

**REPORT ON PROCEEDINGS BEFORE**

**JOINT STANDING COMMITTEE ON ELECTORAL  
MATTERS**

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

**At Jubilee Room, Parliament House, Sydney, on Monday 28 October 2024**

**The Committee met at 12:00.**

**PRESENT**

The Hon. Peter Primrose (Chair)

**Legislative Council**

The Hon. Robert Borsak (Deputy Chair)  
The Hon. Chris Rath

**Legislative Assembly**

Mr Stephen Bali  
Mr Tim James  
Mr Nathan Hagarty

**PRESENT VIA VIDEOCONFERENCE**

The Hon. Sam Farraway  
The Hon. Bob Nanva

Ms Janelle Saffin

**The CHAIR:** Before we start, I acknowledge the Gadigal people who are the traditional custodians of the land we are meeting on at Parliament. I also pay my respects to Elders, past and present, of the Eora nation and extend that respect to other Aboriginal and Torres Strait Islander people who are present or watching proceedings online. I welcome everyone to the second hearing of the inquiry of the Joint Standing Committee on Electoral Matters into proposals to increase voter engagement, participation and confidence. My name is Peter Primrose. I am the Committee Chair. I thank the witnesses who are appearing before the Committee today and the stakeholders who have made written submissions. We appreciate their input to this inquiry.

**Mr GRAEME JOHNSON,** Chair, Public Law Committee, The Law Society of New South Wales, sworn and examined

**Mr ANDREW CHALK,** Member, Public Law Committee, The Law Society of New South Wales, sworn and examined

**The CHAIR:** I welcome you and thank you for appearing before the Committee today to give evidence. Please note that Committee staff will be taking photos and videos during the hearing. The photos and videos may be used for social media and public engagement purposes on the Legislative Assembly's social media pages and websites. Please inform the Committee staff if you have any objections to having photos and videos taken. Do you have any questions about the hearing process?

**GRAEME JOHNSON:** I don't.

**ANDREW CHALK:** No.

**The CHAIR:** Before we start asking questions, would either of you, or both of you, like to make a short opening statement?

**GRAEME JOHNSON:** Yes, I'd like to make quite a short statement on behalf of the Law Society. Thank you very much, Chair, and others in the Committee, for the opportunity to give evidence in this public hearing on what we believe is a very important matter. I appear in my capacity as chair of the Law Society's Public Law Committee. I am joined by Andrew Chalk as a member of that committee and as a former chair of the committee.

The Law Society appreciates the vital importance of maintaining the integrity of electoral processes and public confidence in our democratic institutions. Many of the broad-ranging issues that form part of the terms of reference for this inquiry—which range from ensuring the security and integrity of the electoral system, to reducing barriers to participation—form vital underpinnings to sustain the health of our democratic system. The Law Society's submission that we lodged takes as a particular focus the importance of education and electoral literacy, particularly given the increasing challenges that are posed by disinformation and misinformation, as it has come to be known.

An informed electorate is more likely to support our democratic institutions when they are performing well, but also to call them to account when they fall short. Building on previous submissions to this Committee in the context of other inquiries, our submission also addresses issues of the importance of adequate funding for the NSW Electoral Commission, options for technology-assisted voting for blind and low-vision electors—and I'd include myself in that actually, almost—and I support the enactment of legislation to regulate truth in political communications in New South Wales. Thank you, once again, for the opportunity to give evidence on these important issues.

**The CHAIR:** Mr Chalk, do you wish to make a statement?

**ANDREW CHALK:** No, Mr Chair. I'm very happy for Mr Johnson to do the speaking.

**Mr NATHAN HAGARTY:** Just in regard to civics education—something I'm quite passionate about—it's good to see you supported that. How would you see that working in practice? Are there any views on when that should be taught and for how long right through from K-12? Are there any topics in particular that we should be concentrating on? Just expand on that particular point.

**GRAEME JOHNSON:** I'd be delighted to. I might expand for a little length on that. If it's too long, please pull me up. The Law Society thinks this is a critical matter. Although, as the Electoral Commission's submission indicates, we've got very high turnout rates when it comes to voting in New South Wales—it's compulsory, of course—nevertheless, we don't think that governments and the Parliament can be complacent about our electoral system and/or our political institutions. Education about the electoral system, and more generally our legal institutions, we think is not just a matter that can be left to the Electoral Commission. It's

critical, in the view of the Law Society, that civics and citizenship education continue to be prioritised in all New South Wales schools and we'd say at all levels, not just at a junior school level but at the senior school level.

The education we'd be doing would increase understanding, as we see it, of parliamentary democracy and electoral law, as well as to develop critical thinking and digital and media literacy skills that are all essential to informed voting. We think all of these things are important. I'll come back to that a little if the Committee would permit me to do so in the context of a paper that was published in the US in 2018 by the RAND Corporation. Some of you may have seen it—it's a very long paper; it's about 400 pages. It's called *Truth Decay*. The Law Society was encouraged by the announcement earlier this year in July, I think, that the new New South Wales primary school curriculum will incorporate what was called compulsory civics and citizenship content, including lessons on democratic roles and responsibilities, including the role of history, of voting in a representative democracy.

Given that voting, as I've said and as we know in this State, is compulsory, the Law Society believes that Parliament should ensure that voters are given the opportunity to understand concepts fundamental to our model of democracy, as well as concepts fundamental to the specific contested matters, so as to allow and promote meaningful participation. However, as the legal, political and social concepts are not necessarily simple, not concrete, education should extend well beyond the primary school system, as I mentioned. Minimum requirements of the curriculum should be set, we believe, and thought might also be given as to how to educate those who arrive in Australia or New South Wales at an age where their schooling has been completed.

A more informed electorate is more likely to support democratic institutions when they are performing well and, as I said in the opening, to call them to account if they fall short. For that reason, that learning about Australia's democratic system and its institutions, and those in New South Wales, as well as awareness of contemporary challenges to the rule of law in overseas jurisdictions should be a high priority and should continue to be developed, as I mentioned, in the high school curriculum. Further, education on how to conduct research on political issues, including the identification of disinformation or misinformation, should be taught to students so that in the future they are more likely to cast their deliberative vote without indirect or perhaps subliminal interference. In my view, this is likely to become more important as time goes on and cannot be understated.

There is an opportunity now to arrest a decline in faith in our institutions and to improve participation in and knowledge of our electoral and political process, but that window of opportunity will not be open forever. On issues such as civics and education, they are obviously not peculiar to New South Wales or to any particular legal jurisdiction, so it's sensible that parliaments and governments pool their knowledge. This Committee will be well aware, no doubt, of the Commonwealth Parliament's committee looking at similar matters. I simply draw this Committee's attention to the transcript of hearing on 3 October on the Joint Standing Committee on Electoral Matters at the Commonwealth level, but in particular to written submission No. 31 of Professor Twomey, No. 78 of professors Rosalind Dixon and Rose Vasell, and No. 96 of Professor Print. I call those to attention, but I'm not intending to diminish many other contributions to that committee or to this Committee, and evidence given before both committees.

Although parliaments and governments may ultimately come to different conclusions or attempt to deal with common matters in different ways, it would be a pity if this Committee did not take advantage of the material and considered thoughts of experts or others that also have currency and that have been developed in almost identical circumstances in answer to identical issues and identical questions. You would be aware that the number of submissions that were made to the Commonwealth committee and to this Committee are significant. There have been 132 written submissions to the Commonwealth committee. In a number of those submissions, great concern has been expressed about the need to educate the public about our institutions and political system. It is a big issue. It underpins participation in our electoral system and in our political institutions.

To be meaningfully engaged, you need to have a working knowledge of our political system, including how our electoral system works. If I may be permitted to say something about the concept of truth decay and why I see it as directly relevant to the issues this Committee is confronting. These particular comments that I'm about to make are probably more mine than those necessarily of the Law Society, although the sentiments are consistent with the Law Society's general position on the need for substantive education about our political processes. The expression "truth decay" was coined by US journalist Sonni Efron and used as the title of a report, as I mentioned earlier, prepared by the RAND Corporation in 2018.

The RAND Corporation is a non-profit organisation that has been around for over 75 years. It develops solutions to public policy challenges. The full title of that report is *Truth Decay: An Initial Exploration of the Diminishing Role of Facts and Analysis in American Public Life*. The authors were Jennifer Kavanaugh and Michael Rich, and they identified four salient features of truth decay. These will no doubt be familiar to you, and they're certainly familiar to me:

1. increasing disagreement about facts and analytical interpretation of facts and data
2. a blurring of the line between opinion and fact
3. the increasing relative volume, and resulting influence, of opinion and personal experience over fact
4. declining trust in formerly respected sources of factual information.

The authors gave four reasons for the decline that they see, and I'll just draw the attention of this Committee to one of them, and that's the "competing demands on the educational system that limit its ability to keep pace with changes in the information system". By "the information system", they were referring to the rise of social media and the transformation of the traditional media, including the rise of opinion media, and, finally, the wide dissemination of disinformation and misleading or biased information.

Again, you will all be familiar with this, no doubt. But what I want to suggest is that these matters and an apparent decline in trust of traditional sources of factual information, including, presumably, a body such as the NSW Electoral Commission, is directly relevant to the issue of voter engagement and participation in our electoral system. Why is it relevant? Because a public that is poorly educated in how our democratic institutions work is one that is more easily manipulated and one that is more likely to fall prey to false and misleading assertions of fact, and it will be unable to properly assess and weigh the credibility of opinions that are stridently asserted and communicated instantly and disseminated widely.

**Mr STEPHEN BALI:** Excuse me. Since you're reading this out—and it is 100 per cent important—I think maybe you can table that type of document, because I would rather have a two-way conversation. There are a lot of points that you have raised which I would not mind exploring a bit more.

**GRAEME JOHNSON:** I will table it if I can put it in a different form, if you like, because it's part of a wider document. I'd be happy to.

**The CHAIR:** Please send it to us. If you could table it, that would be great. Do you have a question, Mr Bali?

**Mr STEPHEN BALI:** Yes. It's about the civics, which we around this table are very interested in. You raised an issue which I know the Government is trying to ramp up or put more civics into primary school. I know I was probably a one-off type in primary school; I was very interested in politics because my parents were involved in politics. But I am just thinking, for a six- or 11-year-old, the running of government is not really front of mind, and then they do very little. I've seen some of the books in one of the social science classes, where people have written a chapter on civics in an HSC thing. I read about unionism and everything else, and it is probably a bit scant. Do we see it as an advantage—if we look at the HSC, there are lots of different subjects et cetera but, relevant to that program—if we can do a two- or three-week module that addresses civics, whether it's geography or the role of government? That's one question. I know the syllabus is fairly crowded out, but how do we actually use the syllabus to put something in at a later stage because, when people are starting to become very opinionated and know the world at 15 or 16, there's nothing in there.

Secondly, I understand everything that you were saying, but if you do a doorknock down the main street, most people do not know the difference between local, Federal, state and all the issues. We just had the local government elections, and we have just seen the state election in Queensland. How do we get into people's houses after the age of 18 to actually get them interested? And I have a third question, picking up on your penalty notice thing. Here's a radical thought: Instead of fining people, why don't we give them three opportunities to attend a two- or three-hour evening civics class and, if they do not attend, they get a massive fine—a lot more than \$60 or so?

**The CHAIR:** You have three wishes.

**GRAEME JOHNSON:** We might both have a go at some of this. Can I take the last point first, on the fine? I'm not sure that the Law Society has a position on the proposition that you've just put.

**Mr STEPHEN BALI:** I just made it up.

**GRAEME JOHNSON:** No, but let me put something that I've just thought up. And that is, when we have juries in criminal matters—and probably all of us sitting around this table would consider that's very important—if you're charged with a criminal offence, you have a jury of your peers, and you get a notice through the mail calling you to attend for jury service. Sometimes you may not have to attend because you're in an excluded profession or for some other reason, or you turn up on the day and they might send you away but, otherwise, you attend the jury. Why don't we have a similar sort of process for people to attend when elections are on and at least observe what goes on—so a similar type of concept? You get a notice through the mail and you're required to attend, and there will be reasonable excuses not to, and have a more express way of directly involving people in the system. But that's just a thought that I've had, and it may have all sorts of problems associated with it.

Can I turn back to the issue of the syllabus? I think the points you were making were right. How does a six-year-old understand politics? They won't. The concepts are abstract. They're difficult concepts. What I'd say—and what I was trying to say through referring to this RAND Corporation report and truth decay—is that they're absolutely vital. They're just as important as anything else that is taught at school. Yes, the curriculum is crowded. But, if something is crowded, it doesn't mean you don't have something that is important in it; you remove things, perhaps, that are less important. Speaking personally, I think it should be taught right through high school and examined in the HSC and be compulsory. I think, looking forward, it's that important. I'm not perfectly up to date with the education system. Probably only English is now compulsory in New South Wales, I suspect. I stand to be corrected. It's that important.

