

**Submission  
No 17**

**PROPOSALS TO INCREASE VOTER ENGAGEMENT, PARTICIPATION AND  
CONFIDENCE**

**Organisation:** Anti-Discrimination New South Wales

**Date Received:** 16 August 2024



Anti-Discrimination  
New South Wales

16 August 2024

The Hon Peter Primrose MLC  
Committee Chair, Joint Standing Committee on Electoral Matters  
NSW Parliament

Dear Mr Primrose,

**Inquiry into proposals to increase voter engagement, participation and confidence**

Thank you for your email of 11 June 2024 inviting Anti-Discrimination New South Wales (**ADNSW**) to make a submission to the Joint Standing Committee on Electoral Matters (the **Committee**)'s inquiry into proposals to increase voter engagement, participation and confidence (the **Inquiry**).

ADNSW administers the *Anti-Discrimination Act 1977 (ADA)*, which makes it unlawful to discriminate on the grounds of sex, age, race, homosexuality, carer's responsibilities, marital or domestic status, disability, or transgender status in certain areas of public life. Discrimination is unlawful in the areas of work, education, provision of goods and services, provision of accommodation and in the services provided by registered clubs. Sexual harassment and vilification on the grounds of race, religion, homosexuality, transgender or HIV/AIDS status are also unlawful.

ADNSW also works widely with government and community organisations to reduce and eliminate discrimination and to raise awareness about discrimination and its impacts.

While the majority of the Inquiry's Terms of Reference are not within ADNSW's areas of expertise, the following terms appear to coincide with ADNSW's legislated areas of responsibility:

- Reduce barriers to participation, in particular for voters with disabilities and voters from groups with historically lower enrolment and turnout rates (1c); and
- Implement options for technology assisted voting (**TAV**) as set out in the NSW Electoral Commission's November 2023 report on TAV (1d).

## **Voters with disabilities and voters from groups with historically lower enrolment and turnout rates**

The ADA's protections against discrimination extend to voters with disabilities and voters from groups with historically lower enrolment and turnout rates.

In the 2008 case of *Fittler v New South Wales Electoral Commission and anor (No.2)*<sup>1</sup> the New South Wales Administrative Tribunal considered whether the New South Wales Electoral Commission discriminated against a blind voter because it only provided one means of voting privately – an ink-printed ballot paper. The Tribunal found that the Electoral Commission unlawfully discriminated against the complainant in the provision of a service because the requirement to vote in this way was not reasonable in the circumstances, the imposition of the requirement was not necessary under relevant legislation, and it would not have caused the Electoral Commission unjustifiable hardship to have provided the service to the complainant in a non-discriminatory manner.

Research has shown that the rate of voter participation in federal elections by people living in remote Indigenous communities has been lower than the national average for decades and has declined in recent years, with rates lowest in the Northern Territory<sup>2</sup>. Obstacles may include a lack of material available in appropriate languages, uncertainty about how to cast a formal vote, problems related to literacy, and a lack of appropriate identification necessary to enrol. These barriers may disproportionately impact Aboriginal and Torres Strait Islander people.<sup>3</sup>

### **Technology assisted voting**

On the question of TAV, ADNSW made a submission in February 2023 to the NSW Electoral Commission in relation to its review of TAV. ADNSW highlighted its support for a voting system in NSW that is non-discriminatory and accessible to all. A copy of that submission is available on ADNSW's website<sup>4</sup>.

ADNSW notes the findings of the NSW Electoral Commission's November 2023 report and acknowledges the review's commitment:

- to continue to provide and develop accessible voting options for people who are blind or have low vision and for people with other disabilities;
- to continue to provide operator-assisted telephone voting for electors who are blind or have low vision;
- to explore internet voting for electors who are blind or have low vision to enable them to cast a secret ballot;
- to involve people who are blind or have low vision in development of any new TAV system that is approved and funded;
- to explore options for legislating to mitigate the special risks of internet voting;

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<sup>1</sup> *Fittler v New South Wales Electoral Commission and anor (No.2)* [2008] NSWADT 116 103

<sup>2</sup> Alport, Kate Elizabeth Rumbold; Hill, Lisa Ellen (2010) Voting attitudes and behaviour among Aboriginal Peoples: Reports from Anangu women, Australian Journal of Politics and History

<sup>3</sup> <https://theconversation.com/past-policies-have-created-barriers-to-voting-in-remote-first-nations-communities-181194>

<sup>4</sup> <https://antidiscrimination.nsw.gov.au/about-us/reports-and-submissions/submissions.html>

- to explore kiosk voting trials for the 2028 Local Government elections;
- to explore the potential for a national approach to investment in and governance of electoral platforms.

ADNSW thanks the Committee for the opportunity make a submission to the Inquiry and looks forward to its findings, particularly as they relate to reducing barriers to participation for voters with disabilities and voters from groups with historically lower enrolment and turnout rates.

Yours sincerely,



Jackie Lyne  
**Manager Governance and Advice**  
**Anti-Discrimination NSW**