabled Persons Assembly (DPA) New Zealand	Lydia Tahitahi
Donna Pokere-Phillips	Magnolia Christie
Doreen Te kira	Marie Sua
Eugénie Round-Turner	Marti Eller
Finlay Hoskins-Hill	Matthew Thorne
	Michael Beckett

Michael Halstead	Rian Murphy
Michael Hansen	Richard Northey
Michael Te Wheoro	Robert Glennie
Nathalie Van Egten	Robin Schiff
Neil Rose	Sabine Ranson
Nelson Tasman Climate Forum	Sam Lithgow
New Zealand Council of Christian Social Services	Sam Spekreijse
New Zealand Election Study	Sarah Brodrick
New Zealand National Party	Shelley Te Kuru
New Zealand Outdoors and Freedom Party	Sonja Wilkinson
New Zealand Outdoors and Freedom Party	Stella Harrison
New Zealand Taxpayers' Union	Susan Saywell
Nick Kirkman	Te Whanau a Umuariki
Nick Ruane	Tessa Hadfield
NZ Outdoors and Freedom Party	The Opportunities Party Inc
Pania Paekau	theFacts
Parents of Vision Impaired NZ	Tom Pearce
Peter Wakeman	Transparency International New Zealand
Philip Brljevich	Wally (WALTER JOSEPH) HICKS
Piper Mejia	Winston Moreton
	Women's Rights Party

Appendix C

Key dates

Ko te Ara Tiatia

Key dates

Date	Action
1 July 2021	Electoral Access Fund Act 2020 comes into force
31 October 2022	Electoral Access Fund applications open
1 January 2023	Changes to electoral finance rules for parties and candidates come into force
19 January	Prime Minister announces general election date
31 March	Changes to the Māori Electoral Option and temporary changes to overseas voter eligibility come into force
14 July	Māori Electoral Option 3-month exception period begins
14 July	Regulated period for election expenses starts
30 July	Enrolment update campaign starts
8 September	Dissolution of Parliament
10 September	Writ day
15 September	Nomination day
27 September	Overseas and telephone dictation voting begins
2 October	Advance voting begins
10 October	Port Waikato by-election dates announced
14 October	Election day and preliminary results
16 October	Port Waikato by-election writ day
17 October	Port Waikato regulated period starts
20 October	Port Waikato by-election nomination day
3 November	Official results
8 November	Applications for judicial recounts in Nelson, Mt Albert, and Tāmaki Makaurau lodged
9 November	Amended official results
10 November	Nelson recount decision issued
13 November	Port Waikato by-election advance voting begins
15 November	Mt Albert and Tāmaki Makaurau recount decisions issued
16 November	Return of writ with names of successful electorate MP (excluding Port Waikato electorate) and declaration of election of list MPs
25 November	Port Waikato election day and preliminary results
5 December	Opening of Parliament and MPs are sworn in
6 December	Port Waikato official results
9 December	Overseas voter eligibility reverts
12 December	Return of writ for Port Waikato by-election