I wouldn't suggest a three- or six-week module. I would suggest you have a subject that is compulsory and goes right through high school. As I've said, the concepts are abstract. They won't be able to be understood unless they're repeated, they're learnt through a long time and they're examined. People could bring students to this building and show them the building, but that doesn't necessarily teach them about the concepts. I've practised in public law my entire life. I went to ANU. Constitutional law and administrative law are what I've specialised in. I'm no longer practising as a partner at the firm I work at; I'm a consultant there. I had never been in this building until today. But I can understand the concepts. It would help for a lot of people to come in and see. It's a magnificent building, if nothing else. They're abstract concepts that I think you need to really attack seriously. Fiddling round the edges and adding a component to geography and history and that type of matter I personally don't think will work. You're not going to be able to teach everyone about these concepts. Not everyone is going to be convinced.

I don't know, but probably members of this Committee or some of you might listen to the podcast *The Rest is Politics*. There's one for the US and one for the UK. I was listening to an episode the other day in relation to the US. The journalist on that, Katty Kay, had been out in one of the states, in a county, with the Democratic Party, and what they were doing was they were trying to get people out to vote. Of course, we don't need to do that here. They saw very few people. In a four-square block, they saw 10 people, I think. One person did not know when the election was in the US. The election in the US is fixed for the first Tuesday after the first Monday in November in America. Most Australians would not know it's after the first Monday and most Americans probably don't know it's after the first Monday. You can't tell everyone everything. One of the other people they spoke to didn't know who Kamala Harris was—never heard of her. You'll never be able to educate everyone about everything, but that's why I personally believe you need to start at the beginning, which is in primary school, and you need to work on it all the way through.

**The Hon. CHRIS RATH:** I want to come back to the truth in political advertising and the misinformation and disinformation issue. Which body do you think should regulate truth in political advertising or misinformation? We've had evidence from the Australian Electoral Commission that they don't believe they're the appropriate body. They don't want the power to determine what truth is, and they think that it might undermine their ability to be seen to be independent if they're making determinations on what's truth and what's not. Leading on from that as well, are you talking about truth in political advertising or misinformation about the electoral system and processes, or are you talking about truth with regard to opinion and normative statements that are made throughout the election campaign? They are very different concepts.

**GRAEME JOHNSON:** Yes, "What is truth?", as Pontius Pilate said. In our submission, we drew the Committee's attention to the law in South Australia and section 113 of the Electoral Act there. There is a similar provision in the ACT, which provides that, effectively, it's an offence to make false statements in election campaigns. That was recently deployed in the ACT. I think there was a threat from the Electoral Commissioner to do something and a statement that was made was withdrawn. But, I grant you, there is a big difference between statements of fact and statements of opinion.

When I'm referring to our education system and the RAND Corporation, that is really about teaching people to think critically so they can discern or try to discern what is true in terms of fact or whether they are being misled, and, in terms of opinion, being able to assess, weigh and form a view as to what opinion they think is credible and what they hold. I am not sure whether—and I am speaking for myself here, and not necessarily the Law Society—it's a good idea to have a body that decides whether someone's opinion is true or false. You've got all sorts of complications with that, including the freedom to engage in political communication. You've got the problem of how to enforce it close to elections. What if an opinion is stated two days before an election? Can you actually do something in time?

I don't think we can solve all these issues. What we have concentrated on is why we think it's important to educate people so that people themselves can weigh up opinions. Secondly, we have suggested that New South Wales may give consideration to a provision like the one used in South Australia. It has been on the books there

for a long, long time. It is in the ACT. That deals with fact, and there are defences built into that provision. I am not sure if that answers your question. I hope it addresses some of it.

**The Hon. CHRIS RATH:** Yes. Obviously you don't want political parties in the heat of the campaign—as you said, two days before the election, for instance—to simply refer their opponents to a body like the Electoral Commission, essentially weaponising that process.

**GRAEME JOHNSON:** I'd agree with that.

**The Hon. CHRIS RATH:** And the Electoral Commission doesn't have time to investigate before the election takes place.

**GRAEME JOHNSON:** I think some people are probably trying to weaponise the National Anti-Corruption Commission. Some people try to weaponise ICAC.

**The Hon. CHRIS RATH:** Yes, and you could just be flooded with spurious referrals.

**GRAEME JOHNSON:** But I think in New South Wales political leaders on all sides, over a number of years, have actually done a very good job supporting our institutions. We don't necessarily have huge problems here—or not the level of problems that they might have in overseas jurisdictions—with misinformation and disinformation. But it is going to get worse and we need to be vigilant. That is why, if you're going to do it through education in schools, you start with someone who is six years old. It is a long time before they get to the end of their schooling. I see this as a long-term project, not some simple fix where you can pass a law and say, "It's an offence not to tell the truth when expressing an opinion." That won't work.

**Mr TIM JAMES:** Thank you for your submission. I wanted to take you to page 3 and the section pertaining to the ask of the NSW Electoral Commission for further funding. I am glad you've drawn attention to that. It sounds quite fundamental, doesn't it, inasmuch as it pertains to digital data, cybersecurity and analytical capabilities? They say, and did so about a year ago, that this is important "to ensure the 2027 New South Wales Election can be delivered with confidence" and "to set a clear direction". Bearing in mind that ask was made about a year ago and the next election is just over two years away, obviously they need time to invest, build and meet the challenges and fill the gaps. Are you concerned that this Government is not meeting that funding request? Can you unpack that some more and help us understand what might be some of the difficulties and/or consequences arising from this Government's failure to invest in an essential democratic process?

**GRAEME JOHNSON:** I'm not going to get into any of the politics of it. What I would say is that a body like the Electoral Commission, which should be independent, should be listened to if they say they need resources. If they believe that resources will assist in conducting the next election, then—there might be a good reason to disagree with them. Probably in history, in governments, all agencies and departments, when they're putting their budget forward, it'll always be larger than last year's and they'll always use up all of last year's. But I think that what they say should be treated seriously. If they're going to be given more of a mandate to be involved in the education about our electoral system, they'll need funds for that. I think part of the functions of the Electoral Commission does cover—they do have an educative role, but they need to be funded for that. I'd just make the general statement that it's very important that they're adequately funded and that there's a sound basis for that funding to continue, going forward, because you wouldn't want—I don't think anyone here would want that body to become some sort of political plaything.

**Mr TIM JAMES:** For what it's worth, I certainly share your concern and desire to "ensure the effective administration, digital resilience and integrity of New South Wales elections". I'm very conscious of the timeline here. Thank you for bringing that to our attention.

**The Hon. ROBERT BORSAK:** You say on page 3 of your submission under "Digital modernisation and funding" that the commission was seeking \$12.32 million from Treasury. In 2024 it doesn't appear to have been granted based on the budget papers. Do you have a view generally in relation to the digitisation of electoral processes by the NSW Electoral Commission?

**GRAEME JOHNSON:** There are the digital processes, I suppose, internally in the Electoral Commission. There's a question of whether people should vote digitally, whether—

**The Hon. ROBERT BORSAK:** It's a question of both really.

**GRAEME JOHNSON:** On the issue of being able to vote by other than the traditional paper means, we've made the point that the Electoral Commissioner's said that that at the moment is the most secure method of voting, especially with cybersecurity issues and so forth, and I think one of the Commonwealth parliamentary committees has recommended continuing with that paper-base. Although, as time goes on, naturally there'll be more of a demand for the use of digital means to vote. I would say the point I made earlier about the idea of trying

to get people to attend and participate, the actual act of—the act in Queensland very recently. For a lot of people on the day—perhaps that's diminishing but maybe they're doing it in the week before. They're turning up to somewhere and they've got the physical act of getting out a piece of paper, considering some names and ticking them. I personally think that's probably important. But in terms of all the internal processes within the Electoral Commission that they need to digitise and to assist those with visual difficulties to be able to vote, I think that's important and they should be funded. Did you want to say anything on that, Andrew?

**ANDREW CHALK:** No.

**The Hon. ROBERT BORSAK:** Certainly this Committee has listened to a lot of evidence over the years in relation to digital but also computerised voting. No-one disputes that computerised voting that aids people who are either visually impaired or have other problems is appropriate. But what this Committee has seen is that there doesn't seem to be solutions that we could call secure enough or reliable enough in the long term that could replace paper-based voting. In fact, we're probably going to lean more and more on paper-based voting in the future rather than less.

**GRAEME JOHNSON:** That could be right. I suppose you apply the precautionary principle, don't you? This is so important. You need to be careful. If you're going to introduce something, it needs to be thoroughly tested, be completely tamper-proof—if that's the right term—before it is introduced. Perhaps we're some way off. But the way the technology and everything moves so quickly, you can see in the future that there'll be a growing demand for it to make it cheaper. I query what that means—making something like this that's so important cheaper.

**The Hon. ROBERT BORSAK:** Yes, but at the end of the day we can get all sorts of assurances—

**GRAEME JOHNSON:** That's true.

**The Hon. ROBERT BORSAK:** —and try to save money. I mean, what's democracy worth in dollars?

**GRAEME JOHNSON:** I agree with you.

**The CHAIR:** The point here is that the Electoral Commission has suggested that rather than the pure issue of convenience, we should be looking at restricting technology-assisted voting to those who actually need it for accessibility reasons, and that should be the criteria. I'm just wondering about your views, following Mr Borsak's questions, whether, for the next state election in 2027, would you support limiting technology-assisted voting, say, to those people who are vision-impaired or blind?

**GRAEME JOHNSON:** I think that's probably the position we would take, yes.

**ANDREW CHALK:** Again, I think it's one where we have this not unique but very special feature in the Electoral Commission and its independence, and relying on the advice that it gives on these issues, particularly around the security of the systems. I think there's a sociological aspect to it, which Mr Johnson was referring to, that is deeply embedded in our culture. It's not something that I think you pass on easily, and certainly not simply just for the sake of convenience. It's getting out on the day and standing in a booth and quietly putting your pen to paper.

**The CHAIR:** On that point, then, from your experience, in terms of improving electoral literacy not only in the broader community but for those where there's a lower turnout, what would be the best example you could point to in Australia or indeed the world where you believe that they're doing the right thing that we could learn something from? Can you point to anyone exhibiting best practice?

**ANDREW CHALK:** A lot of my work has been with Aboriginal communities in different parts of the country. I'm conscious that over the last two decades, at least, there has been a very concerted effort to build an understanding of just how important those processes are. On the whole I think, no, they're not perfect by any means—it's a bit like the "Do the right thing" campaign with litter. It's not something that you do once and it's done; it's just a constant process of trying to reinforce the things that really make this country special and unique. They have to be said again and again and again.

Just coming back to Mr Bali's question about how it is taught, as lawyers we are not educators. But I think in primary school there's an awful lot to be said, particularly for experiential learning—getting people to play the games that reflect the values and the processes that exist within a parliamentary democracy. Experiences there, if they're designed carefully, can have a very deep impact that carries students through. When they get to high school and they start to learn more of the theory behind it, those experiences give a foundation for why some of these concepts are so important.

**Ms JANELLE SAFFIN:** My question is about the fines and the penalties. I note that my understanding is—and I think it's in your submission, to memory, from the Law Society—that people can lose their licence for non-payment of fines. Can you just talk us through your concerns a little bit?

**ANDREW CHALK:** One concern there—speaking again of remote communities especially, including Aboriginal communities, where fines are a perennial issue and they're perhaps one of the major sources of incarceration. Well before that, on this whole issue of access to and being able to use your motor vehicle, things escalate. People lose their licence for non-payment of fines, they're still under pressure to drive and they do the wrong thing, in part out of necessity. The next thing, one thing leads to another and small infringements not irregularly end up in incarceration. It's an unfortunate consequence where perhaps the initial trigger may be participation in the democratic processes. That's an extreme example, but it's one that people in remote Aboriginal communities are very familiar with.

**Ms JANELLE SAFFIN:** I share your concern.

**Mr STEPHEN BALI:** The other question I pose doesn't have to be just for migrants coming into Australia, but even people who have gone through the education system who we've identified don't know about it. Unless there's a really important issue at that moment, how do you educate the average person about the process of government when they don't care, they don't have a pothole in front of their house and they don't have a housing issue or whatever? How do you engage the general populace? Because, yes, we can do civics courses—I do it through SydWest; they run some courses—but that's only a small fraction of the population. How do you get people excited to actually turn up and learn about it?

**GRAEME JOHNSON:** I think that's difficult, and you won't get everyone excited, I don't think. As I mentioned before—and this is good in New South Wales—if people in power generally talk in a sensible way, they debate in a sensible way, what they say generally supports our institutions and they explain things, that sort of general message will help. But that's a much more general thing than what you're talking about. I'm not sure how one can educate everyone about these matters.

**Mr STEPHEN BALI:** It's not a matter of everyone. It depends what you mean by civics. In the end, everyone knows that there's a government. Everyone knows that, whether you get fined or not, you've got to turn up to council, state and Federal elections. Focusing on the state Government, we all talk about civics to mean what we do and not to conflate other issues into it. What do you mean by civics education?

**ANDREW CHALK:** It's perhaps a slight tangent to the question, but the issue of local government has been raised and it's often overlooked. Yet, in many respects, it's the closest level of government to most people's experience of what's actually happening in their lives. The pothole example is one. We've recently had our local government elections in new South Wales but, unlike at the state or Federal level, it can be very hard to find what candidates stand for. The investment in supporting candidates for local elections, whether it be by way of creating platforms where they can put up their policies or say something about themselves—it happens as often as state elections, but there's not necessarily the seriousness that is attached to it in the same way as there is with state elections. Yet it is an opportunity because councillors are often much more accessible than state politicians, or local members at state level who may hold ministries. Once you move beyond school, local government is perhaps an area where some of those links can be made as to the importance of the overall democratic process.

**Mr STEPHEN BALI:** To be completely controversial, which is unlike me, should there be a testing program for anyone who wants to run for council? I noticed a few councillors, once they got elected, they may be on a ticket or something and have accidentally been elected to council. When you try to talk to them, they just give fluff statements—nothing practical, or don't even know what local government's about. Should there be a test of some very basic knowledge before you run?

**GRAEME JOHNSON:** I'd be careful of what you wish for, or there might be one for state and Federal parliaments as well.

**Mr STEPHEN BALI:** Yes, I don't mind—just a basic test.

**GRAEME JOHNSON:** Then we might start talking about how you shouldn't have the right to vote unless you hold property or something like that. I'm speaking personally, not for the Law Society. I wouldn't agree with that, no. I think everyone should be entitled, if they're otherwise entitled.

**Mr STEPHEN BALI:** As the people's advocate, I was just throwing it out there.

**The CHAIR:** Devil's advocate, maybe. My test as Chair is to keep us to time. Thank you for appearing before us today. You'll be provided with a copy of the transcript of your evidence for corrections. Committee staff also will email any questions today—I don't think there were any taken on notice, but maybe I'm wrong—and any supplementary questions from the Committee. Again, thank you both very much. I've taken copious notes from what you've said and I'm going to raise the points in a deliberative later on.

**GRAEME JOHNSON:** Thank you very much and we will send the document, as requested.



**(The witnesses withdrew.)**

**(Luncheon adjournment)**

Mr **DOMINIC OFNER**, General Secretary, NSW Labor, sworn and examined

**The CHAIR:** I welcome our next witness. Thank you for appearing before the Committee today to give evidence. Please note that the Committee staff will be taking photos and videos during the hearing. The photos and videos may be used for social media and public engagement purposes on the Legislative Assembly's social media pages and websites. Please inform the Committee staff if you object to having photos and videos taken. Before we start, do you have any questions about the hearing process?

**DOMINIC OFNER:** No, all good.

**The CHAIR:** Would you like to make a short opening statement before we begin questions?

**DOMINIC OFNER:** Thank you for the opportunity to appear this afternoon. I note that our submission also touches on a number of the matters that were raised by NSW Labor in the context of the inquiry into the conduct of the 2023 state election. There are probably two general themes that I would like to highlight in my opening remarks. The first is that, as the party secretary and registered officer of NSW Labor, I absolutely acknowledge and believe that, for voters to have confidence in the electoral system, political parties must demonstrate stringent governance, compliance and organisational standards. When one political party fails in this regard, it affects trust and confidence in all political parties and, ultimately, in the electoral system itself.

Obviously, there are well-known funding and disclosure requirements for parties, but, as the Broderick and Jenkins reports have also highlighted, parties have a responsibility when it comes to ensuring that the culture within those parties is positive and that there is no place for sexual harassment, bullying and harassment in our organisations. I stress, again, that confidence in our electoral and political system is undermined if key institutions like political parties are seen to tolerate a culture of inappropriate behaviour, including bullying. This means that we need to make sure that there are well-resourced complaints handling policies and procedures and continuous training for party officials, members, MPs and staff.

Political parties, or the organisational wing of those parties, have been told that we do not have jurisdiction when it comes to complaints about behaviour that occurs in Parliament and in parliamentary offices. Legally, that may be the case, but I don't think that that is a realistic or practical demarcation. We need to get this right. It is in the interests of everyone in this place to get it right, and it is in the interests of the integrity of the New South Wales electoral and political system to get it right. It will inevitably create new resourcing obligations on political parties, and I think that there is a discussion that should therefore be had about how this resourcing could be supported perhaps through the system of administrative funding.

The second general theme that I very briefly want to mention is that voter confidence also requires constructive, regular and proactive engagement between political parties and the NSW Electoral Commission, which I know is something that has been raised and discussed in quite some detail in this Committee's processes before. I'll leave my introductory comments there and I'm happy to take your questions.

**The Hon. BOB NANVA:** I will turn to the governance and organisational requirements and the resourcing that you mentioned in your opening statement. There's a growing expectation by New South Wales integrity agencies and the public that funding for party administration be linked to high standards of culture, governance and compliance. In order to meet that burden of those higher standards, what costs are being borne by political parties in culture, governance and compliance that weren't originally foreseen or certainly adequately compensated when administrative funding laws were conceived over a decade ago?

**DOMINIC OFNER:** Thanks for the question. I will start with some of the additional cost burdens that NSW Labor has encountered, definitely in the time that I have been in this role and within the party office, over the past four years. They are costs that I don't think were necessarily anticipated when the current administrative funding model was developed—definitely not the scale or size of those costs, which relate to things like the level of IT resourcing and cybersecurity requirements. The NSW Labor conference documented well the level of security arrangements that were required for that conference in light of some security concerns. That obviously has a significant cost burden on the party. There are additional disclosure obligations, which we welcome, and the party has long called for more regular disclosure of donations, for instance. But there is the disclosure of donations twice a year and then the disclosure of donations 21 days before a state election as well.

As I touched on, I would include as well the very important work that parties have to do in relation to the development and implementation of policies on bullying, harassment, sexual harassment and complaints handling to make sure that they are more than just policies on a page but lived documents that have an actual impact on culture and behaviour. There are significant costs in terms of training and embedding those policies as lived documents. I don't make any complaints about the need to do any of that. That is important, good practice and governance, in making sure that the party organisation is as strong as possible. But what I think it means is there is now an opportunity—and I suspect these are costs that are being experienced by party organisations across the State—to look at whether the current model of administration funding is fit for purpose over a decade since, on my understanding, it was first introduced in the current format. What are the costs that are now met by parties that weren't anticipated then, and is there a constructive way that we can look at making sure that, organisationally, we have the support that we need to make our parties safe and robust in term of our policies and governance processes?

**Mr TIM JAMES:** Thank you, Mr Ofner. I'll take you to page 9 of your submission on the question of preferential voting. Your submission is that we ought to have compulsory preferential voting in state and local government elections, recognising that both are presently optional. Your main argument seems to be one of consistency across jurisdictions. Bearing in mind that two out of three levels of government in New South Wales are currently optional preferential, you're saying that we should overturn those two and make them consistent with the Federal system, which is compulsory preferential. I point out, respectfully, that in the Federal electorate in which I live the Federal MP, Kylea Tink, was elected on a 29 per cent primary vote, thanks to compulsory preferential voting. Less than one in three locals wanted Kylea Tink to be their local Federal MP, but that is the outcome that the system you are advocating has yielded. Given that two of the three levels of government are not that way inclined, are there any other arguments you have, beyond consistency across jurisdictions, to support your argument for compulsory preferential voting?

**DOMINIC OFNER:** I think the jurisdictional issue is—obviously, you've made reference to state and local, but I think also the national jurisdiction is very important to take into account. Just to clarify, that's what the submission means in terms of jurisdictions.

**Mr TIM JAMES:** Yes, I understand. So you're saying that two out of the three systems need to change?

**DOMINIC OFNER:** If I can answer the question. National consistency, in terms of compulsory preferential voting, which is the case in every other state except New South Wales, I think is very important. Secondly, the issue that we see consistently because of the inconsistent voting arrangement with regard to preferential voting is the formality of votes and informal votes in electorates, which I think is very important when it comes to the enfranchisement of voters. There is also the issue, in terms of optional preferential voting, where a number of votes are exhausting, and I think that there is a view that the party has in terms of making sure that votes should not be exhausting throughout the count. On the issue of North Sydney, with respect, I think that the will of the voters in North Sydney should probably be respected and not dismissed. The outcome, I think, should be respected by all players in the democratic process in terms of what happened in North Sydney at the last election.

**The Hon. CHRIS RATH:** But what about the will of a voter to want their vote to exhaust? I understand your view about the will of the voters in North Sydney where they have compulsory preferential, but why do you think that voters shouldn't be allowed to have their vote exhaust if that's what they want?

**Mr TIM JAMES:** Yes, it's their vote; they ought to be free to do so.

**DOMINIC OFNER:** I think that the system of compulsory preferential voting, which has served Australia very well and has served the States across the country very well, is the standard that we in New South Wales should be seeking to strive for. To the issue of the intention of the voter, the fact that there are many people who, as our submission says, have intended to express preferences but may unknowingly fail to do so because of the inconsistency between Federal and state elections, for me, is the paramount concern.

**Mr TIM JAMES:** But what about those who knowingly do not wish to cast a preference and ought to be free to vote as they see fit? Bearing in mind, in many other jurisdictions around the world, the question of voting, full stop, is at the discretion of the voter. We do have mandatory voting in this country, but you're saying it ought to be mandatory to number every single box. So you want the already mandatory to be more mandatory. We say voters ought to be free to have their will expressed on their ballot paper.

**DOMINIC OFNER:** You might characterise it in a negative way by saying that. I actually think it's a positive thing for democracy.

**Mr NATHAN HAGARTY:** We have heard from previous witnesses that there is a strong, overwhelming view that local councils shouldn't be able to engage private election providers to conduct their elections. What is your view on that?

**DOMINIC OFNER:** I think that the provision that allows private companies to conduct local government elections is, frankly, one of the most disgraceful elements of New South Wales electoral law, currently, and it should be addressed as a matter of priority. Elections should not be run for profit. Elections should be run because it is a fundamental right of people to vote and have their say. There were, in recent council elections, a number of instances where private providers were making decisions that were very questionable and those instances were, in some cases, well publicised. I would urge this Committee to, where appropriate, make recommendations that the relevant parts of legislation that allow for that to happen are amended as a priority.

**The CHAIR:** Mr Ofner, you state that the NSW Electoral Commission should provide extra resources for culturally and linguistically diverse voters, focusing on polling places. That is on page 8 of your submission. What strategies would you like to see to improve participation by CALD communities?

**DOMINIC OFNER:** Thank you for the question. The standard practice that we've seen has been translated material, translated social media advertising, for instance, and translated print material. I think the reality is that that's a very old-school and traditional way of engaging with CALD communities when many people in those communities, as we're seeing in all communities, are engaging with new forms of social media, new forms of digital engagement and the role of third party influencers, so to speak. I think there's some work that could be done there in terms of awareness about the need to vote but also the need to raise awareness about formal voting as well.

**The Hon. CHRIS RATH:** I like your recommendation, when it's authorisation of material, that candidates shouldn't have to put down their own residential address. I wonder if you could expand on that or some of the problems that you're seeing, because I think it's absurd that people need to put down their residential address on material that's literally being sent around to thousands and thousands of voters. You're almost asking for safety issues for candidates. I know personally a lot of them feel very uncomfortable about needing to put their residential address on authorisation of material.

**DOMINIC OFNER:** I think that's right. I think that that obviously is an element of what is currently required that goes back to before the very significant security challenges. It's widely accepted now that people who participate in the political process are facing and experiencing a level of threat to their safety, welfare and security that just was not the case decades ago or even a number of years ago, so removing the requirement—and this was particularly the case we saw in the council elections where council candidates had to put down the residential address of the person authorising their material. In an ideal world there would have been the ability to use the address of, say, the political party that they're representing. Obviously, there may need to be some things worked through in terms of not abusing that ability, but I think that it's just a matter of common sense nowadays in terms of what the most appropriate address should be for authorising material.

**The Hon. CHRIS RATH:** I know we've raised this issue before, but I think it's quite a good one, about property developers and real estate agents and their ability currently to stand for local government despite the endless potential conflicts of interest that could exist should they get elected. Could you talk more about your recommendation on that and how it might improve democracy if that was fixed and tidied up?

**DOMINIC OFNER:** It's a longstanding position of the Labor Party not to allow, in our own processes, for property developers and real estate agents to nominate for Labor Party preselection. I think there has been a well-known risk of property developers and, in terms of council matters, decisions that affect real estate and may benefit real estate agents that make that policy within the Labor Party very evident and apparent. It has been the view of the party that that should apply across the state as well. The prohibition on donations from property developers, I think, has had the significant benefit of restoring confidence in a lot of those processes and stamping out the perception that decisions that relate to development are not connected to donations. I think that the logical next step is to stamp that out in terms of eligibility to nominate, as the Labor Party has done.

On the issue of developer donations, I note that at the last inquiry the commissioner of ICAC gave evidence in relation to, frankly, the inconsistency in terms of the prohibition of developer donations where they cannot donate for state purposes but can donate for Federal purposes. I think that recommendation from ICAC obviously doesn't have a policy implication at a state level, but every opportunity should be embraced, as the Federal Government is looking at donation reform at a Federal level, to ensure that the New South Wales standards when it comes to developer donations are applied at a Federal level as well, and working towards national consistency in donation laws, in terms of prohibitions, caps and expenditure caps as well. When we are talking about the role of property developers as candidates and as donors, I think there is still some work that can be done.

**The Hon. CHRIS RATH:** I think it's a very good point. Have you looked at all at whether there are any conflicts with things like town planners, architects, builders? I think the obvious one is property developers and the next one is potentially real estate agents. But then what about the other parts of the profession or the industry that might have potential conflicts as well?

**DOMINIC OFNER:** I think that issue was part of the terms of reference to the inquiry into the 2023 election. I think that matter was canvassed quite well by ICAC's submission to that inquiry that did say a line at some point will have to be drawn. I think that is probably the most logical approach. Where the line is currently drawn, in terms of definition, is probably appropriate.

**Mr TIM JAMES:** Can I just confirm a simple question? Trade unions are taken to be third-party campaigners, are they not, under the law?

**DOMINIC OFNER:** That is correct, yes.

**Mr TIM JAMES:** On page 14 you state:

NSW Labor contends that political parties and third-party campaigners operate independently ...

You go on to say:

... NSW Labor has always developed its campaign strategies independently of third-party campaigners.

Given that trade unions are third-party campaigners, and given the intermingling of Labor and the unions which is present in every respect—in the composition of your committees and so on and so forth—how can you make those statements that there is a level of independence as between your party and third-party campaigners, namely, trade unions? Because there cannot possibly be.

**DOMINIC OFNER:** I probably am not going to use my time in this inquiry to take you into how NSW Labor develops its election strategies, but I stand by what—

**The Hon. SAM FARRAWAY:** I will.

**DOMINIC OFNER:** I absolutely stand by what is in that. The obsession that people have about who sits on the NSW Labor Administrative Committee, I must say, is something that those of us in the party enjoy and find quite amusing. Bodies like the NSW Labor Administrative Committee, frankly, deal with things like procedural political management questions, like when local government preselections take place, when we endorse our candidates for local government, for instance—and all levels of government, for that matter—or the appointment to internal party machinery committees. It's not where election strategies are developed. I therefore very confidently stand by what's in that. I think this constant attempt to go back to this is really an issue that's in search of a problem which doesn't exist.

**The CHAIR:** Mr Ofner, on page 4 of your submission you talk about the Electoral Commission's electronic financial disclosure system and how it can be improved. I wonder if you'd like to expand on that, please.

**DOMINIC OFNER:** I touched on this when I was here in April. When I make these comments, I absolutely acknowledge at the outset that the Electoral Commission is dealing with its own funding constraints and has very significant competing demands when it comes to its resourcing. This is a point that I raise very much on behalf of the long-suffering finance and accounts team at the NSW Labor office that is currently dealing with all of the invoices and the vouching of material that needs to be uploaded to the New South Wales funding and disclosure system. I am advised that 25 items only can be uploaded at any particular point in time. This means that to upload 300 items can take all day. To put that into some perspective, in a campaign period somewhere between 2,500 to 3,000 invoices alone—before you then get into the supporting vouching material—are uploaded into the system. I think there are a number of things that therefore need to be looked at straightaway, as a priority, to make engagement with the disclosure system as easy and efficient as possible.

**Mr NATHAN HAGARTY:** Just on that, in terms of uploading documents, have you ever had any issues with getting nomination forms in through the online system?

**Mr STEPHEN BALI:** I was just about to say that there is also an advantage to taking a while to upload.

**The CHAIR:** I think you might let that one slide.

**Mr STEPHEN BALI:** Just to further explore an earlier point about your belief in compulsory preferential voting, and given the example that Mr James raised earlier, I note that if you look at the seat in North Sydney, 63 per cent of the people voted either for the Independent or Liberal Party, which left 37 per cent, or one in three people, basically being disenfranchised if they're not fully educated—knowing that their vote actually counts all the way through. We had an earlier submission today about civics and people's understanding of voting. Do you see as an advantage of compulsory preferential voting that at least people have a chance to think about it?

Noting that the Labor member came third—there were something like 25,000 votes, of which 20,000 went to the Independent and 5,000 went to the Liberals—you can't say that everyone flows through a particular way. But having those 25,000 people having their say in the ultimate representation, isn't that an important thing?

**DOMINIC OFNER:** I think anything that allows that engagement and for votes to be counted all the way through the voting process is important. To your point about civics education, as well, it is important. Whether the system is compulsory preferential, which is obviously a preference of the Labor Party, or optional preferential, which would be a preference, clearly, of the Liberal Party, making sure that we use every opportunity possible to raise awareness about the voting process—formality of voting, why voting matters and why Australia is very lucky to have compulsory voting—we should use every opportunity possible to do that and explain why we do those things. I suspect, in the course of that education, the arguments for compulsory preferential voting will be very obvious to the students, compared to the points that people may advance for optional preferential voting.

**Mr TIM JAMES:** Just on that, because I asked about it earlier, the notion or the inference here that those who did not number every box are somehow uneducated, unsophisticated or did not think about their vote is frankly offensive.

**DOMINIC OFNER:** No, that's not—

**Mr STEPHEN BALI:** Who said that?

**Mr TIM JAMES:** They were the words you used—uneducated and unsophisticated.

**Mr STEPHEN BALI:** I did not say that.

**Mr TIM JAMES:** I think the record will so reflect. That is the inference here, that if people are not—

**Mr STEPHEN BALI:** That is not the inference. You're putting words in—

**Mr TIM JAMES:** No, that's exactly what you've inferred.

**Mr STEPHEN BALI:** No. I'm just saying a person's vote—

**Mr TIM JAMES:** I do not think you ought to cast aspersions on the people of North Sydney in that fashion nor the millions of people who choose to number only a limited number of boxes.

**The CHAIR:** Order! Members will direct questions to the witness. While members are working out what question they ask, I will pass to Mr Nanva.

**The Hon. BOB NANVA:** Do you think it can be reasonably concluded that an election where large portions of the vote do not impact the final result because a significant number of voters have not indicated a preference past an eliminated candidate is actually an expression of the will of the electorate?

**DOMINIC OFNER:** I think that probably captures the issue in a nutshell, Mr Nanva. We want to make sure that the will of the electorate—at least 50 per cent plus one of the voting electorate—is captured in the outcome. And when votes are exhausting, we are not getting the majority view of the voting electorate.

**Mr TIM JAMES:** If you believe in 50 per cent plus one, how is it that in North Sydney a Federal MP is elected on a 29 per cent primary vote? Less than one in three locals have expressed a first preference for that individual, but they are now their representative.

**DOMINIC OFNER:** I think at least 50 per cent plus one of the electors of North Sydney ultimately made a preference for the Independent.

**Mr TIM JAMES:** No, they preferred not to support that candidate. That was how they expressed their will on their ballot paper. This is the inherent contradiction, don't you see, that you are making out?

**DOMINIC OFNER:** I don't see the inherent contradiction, no. I don't see the inherent contradiction and I think—

**Mr TIM JAMES:** Well, it is clearly a contradiction.

**Mr NATHAN HAGARTY:** Point of order: Can we let the witness give their answers without being consistently interrupted?

**The CHAIR:** I am very happy for members to ask questions, and I am equally happy for witnesses to be able to respond.

**DOMINIC OFNER:** Firstly, I think Kylea Tink would be very flattered that she has been the focus of so many questions at this inquiry.

**Mr TIM JAMES:** There are many other examples, of course.

**The Hon. CHRIS RATH:** She won't have to worry for much longer.

**DOMINIC OFNER:** That may be the case.

**Mr NATHAN HAGARTY:** She will win on first preferences next time.

**Mr TIM JAMES:** No.

**The Hon. CHRIS RATH:** The seat has been abolished.

**DOMINIC OFNER:** I make that point again: She's probably very happy.

**The CHAIR:** Order! I ask all members to please let the witness respond.

**DOMINIC OFNER:** No, we're talking about 50 per cent plus one of the voting electorate. That is, in a nutshell, at the heart of preferential voting. That is the system that has been the bedrock, frankly, of obviously Federal elections but also the vast majority of States for a very long period of time. You've highlighted one example where, say, 29 per cent of the people may have voted. That is, firstly, quite rare but, secondly, it then comes back to the point that's captured in Mr Nanva's question: We're looking at the overwhelming sentiment and objective of the desired outcome of the majority of voters and making sure that those votes are counted through a compulsory preferential system. That, I think, is the point: While there is no inherent contradiction to what we're proposing, democracy is built on what the majority view is—50 per cent plus one of the voting electorate ultimately express a choice through the voting process. That is best captured in a compulsory preferential system.

**The Hon. CHRIS RATH:** Are you aware that it was a Labor Government that introduced optional preferential voting in the first place?

**DOMINIC OFNER:** I'm well aware of the history of optional preferential voting. I think that there are very few things that Neville Wran did that were wrong, but I think that was probably one of them.

**The Hon. CHRIS RATH:** He has impeccable judgement on electoral matters.

**The CHAIR:** How about if I move to the slightly more mundane but equally important matter of the electoral roll? On page 5 of your submission you suggest that the NSW Electoral Commission and the AEC explore ways to share resources for electoral roll management and that this would be a way to strengthen the security and the integrity of the electoral system. Can you please speak to that a little bit more?

**DOMINIC OFNER:** There are just some practical issues that come with the way that the roll is managed and the two systems of managing the roll. There are people who appear enrolled at a particular address on the Federal roll but don't appear at that address on the state roll. Just being able to streamline and get that consistency is very important to ensure confidence and participation in the electoral process. There are practical things as well. I understand the Federal roll is updated on a monthly basis. The state roll is not updated on such a frequent basis. Again, in terms of engagement by political parties and members of Parliament, that does raise challenges in terms of making sure people are accurately enrolled and their enrolment is as up to date as possible. There are practical implications of that. In terms of how that would look at an operational level, I think the two commissioners themselves would probably be best placed to identify how that can be better done.

**Mr STEPHEN BALI:** Apart from the timing issue, are there any other reasons why the Federal and state rolls would be different? Could you be on the Federal roll and not the state roll?

**DOMINIC OFNER:** You can be, yes.

**The CHAIR:** I think that would surprise many voters that that would be the case. Thank you for raising it. It's a very important matter.

**Mr TIM JAMES:** I understand where you're coming from. On page 5, on this question of additional administrative funding for parties that have demonstrated stringent policies in respect of bullying and harassment et cetera, you're advocating that there should be essentially more public funding for parties that are simply doing what is these days the norm and the natural expectation around due conduct, behaviour and integrity of a workplace. Is that really what you're saying?

**DOMINIC OFNER:** No. I think that's probably an unfair characterisation. We're saying that, when the current funding arrangements came into place, it was when donations were only disclosed once a year. They're now disclosed twice a year and, in the case of an election, three times a year. There's additional administrative workload that is required on that. What it means is that, for instance, when the political party is holding a conference, in light of police advice and security advice, the level of security that needs to be paid for is significantly more than was ever anticipated for when the public funding model was introduced a decade or so

ago. It means that, as all organisations are dealing with, the IT challenges that we deal with in this day and age are significant.

**Mr TIM JAMES:** But this is focused on bullying, harassment, sexual harassment and complaints.

**DOMINIC OFNER:** In light of the Jenkins and Broderick reviews, there are additional processes that parties have, and they are absolutely welcome. But there are very limited areas where political parties—I can speak for my party and I assume it is the case for your parties in terms of raising revenue for administrative purposes. What I think—and this is linked to the recommendations of Operation Aero, which has also talked about ways of putting conditions on the release of administrative funding—is that there is an opportunity in that to look at how administrative funding can be provided on the basis of parties demonstrating good process. It may mean that some political parties are unable to receive the same level of administrative funding if they are not in a position to demonstrate good processes and good policies and good practices in that, and it may mean that, for other political parties that are prepared to go above and beyond what is required, that level of funding is acknowledged.

**Mr TIM JAMES:** You're saying additional?

**DOMINIC OFNER:** It may be that additional funding is needed.

**Mr TIM JAMES:** Beyond that which is already there?

**DOMINIC OFNER:** It may be. That's not to say it should be, but it may be.

**Mr TIM JAMES:** Your recommendation is that there be additional administrative funding. I just think the challenge you've got here is that the community would expect these organisations to do the right thing, have the right processes and conduct themselves appropriately, lawfully, ethically and so on, without needing more public money to do so.

**DOMINIC OFNER:** If that's the determination, as ICAC's proposal in terms of a working group structure—they proposed a working group structure to look at how a whole lot of recommendations relating to Operation Aero could be implemented. That is another recommendation: We suggest the working group kind of arrangement should be looked at. If there was an honest conversation had among political parties, organisationally and in terms of the representations of political parties, about just how much work needs to be done in order to meet the expectations, I don't think anyone, to be absolutely frank, who is involved in the organisational elements of parties—Labor, Liberal, Nationals, Greens, Shooters—and those that we work with who are inside this Parliament would say that the parties are—there could be more support. I don't think it should be given just as a guarantee. Particular standards need to be demonstrated, as the ICAC recommendation touched on.

But I make the point—and I don't say this to be sarcastic, in light of Mr Hagarty's comments—that organising the number of nominations that political parties have to organise to run in, say, local government elections, is resource intensive. We brought on additional people just to make sure we were able to do that. Clearly, there were limitations in terms of other parties doing that. I don't say that to make a joke. I say that because it was a point that was brought up in the fallout of that. I would like to think that is an opportunity to ask whether political parties, from an administrative and organisational point of view, have, based on the level of funding that is currently available, enough resources to do those tasks. If the view is that that is correct and that money could be better used, so be it. But if there is a view that in light of all of the obligations that we have—all of which I absolutely welcome—the administrative funding model could be reviewed, then let's have that conversation and work out the best way to do that in line with community expectations.

**Mr TIM JAMES:** I just think you've got a challenge to go out to the community to say, "We need more money in order to comply with matters of harassment, bullying and so on." I don't think it's a good—

**Mr STEPHEN BALI:** I would just like to add to that point and ask your opinion, Mr Ofner. I understand where Mr James is coming from, because asking the public for more money for political parties is not really a great thing. It's like asking for a pay increase for politicians. But also, if we want a robust participatory democracy, given the parties have 10,000, 20,000 or 30,000 members, you can't really charge gigantic fees if you want people to join and be part of it. Having so many people inside the tent also creates adversarial situations when you are talking about politics. So what you are saying is that to be able to guide, support and educate people in different processes and rules to make democracy work—and civic education et cetera is another form of it—parties need more money to be able to make sure that boundaries are set and everyone feels safe inside to operate.

**DOMINIC OFNER:** That's right. I would just come back to the point, and I've touched on this, that there have been in both major political parties—and I imagine there have been in other parties—well-publicised examples of complaints in relation to bullying, harassment and sexual harassment where the parties have acted, and quite rightly so. But there are costs involved in that. There is a legal grey area in terms of the jurisdiction political parties have when it comes to complaints around what happens in, say, parliamentary offices. Legal

advice is that political parties don't have jurisdiction in that. I don't accept that that is a realistic approach. When members of our parties turn up to work when they work in a political setting, they have every right to expect that they will be able to draw on the support of the political party if they need it.

That is not the approach that may be what is borne out of legal advice, but it is definitely the expectation that our members and, I would say, the public have. I would urge, for instance, the Parliament to work through and implement the Broderick recommendations as a matter of priority, but that will then inevitably draw on more resources and more involvement from the political organisational wings, and there has to be a realisation that there will come additional resourcing requirements as political parties become more involved in that process, as we absolutely should.

**The CHAIR:** As the Chair, I get the last word. I'd just like to point out that, in relation to the Broderick report and the various reports that the ICAC and other oversight committees have given and the requirements put on the Parliament, we also required and received additional funding to implement those—so urgently needed, very important for the Parliament to meet those obligations. I think everyone here welcomes your comments today in relation to precisely the same matter that is affecting all political parties in New South Wales. Thank you for appearing before us today. Mr Ofner, you'll be provided with a copy of the transcript of your evidence for corrections. Committee staff will also email—I don't think you took any questions on notice today but, if there were or if there are any supplementary questions from Committee members, we'll forward those to you.

**DOMINIC OFNER:** I'll await any more questions about the electorate of North Sydney results.

**The CHAIR:** I'm sure there'll be many.

**(The witness withdrew.)**

**Mr SEAMUS LEE,** Registered Officer, The Greens NSW, affirmed and examined

**Mr CHRISTOPHER MALTBY,** Deputy Registered Officer, The Greens NSW, affirmed and examined

**The CHAIR:** I welcome our next witnesses, Mr Seamus Lee and Mr Christopher Maltby. Thank you for appearing before the Committee today to give evidence. Please note that the Committee staff will be taking photos and videos during the hearing. The photos and videos may be used for social media and public engagement purposes on the Legislative Assembly social media pages and websites. Please inform the Committee staff if you object to having photos and videos taken. Before we start, do you have any questions about the hearing process?

**SEAMUS LEE:** No.

**CHRISTOPHER MALTBY:** No.

**The CHAIR:** Would either or both of you like to make a short opening statement before we begin the questions?

**SEAMUS LEE:** I'm all good, thanks. We don't have an opening statement.

**The CHAIR:** We'll move straight to questions from members.

**Mr TIM JAMES:** As you're probably aware, we dealt with the question of voting age in some detail at our most recent hearing and spoke to a number of young residents of this state and a number of organisations on the topic. The challenge that we came to was that if 16-year-olds want to be, in a sense, fully-fledged adults from the point of view of democracy, then there's an argument that should become so from the point of view of law as well—in terms of our justice system, the extent to which they ought to be sentenced, imprisoned or otherwise. Obviously—and I know your submission has dealt with this—there are some exceptions, but the vast majority of nations around this world have settled on 18 as the right balance. One of the topics that came up at this inquiry a few weeks back was the question of development, judgement and the extent to which young minds are impressionable, vulnerable or otherwise at younger ages and stages. I wanted to invite your comment there. Given the majority of nation states have settled at 18, is there a compelling argument to change it?

**CHRISTOPHER MALTBY:** It was interesting to read the transcript from the previous hearing on that topic because I think there was a lot of good discussion there. Our position is a longstanding one in support of reducing the voting age generally, in that it would be optional from age 16—but that argument could be made for even younger, I think. As has been noted in those things, criminal responsibility kicks in at age 10 in most States; that's another question. The driving age is a variable. There's a whole range of factors. Of course, yes, people's intellectual maturity changes over time. It would be the case that the vast bulk of people who are taken in by banking scams are not people in the age 16 to 18.



So if you're looking at capacity to vote on the basis of some general rule about people's ability to make those kinds of decisions, I think age is probably one of the least important factors—one of the easiest ones to measure, but it doesn't mean that it's necessarily the best way to do that. Certainly, we saw from the young people who presented to the Committee that they had as much or greater capacity than many to be able to express their political views and to form a judgement of the policy options. I think the compelling point that was made in there, and one I hadn't particularly thought of in advance, was that we see a lot of disengagement of the youth. They were saying, well, being involved earlier might help cement a habit towards being involved in politics and staying engaged with the process as they mature.

Certainly the experience of our party, and I think broadly across the community, is that we have quite a lot of interest amongst young people in being involved. Then they acquire responsibilities—work, life, families and all those other things—and they drop out. We've got an age demographic of membership that looks quite high in the youth, then it drops away and then it comes back up again, and you've got large numbers of people in my age bracket who are perhaps counter to the community involved in the political process as well. Trying to get people engaged and staying engaged is something that would be good for society as whole. Starting earlier might be a good way to do that.

**The Hon. CHRIS RATH:** I have a question—and I think it's an interesting point—on the public sector employees, that they shouldn't need to resign or take leave without pay if they stand for election. I think every political party has faced this issue before. How do you get around the issue that if they were to be elected and then they have an office of profit under the Crown, some problems can arise from that as well? Or are you saying that it's just during the campaign period that they shouldn't have to resign, but that should they get elected, obviously they have to? We've faced it as a party as well, as I'm sure you have. It can be quite annoying when you're trying to find candidates for seats and then your head office says, "Please find someone else because that person works in the public sector."

**SEAMUS LEE:** Yes, and I think that's a really difficult thing to do. I think that's mainly about the campaign, really—particularly, as you say, for a party like The Greens, where in most seats we're unlikely to get elected. In most cases it's about flying the flag for the party. Why should someone have to resign their employment? Sometimes what might actually make the difference between someone being able to be a candidate or not is still having that regular income still coming through. I think we might have developed it in our submission into the 2023 election, or maybe in this one, but we're thinking that what that rule really should target is those that actually have a policy direction, such as directors-general and others. Teachers, who really don't have a way of influencing state policy, are still caught because they're legally employed by the public service or the equivalent sort of thing. Why should they have to resign if it's about a conflict of interest concern—which is obviously a very valid concern.

I might be wrong here, but I think there might be a provision in one part of the Constitution that says that you've got a week after declaration to resolve any potential conflicts of interest. The general gist has been that, through industrial agreements and other things, there's a general idea that you're meant to take leave without pay if you're standing for election to Parliament. It also expands into other areas such as how do companies and others—during the local government elections, we had someone considering nominating, but it was a bit too late for them to go through all the processes within their organisation to get approval to be able to run as a candidate. Obviously, private companies can do what they like, but I think it's also a question about how much is an organisation able to control individuals standing for political office.

**CHRISTOPHER MALTBY:** It's also worth noting, I think, the historical basis for this restriction. In the early days of our colonies, the public sector was a much smaller part of society and the roles were more senior by definition, and so the prohibition made more sense in those days. Essentially, there's no distinction between a public school teacher or a person employed in a national park or something like that—doing whatever job, reporting ultimately to a Minister—from someone who's working in any other kind of capacity in the private sector. Directly to the terms of reference we're dealing with here, that's an impediment for those people to participate in something that should be available to every citizen except when there's a good reason not to. The good reason seems not to have been established in this case, or no longer applies.

**The Hon. CHRIS RATH:** We've got the same frustration, especially when they're putting themselves forward for a potentially unwinnable seat. They want to do it and they're told no because they'd have to take six weeks leave without pay, and they don't have the capacity to do that. I understand the point.

**Mr NATHAN HAGARTY:** Given your comment about how this was probably put in place when there were fewer public servants, who were much more senior, what about specifying a level such as if you're above public sector level X?

**CHRISTOPHER MALTBY:** I think that's a workable solution. Determining the level is obviously something that Parliament would need to come up with, but I think there's a level—senior executive service level or some grade or two below that, potentially—that might be deemed to be sufficiently conflicted by them possibly being a candidate.

**Mr NATHAN HAGARTY:** There's obviously a big difference between, say, a secretary or deputy secretary and someone who maybe works part-time at the school in the tuckshop or something.

**CHRISTOPHER MALTBY:** Is a school principal sufficiently high or not? My guess would be probably no, but then obviously being able to balance the need to do a full-time job and be a candidate and to do that successfully is a consideration as well.

**SEAMUS LEE:** Of course, you've got state and local having different areas as well. Just being a general manager, for example, of a council isn't necessarily in the public service because obviously councils aren't necessarily caught, I don't think, under the public service Act—although I might be wrong. That might have to have its own special rules for local government elections that might not apply for state elections. Again, setting those levels is a parliamentary question that would need to be looked into.

**The Hon. CHRIS RATH:** It could also be a question of, as you said before, could they be doing both jobs well. Do they have enough time to run a campaign and also do whatever their actual job is? You wouldn't want their political involvement interfering with the job that they're supposed to be doing. From my experience in the private sector, a large part of it is that point, more so than any potential conflicts of interest.

**SEAMUS LEE:** Reputation of the organisation.

**The Hon. CHRIS RATH:** It's more that, if you're going to put yourself forward as a candidate, it's a huge time commitment. How do you have enough time to also do your day job?

**CHRISTOPHER MALTBY:** At some level, those become questions for the voters, right? They get to, you know—

**The Hon. CHRIS RATH:** Yes.

**SEAMUS LEE:** But I think it is a very genuine question. I think it's a range. Like, if you're a candidate, for us, like I said, Balmain or Newtown is completely different to a seat like Penrith or even Lane Cove, to an extent, or something like that. I think you don't want to build artificial barriers, I suppose, to people's ability to run.

**The CHAIR:** Okay. Can I ask you about another matter? Could you please provide us with more detail on your comment on page 5 of your submission that "Administrative and Election Campaign Fund expenditure should be directly and primarily related to the activities of the party within NSW"?

**SEAMUS LEE:** Yes. I think we've seen some parties using their other state branches to maybe do printing or other things and intentionally, in a way, to get around, maybe, some New South Wales specific rules. But I think the other element, obviously, is we need to make sure that, if leaflets are then printed and produced—corflutes or whatever—the Electoral Commission, or whoever is the enforcement body, is able to enforce and deal with the issues raised, so it's all captured within the legal jurisdiction.

**CHRISTOPHER MALTBY:** I think that's the key thing. With parties, not all the states have administrative funding and it could be very tempting for political parties to do some form of, as we referred to in the submission, transfer pricing, where they arrange to purchase materials from a branch of their own organisation in another state at an inflated cost, and then charge that to the New South Wales taxpayer as administrative funding.

**SEAMUS LEE:** Or campaign funding as well.

**CHRISTOPHER MALTBY:** Broadly, on the question, and to raise issues that were in the previous session, on the question of administrative funding it's worth noting that we've made submissions to a number of electoral inquiries post-state elections regarding the way that administrative funding is tied to the number of MPs you've got, and not necessarily to the support of the party. We've been advocating that it should be at least related to votes received across the state. The Greens have got eight, nine, members of the State Parliament—is that correct?—or maybe fewer than that, and with larger parties, it's good to hear that Labor is having difficulty doing the things they need to comply within their budget. We certainly have the same problem, and our budget is substantially lower as a result of our having the fewer MPs, and we have the same essential administrative burdens—maybe not quite so many donations.

**The CHAIR:** Just to follow on from that in terms of administrative burdens, ones that are totally justified, of course—things like the implementation of the recommendations of Operation Aero—can you talk about that?

**SEAMUS LEE:** I guess we've had increased burdens in terms of particularly our accounting side of things. Obviously, we've now got a policy against cash donations over a certain amount. They have to comply with the legislation and other things, so that's also meant that you've had sometimes some membership fees being collected. We've had to really step up in terms of our control over local groups in terms of making sure they're using only certain fundraising systems and other things so that we can do all the compliance checks to make sure they are people on the roll and all that sort of work. But, obviously, there's potentially more to do. I think Parliament shouldn't be too prescriptive about what's required, but I think there could be better scope to make sure that there are certain policies, procedures and compliance levels in place within parties, though.

**CHRISTOPHER MALTBY:** I think, too, the broad question of whether or not there is corruption of that kind occurring within the structures of political parties and how best to avoid it, The Greens have to some extent been inoculated from that by our longstanding policy to not accept donations from corporations of any kind. Obviously, to satisfy requirements—people are entitled to be an individual donor as well—is onerous. It's true that over the time various reforms around electoral integrity and donation integrity have been in place that the number of people that are employed within The Greens to do compliance work of that kind has grown enormously. We had an office with one or two people who did mostly political work, and now our office is primarily people doing financial and accounting compliance work of various kinds.

We're forever looking at ways to reduce the costs of the online systems and other things that make that manageable. I share the concern raised by the Labor Party about the complexity of uploading material to the Electoral Commission's site. Also, from another point of view, it's being able to access that material as a consumer of the reports. If I wanted to look at where Labor was spending its money on seat-by-seat basis, or the Liberals or anybody else, for that matter—or The Greens—it's actually extremely difficult to extract that data from the Electoral Commission because it's hard to put it up there, it's fragmented and the formats are generally unfriendly. We're both making it difficult for parties to comply with and making it difficult for the consumers of that information to consume it.

**Mr TIM JAMES:** On page 2 you make the case that applicants for nomination for local government election ought not be required to complete a statutory declaration. Is it really too much to ask that someone finds a JP and gets a stat dec to affirm that what they're putting in their form is true, accurate and correct and so on and so forth? I don't think it's too high a bar. Do you really think so?

**SEAMUS LEE:** Local government is the only layer of our government that actually requires a statutory declaration to be accompanied. All other forms don't—the section 44 questionnaire, you could argue, should be a statutory declaration; it is not. It might seem like it's not a significant bar, but in some places, particularly rural parts of New South Wales, it might be hard for someone to drive and find a JP. Particularly also when you combine that with the fact that for warded councils in particular you need to run the same number of candidates to be elected in a ward to get the group voting square, so the number of candidates you're dealing with can be quite significant.

We think that it's just an added layer that doesn't serve much. However, we also suggest that the alternative could be that maybe it should be changed to allow for the authorised witnesses from the national authorised witness list, which is a much larger list, to include teachers, pharmacists and others, which are not on the New South Wales list. That might also assist in a way. Those were the rules that were under COVID, and that did cause some of our candidates a bit of confusion this time around because not many had realised that that part had essentially sunsetted the applying.

**CHRISTOPHER MALTBY:** There's a small number of candidates, always. We have had three or four, I guess, out of the several hundred that we nominated, who were in places where finding an authorised witness was challenging—they were overseas, for example. There is a provision for doing those remotely, but that has added a significantly more complicated process. It's not actually clear how you do it, but we were nonetheless successful in getting them done. Returning to Seamus's point, what is the purpose of this? What goes on that form is largely factual information, potentially. Most of the questions are optional beyond what you have to contribute to be nominated in the first place, and there's a political statement that the candidate is allowed to make. Those statements are the sorts of things that are often produced on party leaflets and the like, and there's no requirement for those to be certified as true or to have that legal protection of being a statutory declaration. We don't see how the statutory declaration serves a useful purpose of integrity. Is there even any enforcement? If you make an untrue statement in your statement of intention, who would prosecute that? What is the point?

**Mr TIM JAMES:** I must admit it hadn't occurred to me, and I haven't looked to confirm that—

**CHRISTOPHER MALTBY:** And an informal survey of the ones in some local government areas shows that by far the largest group of candidates just leave those sections blank. They're signing a declaration that says, "My name is such and such, and my address is something else."

**Mr TIM JAMES:** It's a pretty significant step to put yourself forward for public office. I would have thought, as a general rule, it's not too much to ask that you would declare and affirm in the form of a stat dec or some other such means. It's something to think about, perhaps, for this Committee. I'm surprised that you're putting to us—I'm sure it's not inaccurate—that that's not required at either state or Federal level.

**CHRISTOPHER MALTBY:** No.

**Mr TIM JAMES:** Perhaps it ought to be so required to lift the bar across the board.

**CHRISTOPHER MALTBY:** There's a deeper question there, which is what are the penalties for making false declarations on a nomination? Should that be the test and would that be beyond the need to have a statutory declaration to provide some legal assurance that what people say on their candidate nominations is, in fact, kosher in some way. The other aspect that has been raised in earlier submissions is the authorisation of political material. We saw in the area where I am, in the eastern suburbs, material that was clearly questionable in its authorisation. It had an address for the authoriser that was a pop-up office—an office-for-hire place where you can rent a desk on the hour. That's clearly not an address where the person could normally be contacted in daylight hours or whatever is in the regulation. Yet, on complaint to the Electoral Commission, they said, "We can't tell you what the status of that is but no enforcement action was taken." It seems that there is no reasonable way to prosecute such an offence.

I was intrigued to discover that there was concern about candidates being forced to put their residential address on those leaflets. I agree with the concern. There are significant potential safety risks, given the nature of political discourse these days. But all of our material in The Greens was authorised by the party address and the party produced it, so that was okay. But the Electoral Commission has the problem that if you put a random address on there, how do they verify that that's compliant with the regulations? They don't have the resources to do that. But if the stipulation was that it has to be the registered address of the party or the body that is authorising it, or the enrolled address of the person who is authorising it, that would be something they could validate, and there could be a process of exemption for security reasons, where it could be agreed with the commission that it be some other address.

**SEAMUS LEE:** Of course, in terms of enforcement, it's often enforcement after the fact as well. If you're an independent candidate and you don't get elected, and you rented a campaign office and used that as your authorisation address, six months or one year down the track, a new tenant might say, "Who the hell is this person? I'm just going to throw this legal letter away." They won't know. We need to have some way of—maybe within the Electoral Commission—saying this address matches this particular nominee or something like that. A concern that has also been raised is about official party registration aspects. I know that both of our personal addresses are put on for registered officer and deputy registered officer purposes. We can put the postal address down as the party's office. But NSWEC requires us to have the main address as our enrolled address—which I'm not too concerned by, but others may be—whereas the Australian Electoral Commission allows us all to use the party address.

**CHRISTOPHER MALTBY:** If you want to contact us in relation to the party, then that's probably where you want to go anyway.

**Mr STEPHEN BALI:** What we were just discussing is probably a good segue into part 6 of our submission, which is "Election integrity and truth in political advertising." I direct you to the final paragraph, which states:

The penalties for breach of the provisions should be sufficiently punitive to deter the behaviour, with adjudication on the truth of a statement being prompt so that public announcements before the election could be made and appropriate penalties imposed.

They're great words and I think all of us around this table would probably agree to it. Who should be the arbitrator and how would the process work to be very prompt?

**CHRISTOPHER MALTBY:** It is a pernicious problem. The South Australians have had some sort of provisions in this regard for a long time.

**Mr STEPHEN BALI:** Do you know of any examples that it has worked?

**CHRISTOPHER MALTBY:** Yes, with mixed effect. The deterrent effect is probably there to some extent—that there is a risk. Before you make knowingly false statements in your electoral material, you might think that there is a chance of being prosecuted, and so that element is not absent from the law generally, whether it's practical to enforce it in all the circumstances. To the question of who, the electoral commissions at the national

and the state level have all said, "That's not us." So the question is: How would you do that? I think it's not beyond the ability of an establishment of a panel for those matters to be referred to. I don't think we are talking about a very large number of items that would be referred to them. Again, the fact that there was a risk associated with publishing stuff that was, potentially, provably false would deter people from that. And so in the event that somebody said, "Here is some material that we can argue is in breach of a law against such a thing", it would be fairly small and would be manageable in the time frames.

**Mr STEPHEN BALI:** But if there is a set-up to look at that, that may then encourage people to apply. Are we talking about statements that people take out of context—as we saw earlier today in this committee? Is that false and misleading? How far do we go? Is it just a matter of fact that a particular date is wrong, or someone is throwing out a comment that their taxes are always lower under one party versus another one?

**CHRISTOPHER MALTBY:** We're fully aware of the complexity of that stuff. We have seen, though, that there have been quite false claims about individuals or the things that they have done or not done, and those things which are potentially establishable. If you confine it to that—I mean, there are statements like whether or not one party might want to destroy Medicare or another party might want to introduce or impact on franking credits or whatever, as we have seen. The problem there is not so much the quality or otherwise of the statements; as often as not, it's the size of the megaphone. One of the problems that we have in the Federal jurisdiction is that there is no limit on that, and so individuals with a very large amount of money, with a political agenda, can amplify messages that are potentially problematic in that they are a matter of opinion. But that can be given more audience than it would be if you were saying the same thing down at the local pub.

**Mr STEPHEN BALI:** What punitive damages do you think would be reasonable?

**CHRISTOPHER MALTBY:** Good question. I think other electoral offences are in the range of multiple thousands of dollars—whether that would be a deterrent against somebody with a very big bankroll. Within New South Wales, I think the expenditure caps and other things for third parties and parties are such that it's harder to reach. You couldn't put the sort of money behind those sorts of campaigns that would have the same impact as we've seen. To segue slightly from that, I think a larger problem, potentially, is the deepfake material that is now starting to emerge, and the status of that within the system is something that I think will need its own inquiry. There is certainly some going on at the national level that I am aware of. But, as always, the regulation chases behind the offences and, in the lead-up to a Federal election next year, we are likely to see the bounds of that explored by the participants before we can do anything about it.

**SEAMUS LEE:** I seem to recall in the last South Australian State election Labor might have been pinged. It was maybe about two days before polling or something. I think what ended up happening was the Electoral Commission forced Labor to withdraw some piece of advertising or something. I think in the ACT, again I think it was Labor in the most recent one, they were required to publish a statement saying they had made an incorrect—wherever it had been. Again, I think that also falls into the other trap, which is what can you do if it happens two days, one day or even on polling day, in particular? How you ameliorate that is a very difficult matter.

**The CHAIR:** Can I ask a couple of questions about accessibility issues, which we are also focusing on? Vision Australia recommends legislative or regulatory change to require candidates and political parties to produce information in accessible digital formats. I wonder if you have any comments on that.

**CHRISTOPHER MALTBY:** It's an interesting question. For many candidates—I should step back a bit. I noticed that when registering material with the Electoral Commission for handing out at state and local government elections in New South Wales, one of the questions they ask is: Is the material accessible? For many people who are candidates, that question is probably unanswerable. What are the requirements for it to be accessible? There is a document somewhere that explains in broad terms what those things are.

**The CHAIR:** You think, for a start, that needs to be more accessible?

**CHRISTOPHER MALTBY:** I think so, and provision of templates maybe that say this is where you would put—if you've got an image in the thing, it needs to have alternate text or something so that when someone with limited vision can't make sense of it they can click a button and it will read out what the image is of. Then, of course, if the commission is going to check that it satisfies the requirements for registration, they have to go through and test all of those things as well. There are challenges there, but I know it's a worthy objective. It may involve substantial extra costs and compliance work to get it right.

**SEAMUS LEE:** Also, Chris has talked about registered material, but obviously that's a very small portion of material that is produced, so would we expand that to require party websites to meet WCAG two point something or whatever? Is it that sort of thing that we're actually saying, like pass a screen reading test or whatever, and how would that be verified? Would it be like the commission comes along every six months and says, "Give

us a certificate from some IT provider that says we meet all these minimum standards", or whatever? It is very much a worthy goal and I think we should be trying to do as much as we can to help all people.

**CHRISTOPHER MALTBY:** A significant part of the production of materials is also about their visual appearance. They communicate more than just the words that are on them, as everyone knows, so if you have to sacrifice that important communication dimension in order to meet a requirement like that, that is potentially a significant burden on the discourse as well. Taking up another point on accessibility, though—the question about translations and the role of the commission—I thought there was an obvious response that, for community languages, having someone skilled in the local groups of community languages in particular polling locations would be something that could be a part of the recruitment of the commission, so that there was someone on hand who could talk to unfamiliar voters in their own language.

**The CHAIR:** My second one is from the Human Rights Law Centre. They believe that more needs to be done to improve voting options for people who live far from polling places. Do you have any views on that?

**CHRISTOPHER MALTBY:** Yes. I mean, again, it's worthy. I think one of the suggestions I read in one of the submissions was that perhaps the ability for voters to be able to prepare their own ballot papers and postal kits, essentially by downloading the materials, printing them, completing them and putting them in the post, would cut out some of the turnaround time that is the only way to access postal voting at the moment. As the decreasing reliability of the postal service continues, the time frame, especially in state elections in New South Wales, where the period between the close of nominations and the actual conclusion of the voting period is so short—and potentially it's the same in Federal, but we're not in that jurisdiction—some way to cut down one of the transit times would be valuable. That's a possibility.

One of the other things on accessibility, of course, is we saw, as always, a much lower turnout at the most recent local government elections. I think a significant proportion of that is because people would like to be able to vote absentee but are unable to do that. Something that meshes in with the other part of our submission, and supported by the Labor submission, is that the whole of the local government election should be run by the NSW Electoral Commission and that extending absentee voting to the local government would be something that would then be more manageable. I understand that at the moment in state elections, if you vote absentee, they don't keep a stock of every ballot paper for every district in New South Wales; they produce them on demand. If you show up in Broken Hill and want to vote in the electorate of North Shore, for example, they can just type in that you want a ballot paper for North Shore, it prints one out, they initial it and it goes into an envelope. The same approach could be used in local government, with just a larger menu of papers.

**SEAMUS LEE:** Of course, at the moment, because you have this system of private providers, potentially, it means that if you went to a polling place in Fairfield, the staff there wouldn't have any authority to issue any other council's ballot papers because they would have been run by the Electoral Commission and this person is not an employee of the Electoral Commission. Putting it all back to the Electoral Commission would assist with that. I think also if you look at the iVote numbers, just the application numbers, and compare the local government election in 2021 to the 2019 State, it's a massive ramp-up. A big part of that was because the lack of absentee ballots in state meant that people saw iVote as the only way to be able to vote for them.

The Shooters suggested that maybe looking at a trial of the kiosk-type voting might also help. That might also assist with some of the disability aspects, as well, for people who can make it to a polling place but might be low vision or something. It might also be another way to help to at least allow them to cast a ballot. We have general concerns about internet voting, obviously, and other things, but maybe kiosk-type voting might help as well.

**The CHAIR:** Thank you very much for appearing today. You'll be provided with a copy of the transcript of your evidence for corrections. Committee staff will also email any questions taken on notice—I don't think there were any, but we'll find out—and any supplementary questions from the Committee.

**(The witnesses withdrew.)**

**(Short adjournment)**

**Ms BASTIEN WALLACE**, Senior Policy Officer, People with Disability Australia, affirmed and examined

**Mr BRUCE MAGUIRE**, Lead Policy Advisor, Vision Australia, before the Committee via videoconference, affirmed and examined

**Mr JACKSON REYNOLDS-RYAN**, Senior Policy Officer, Blind Citizens Australia, before the Committee via videoconference, affirmed and examined

**Ms GRACE WHITE**, Policy Officer, National Ethnic Disability Alliance, before the Committee via videoconference, affirmed and examined

**The CHAIR:** I welcome our next witnesses. Thank you for appearing before the Committee today to give evidence. Please note that Committee staff will be taking photos and videos during the hearing. The photos and videos may be used for social media and public engagement purposes on the Legislative Assembly social media pages and websites. Please inform Committee staff if you object to having photos and videos taken. Before we start, do any of you have any questions about the hearing process?

**BASTIEN WALLACE:** No.

**BRUCE MAGUIRE:** No.

**JACKSON REYNOLDS-RYAN:** No.

**GRACE WHITE:** No.

**The CHAIR:** Would any of you like to make a short opening statement?

**BASTIEN WALLACE:** I begin by acknowledging the Gadigal people of the Eora nation and pay my respects to Elders past, present and emerging. I acknowledge people here and online who have a lived experience of disability. On behalf of People with Disability Australia and the one in five Australians with disability who we represent, I'd like to commend the Joint Standing Committee on Electoral Matters for providing this opportunity to consider how voting engagement, participation and confidence might be improved in New South Wales. The Convention on the Rights of Persons with Disabilities requires that people with disability be able to exercise their political rights on an equal basis with others. This requires that voting information, the voting process and polling places be accessible.

This is more than providing step-free access; it means meeting the needs of those who need accessible transport and parking, low-sensory environments, assisted decision-making, and online, telephone or COVID-safe options. Participation in the voting process can be improved through addressing these issues. Improving confidence and engagement in the voting process for people with disability requires more than just what happens on election day. Timely, accurate and accessible information needs to be provided about candidates well in advance to enable people to cast an informed vote, and electoral staff need training in disability awareness. Finally, people with disability need to be able, as far as possible, to cast their vote independently and in privacy. Each of these things will help voter engagement, participation and confidence.

**The CHAIR:** I ask our other three witnesses online if they would like to make a short statement.

**GRACE WHITE:** Thank you. I would first like to acknowledge the traditional custodians of the Dharug land on which I join today, and I acknowledge that sovereignty was never ceded. This always was and always will be Aboriginal land. The National Ethnic Disability Alliance welcomes this opportunity to give evidence to inform and increase voter engagement, participation and confidence of people with disability from culturally and linguistically diverse backgrounds. NEDA shares many of the concerns raised in the submissions and the recommendations of our fellow disability representative organisations today, so NEDA's priority here is to recommend that all of the big issues of accessibility are addressed through an intersectional lens including and involving the people with disability from culturally and linguistically diverse backgrounds.

Currently, in New South Wales and federally, cultural and linguistic diversity is associated with higher levels of informal or invalid voting. This is a nuanced issue, and it extends beyond a matter of simple translation. There is a need to map and understand potential issues with inaccessibility, unfamiliarity with the Australian democratic process and staff training in the context of voters with disability from CALD backgrounds. So, as a priority today, NEDA recommends thorough and meaningful consultation, ongoing, and co-design with people with disability from CALD backgrounds and their families, carers, advocates and representative organisations to develop and implement a more inclusive voting process that accommodates these intersectional needs and the rights of all voters.

**BRUCE MAGUIRE:** I begin by acknowledging the Wallumedegal people of the Dharug nation, whose unceded land I work and rest on. I pay my respect to their Elders past and present and extend that respect to any Indigenous people who may be participating in or watching this Committee hearing. Thank you for inviting us to give evidence this afternoon. I have had the privilege of appearing before this Committee on several occasions now, and I always very much appreciate the opportunity to emphasise that the blind and low-vision community has a deep respect for our democracy and an earnest desire to participate more fully in the political process.

Vision Australia is the largest provider of services to people who are blind or have low vision across Australia. We support more than 26,000 clients each year through a wide range of services, including library and information, occupational therapy, orientation and mobility, and seeing eye dogs. We work collaboratively with other organisations in the blindness and low-vision sector so we can represent most effectively the needs and interests of people who are blind or have low vision. Once again, I begin by referring to the final report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and draw your attention to the inspiring vision that it articulates of an Australia that is truly inclusive of people with disabilities and:

... a future where people with disability live free from violence, abuse, neglect and exploitation; human rights are protected; and individuals live with dignity, equality and respect, can take risks, and develop and fulfil their potential.

This vision will never be achieved unless a positive duty to eliminate discrimination is incorporated into all areas of society. The commission explains:

Achieving substantive equality requires more than making adjustments for one person. Positive action is required to remove systemic barriers. It means shifting the focus from a reactive model to one of preventing and eliminating systemic barriers for people with disability more broadly.

It goes without saying that inclusive electoral processes are integral to the operation of a democratic society, such as Australia, that values the inclusion of people with a disability. In particular, proposals to increase voter engagement, participation and confidence offer a way for us to promote that inclusion. In our submission, we discussed a number of barriers that limit the engagement, participation and confidence of voters who are blind or have low vision. The two most significant are, firstly, the lack of the secret, independent and verifiable vote for our community since the removal of the iVote suite of voting options and, secondly, the failure of political parties and candidates to provide information in digital formats that are accessible to people who are blind or have low vision. Without the ability to vote independently, in secret and with complete confidence, people who are blind or have low vision will continue to be denied full participation in the electoral process. We therefore request that the Committee strongly recommend the reintroduction of technology-assisted voting along with the retention of telephone-assisted voting.

Parties and candidates go to considerable lengths and considerable expense to distribute key political information to the rest of the community, but people who are blind or low vision can access almost none of it. This exclusion makes us feel humiliated and belittled and the object of discrimination. As one of our clients said, "I vote because if I don't, I'll be fined. Why should I have to vote for someone who cares so little about me that they can't be bothered to give me information I can read myself?" In the recent local government elections, we found that none of the information provided by candidates was accessible. In my case, that meant that I was not able to make informed voting choices. If you don't know who you are voting for, it's hard to feel engaged and that you are participating on the same level as the rest of the community.

There is no plausible reason for not requiring that all information produced by political parties and candidates be available in accessible digital formats. We therefore request the Committee to recommend suitable legislative and regulatory change. I'm sure we are all familiar with the aphorism that goes, "If you always do what you've always done, then you'll always have what you've always had." We hear it so often it's almost a bit of a cliché. But it really goes to the heart of what's needed to realise the inclusive vision that the disability royal commission has challenged us to share. We've always had a society that creates barriers and attitudes that exclude people with a disability from full participation in the social, economic and political life of the community. If we continue to do what we've always done, then that's the best we'll ever have, and the transforming vision will wither and die. We must all learn to approach exclusion with zero tolerance, and inclusion with 100 per cent commitment. There is no better place and time to start than here today in this Committee.

**The CHAIR:** Mr Reynolds-Ryan?

**JACKSON REYNOLDS-RYAN:** I will keep my remarks brief to give the Committee an opportunity to lead this hearing. I would like to also pay my respects and acknowledge the traditional owners and the custodians of the lands that we are meeting on. For me, that is the Wurundjeri people of the Kulin nation, which is where I am joining you from today. The principle of free and equal participation in the political process is a fundamental tenet of our democracy which includes the right of citizens to cast a secret vote in government



elections. Australia was, of course, the first country in the world to allow citizens to cast their vote anonymously, a concept which was quickly adopted in democracies around the world. This innovation was then matched in New South Wales in the early years of the twenty-first century with the establishment of iVote, which, for the first time, allowed people who were blind or vision-impaired to cast a fully accessible vote using a device that they were comfortable with and had full control over the accessibility features of. Yet now Australia and New South Wales risk lagging behind the international community in ensuring truly equal access to our political system.

There are three key elements that make up a fully accessible vote, which my colleague Mr Maguire has already alluded to: secrecy, being able to vote in private; independence, being able to vote without the need for assistance by another person; and verifiability, being able to check back on the voting choices that you have made to ensure that they are correct and accurate. Our systems of voting in Australia, which are replicated broadly across our Federal system but also in the States and Territories, rely heavily on pencil and paper systems of voting or on human-assisted phone voting options.

Those human-assisted phone-voting options force people who are blind or vision-impaired to rely on another person to cast their vote, whether it is a support worker, spouse, family member or staff member of the Electoral Commission. The person who is blind or vision-impaired has to trust that the other person will complete their ballot paper accurately, according to their wishes. For too long, systems of voting have been seen as a zero-sum game between the competing concepts of security and accessibility. But for people who are blind or vision-impaired, these issues are intertwined. Ensuring that people can cast their votes accessibly and that their votes are counted secretly and securely is central to why BCA continues to push for change.

I also note that the challenges to engaging with the political process do go beyond the act of casting the ballot, as my colleagues have already alluded to. During the election campaign, many voters who are blind and vision-impaired also experienced challenges in updating electoral roll information, accessing lists of candidates and engaging with the flow of information and communication from the parties and candidates. Locating information about which candidates are standing for election has presented difficulties, with additional challenges for people who are blind or vision-impaired. For voters who have already made up their minds about which party or candidate to support in a particular election, the challenges with voting we have already identified still remain. But they are at least in a position to identify quickly how they want their ballot to be cast and follow that process through.

However, many people who are blind and vision-impaired who happened to be still-undecided voters felt they were left further out of the process. On election day and during the early voting period, most political parties and candidates invest significant time and energy in ensuring volunteers have a presence at every polling booth. The volunteers presents voters with how-to-vote material and often some brief information about the major commitments their party or candidate has made. In our submissions to government and previous inquiries of this Committee and similar inquiries across Australia, BCA has recommended electoral laws that require all campaign material, including how-to-vote cards, and other information given to voters, be produced in accessible formats, including hard print copy, braille, electronic and audio, and that it is easy for voters to find.

Finally, I also note that engaging people in the political process does not simply stop at the element of casting a vote and doing the research for that. We would also like to see more people with disability standing and being elected to Australia's parliaments. We note that our colleagues across the ocean in New Zealand have already started some work on this. We strongly encourage this Committee to investigate how we could replicate that. In New Zealand, the Election Access Fund supports people with disability to stand as candidates in parliamentary elections. It reduces the cost barriers that are faced by people with disability by covering the extra costs that a person without disability would not face. The fund covers people both seeking preselection to be a candidate and campaigning in a general election.

There is a range of ways that participation and engagement with the political process could be improved, from improving the process of casting a ballot and improving the accessibility of all communications and information sent by parties and candidates to ensuring that people with disability across the State—and, when we talk to our Federal counterparts, across Australia—are not disadvantaged if and when they choose to engage in the political process in its most pure form, by standing for election. We encourage the Committee to think creatively about this process. We were encouraged on the voting aspect by the final report of the NSW Electoral Commission into technology-assisted voting. There were some encouraging recommendations, which Blind Citizens Australia does endorse. We encourage the Committee to go further and think about other ways people with disability across the state can be involved and encouraged to participate in the electoral process.

**Mr TIM JAMES:** I think we're all very conscious that at the last election we had a situation which was far from ideal insofar as access was concerned for people living with disabilities. I don't think there is any dispute or otherwise here in terms of the right of everyone to have equal access to our democracy. Clearly, things need to

improve. What is everybody's understanding of progress, decisions or otherwise that either have been made or need to be made to ensure that the next New South Wales election in March 2027 will be a significantly better set of circumstances for those people living with a disability? I'm conscious it's just over two years away and I think, if I might say, this Government will need to act pretty swiftly in order to ensure that the principle I spoke of—namely, equal access for all citizens—would be present. I invite your comments, remarks and thoughts on that.

**BASTIEN WALLACE:** I am aware that there are moves afoot for a procurement to go out around enabling digital voting, and I'm not privy to all of the internal information that aligns with that. In terms of some of the quick wins, we certainly could see, and we are going to see, further training of electoral staff. Our organisation and others have contributed to the creation of a resource to assist with staff at polling places having better access to training around disability inclusion. The other point that I would make is, if we did have telephone voting again, it isn't open for the same hours as ordinary polling and it isn't available to people casting their vote from overseas. At the very least, if we can't have digital voting in place in time, we ought always to make available the same duration of voting facilities by whatever means people are to have that. That's a quick win that we could certainly do by the next election, surely.

**Mr TIM JAMES:** Is it not an unreasonable expectation that within four years we would have digital voting?

**BASTIEN WALLACE:** I would hope so, but I am not privy to the internal process of procurement of the Government.

**The CHAIR:** Ms White, I see you have your hand up.

**GRACE WHITE:** NEDA supports increased remote voting options, in particular digital voting. I'd also like to draw attention to NEDA's recommendations for increased COVID-19 safety measures as an ongoing and necessary measure to protect people with disability, those who have compromised immune systems, in order to make sure that, when they are casting their vote, they are safe. That is crucial to an equitable and fair voting process. We would also like to raise technical issues that iVote did experience, just flagging that some votes were not counted, and how invaluable iVote was as a tool for housebound individuals during the height of the COVID-19 pandemic, but ongoing, and anticipating that the impact of that will be ongoing during the next election and how crucial that will be for people with disability, who are particularly impacted by COVID-19—so we're just flagging the relevance of iVote and digital voting there. Something NEDA would like to propose as well—we'd like to flag the limited accessibility at voting booths and recommend that there are at least two to three dedicated accessible polling booths for wheelchair users.

Then, in terms of cultural and linguistic diversity, NEDA recommends increased access to language supports and interpreters, and this includes onsite at polling locations; ensuring translated material about accessibility specifically is provided online but also again at the polling station, so ensuring that polling locations and people who are voting onsite are equipped and have someone that they can reach out to or are reaching out to proactively with in-language resources around accessibility; and ensuring greater inclusion of cultural and linguistic diversity in the pre-election promotion and the public information. So, again, all of this will link back to inclusion and consultation with people with disability from CALD backgrounds around what the barriers are. I am, and NEDA are, in many areas limited in what we are able to provide because of the lack of research and a lack of mapping of the issues.

**The CHAIR:** Mr Maguire, do you have any comments?

**BRUCE MAGUIRE:** Yes, I have two comments. The first is that if the NSW Electoral Commission is able to identify a suitable provider for a limited digital voting trial along the lines that it recommended in its final report of its inquiry into technology-assisted voting, then it's essential that the Government provides the resources to enable it to implement that trial for the 2027 election. The other thing is, going back to my comments around the need for political parties and candidates to make their information available in accessible formats, if there isn't time for legislative or regulatory change before the 2027 election, then at least there should be training and awareness-raising provided to all political parties and all candidates about the importance of making their information accessible, and also the comparative ease with which it can be done these days.

**JACKSON REYNOLDS-RYAN:** I agree with many of the points that my colleagues have raised so I won't belabour the point here. I would just note that the Electoral Commission's technology-assisted voting review did recognise the need for a multifaceted approach to voting. Like others who've already spoken, I would say that we endorse the Electoral Commission's report there. We believe that they have charted a pathway forward, and strongly encourage this Committee and the New South Wales Government to give the Electoral Commission the resources that they need to implement that. That would be our number one priority. But, as others have said, in the meantime there are things that can be done. As I said, we believe that a multifaceted approach is useful.

Operator-assisted or human-assisted telephone voting can remain a useful mechanism, though many of our concerns about a truly secret ballot would also be alleviated with the addition of automated telephone interactive voice response, or IVR, solutions using keypad options. We also believe that kiosk voting can be woven into the tapestry as co-designed solutions as well.

Ultimately, whatever approach is decided by this Government and this Parliament should be done with co-design of the process in mind and central to that, keeping those of us around the table involved in the development to ensure that it is fit for purpose. In terms of a very short and quick change that could be made, of course, our position is that we would like to see a better system in place for the 2027 general election. We believe that if the political will is there then the technology is there as well, but that is something that we can't control. At the moment, as I have mentioned, in the human-assisted telephone voting process someone calls up and there is a degree of anonymity because there are two phone calls involved, one where they call up to register as a telephone voter and are given an identification number. They call up on a separate occasion, then, and give only that registration number, so they can't be directly identified. That is good, but we still have concerns about the fact of someone reading the ballot choices and someone then just writing them down and reading it back. We have a great degree of confidence and trust in our electoral commission staff across Australia, of course, but we shouldn't have to rely on trust.

We believe—and I know my colleague Mr Maguire is in agreement on this—that a small change such as, instead of simply having a witness to the first person the voter speaks to confirm that the voting is done correctly to the voter's wishes, once the voter has given out their preferences and identified how they wish to vote, that call is transferred to another person who hasn't been on the call before, has not seen that ballot being filled out and heard no part of it. That person simply picks up the ballot and reads it back to that voter to say, "The ballot I have in front of me has the following distribution of preferences." They read it and ask if it's correct so that it is a genuinely two-step process to ensure that person's ballot has been cast according to their wishes and that two people haven't necessarily decided to change those wishes. We don't think that happens, but it would give a lot of confidence in a system where, at the moment, there isn't. We would of course encourage the Government to invest in the technology-assisted voting solutions that the commission has identified.

**Mr TIM JAMES:** Thank you all. From my point of view, you're spot on: If the political will is there, the technology unquestionably is there too. I think this Committee really needs to be heard loudly and strongly on this. I think it's incumbent upon our Government to act and get this done so that everyone can vote with equal access and rights—indeed, in the next state election.

**Mr NATHAN HAGARTY:** There have been submissions from other stakeholders, namely the Human Rights Law Centre, that have effectively deemed the NSW Electoral Commission's definition of accessible as cause for concern. When we talk about accessibility, it's probably important that everybody is on the same page. I wanted to get your thoughts on that. Is there a definition that the Electoral Commission could look to that's, if not universally accepted, generally accepted by peak agencies and advocacy organisations?

**BASTIEN WALLACE:** I might have to take that as a question on notice for a formal definition, but it means that everybody has equal access. That is, regardless of your disability—whether it's physical, psychosocial or any sort of disability—you need to have equal access with everybody else. I'll certainly, as a question on notice, find the formal definition for you.

**BRUCE MAGUIRE:** I was going to say that, in general discourse, the word "accessibility" is starting to be used in a context that has nothing to do with traditional usage of accessibility. It's becoming more widely used to really mean "available". In the context of the disability sector, accessibility certainly doesn't just mean available; it means available on the same terms and to the same extent as it is available to the rest of the community. Accessible voting is voting that gives a person with a disability the same access to voting and the same degree of amenity and convenience that is available to the rest of the community.

**JACKSON REYNOLDS-RYAN:** If I could just follow, I completely agree with Bruce's points there. But, just to refer back to my earlier point in my opening statement, from Blind Citizens Australia's perspective, we believe that an accessible vote is one that is secret, independent and verifiable. I just want to jump onto that last point of "verifiable" because there are some further challenges in the definition there. Verifiability can talk about two different things. There are negative connotations in the sense of verifying someone's identity of a vote and being able to then trace back how a particular individual may have voted, based on previous voting behaviour, demographics et cetera, linking it to other digital or government footprints. That's not what we're talking about here.

What we're talking about by "verifiable" is it's being able to check back to ensure that a vote has been cast the way that it was intended. For me, as a sighted person, when I cast a vote, I'm able to, before I put it in the ballot box, go back through and make sure that the numbers make sense, that I haven't missed any number on my

order of preferences and that I've cast exactly—there's no confusion in my intention. That is something that does not really exist for people who are blind or vision-impaired at the moment, and we think it is a crucial part of an accessible voting experience, so secret, independent and verifiable.

**GRACE WHITE:** I will have to take on notice a formal definition. However, I do wish to comment on the importance of intersecting experiences of marginalisation and how much that impacts the extent to which something is accessible. I will give an example of a pen and paper ballot and reliance of that on both English and numerical literacy that might impact someone from a non-English speaking background as well as people who have certain neurodevelopmental, cognitive and intellectual disability. You can consider those separately in terms of disability, accessibility, or cultural and linguistic accessibility and inclusion. But when you combine those together—if you take, for example, a persona or someone with dyscalculia from a non-English speaking background—accessibility looks quite different, and there needs to be an intersectional approach to what it means for that person to participate and have their vote counted, and be informed fairly on the same grounds and bases as others. Thank you, but I will take the formal definition on notice.

**Ms JANELLE SAFFIN:** I have more of a comment because all of the questions have been asked that we needed to ask. I just wanted to say that I commit to finding a way to ensure that there's accessibility for everybody who needs it. We have a collective responsibility to work collaboratively to make sure that happens. We just can't go to the 2027 election with people being denied their rights—your right under the convention. I don't want you to have to keep appearing before us, almost begging for something that you're entitled to. I just wanted to make that comment.

**The CHAIR:** That was a comment rather than a question, as Ms Saffin said, but does anyone on the panel wish to make a comment or respond? I note that Vision Australia and others have called for legislative or regulatory change to require candidates and political parties to produce information in "accessible digital formats". We've already mentioned that here today. What specifically would that entail? What would the legislative or regulatory change involve, very specifically? Again, please feel free to take it on notice. I am taking Ms Saffin's point. I think we're getting down to the pointy end of this, so I'd just really like to know what in your view that actually involves. Maybe I could begin with Ms Wallace, if you have a comment.

**BASTIEN WALLACE:** Certainly. Thank you very much, Mr Chair. I'll leave it to my colleagues with expertise around Braille—and, certainly, there's video and Auslan resources that people would need. There's also the issue of easy read. This Government is doing a better job of starting to ensure that government services are created in easy read and easy English, and I think that's a really essential part of accessibility. I would make a point to every political party or Independent that if you don't fill the information gap accessibly, you're leaving yourself vulnerable to others who are unscrupulous, mischaracterising what you stand for. It's vitally important that you make sure that the accessible formats are delivered so that what you actually stand for is what people understand when they go in to vote.

**The CHAIR:** Ms White or any other panel members, do you have any comments?

**GRACE WHITE:** I will need to take on notice the specifics and consult with colleagues around Braille and specific accommodations and legislative improvements for vision impairment. However, in the context of cultural and linguistic diversity more broadly, NEDA welcomes the efforts that have been made for translated materials and interpreted materials and providing materials in different formats. That is very welcome and has seen a lot of help in this space. Again, it's just working to increase those efforts, ongoing, and making sure that communities are consulted so that that is cultural translation and that it's appropriate. I will take the other point on notice.

**BRUCE MAGUIRE:** I think there are two points that I would make. The first point is that if you came to the point where there was work being done or proposed to be done on legislative or regulatory change, then we would recommend that that process be co-designed. That would be the point where the legislative drafting people would sit down with the disability sector and work out what would be in the legislation or what are the changes required to the regulations. The second point is, however, that there are recognised international standards for producing materials in accessible digital formats, and those standards are the Web Content Accessibility Guidelines that have been developed by the W3C Consortium. Those guidelines spell out in a lot of detail how to make content accessible. At a minimum, we would see a legislative change requiring political parties and candidates to produce their digital content in compliance with those standards. I would just add that there are also a lot of resources to assist people in how to comply with those standards.

**JACKSON REYNOLDS-RYAN:** I just strongly endorse what Mr Maguire has said there. I don't need to add anything more to that, but we fully endorse that recommendation.

**The CHAIR:** Thank you. Do any colleagues have any other further questions? I think you have talked us out, in terms of your submissions. Can I ask if there are any other matters that you would like to raise with us today?

**BASTIEN WALLACE:** Mr Chair, the only thing I would raise is just the vulnerability. We've seen in another election of people who are perhaps a little less scrupulous, providing material that looked like it was perhaps submitted on behalf of the Electoral Commission and it wasn't. The further we go into our digital world, where it's almost indistinguishable now with pretending it's somebody's voice or pretending it's somebody's face and it actually isn't, the more we're going to have to resource electoral commissions to ensure that the information that is put out is honest and not deceptive and is provided to all people, whether they have disability or not, in a manner that represents actually what parties mean and say. It could be that this body needs more resourcing to make sure that that's done well as the technology ups the ante, because we don't want people with disability targeted by unscrupulous folk wanting them to change how they vote in a way that gives less trust in the voting system.

**Mr NATHAN HAGARTY:** There has been some discussion in the hearings around the most recent council elections and the fact that two councils outsourced it to a private provider, namely Fairfield and Liverpool. Have you had any feedback from your members about the experience at those two elections, about whether—as I would presume—inconsistency arose between the options they were presenting and the options that the Electoral Commission was presenting, and about whether it was easier, more difficult or the same with Fairfield, Liverpool and the other LGAs?

**BASTIEN WALLACE:** I've had no specific feedback but I can take that on notice as well.

**Mr NATHAN HAGARTY:** That would be good, thanks.

**The CHAIR:** Are there any other comments from any other panel members?

**JACKSON REYNOLDS-RYAN:** If I may jump in there, Chair, likewise, we haven't necessarily had any direct feedback on those particular councils and those experiences. But our position is that we are a national organisation and there are a lot of elections that are held at a Federal, state and local level across Australia. Our members—people who are blind or vision-impaired—strongly want there to be more consistency in the approach to accessibility of elections. We know there are slight variations in electoral systems, and therefore in the counting, which are unavoidable. We're aware of that, but we strongly encourage there to be more consistency and uniformity to the approaches to casting and counting of ballots. We would be very hesitant to see the outsourcing of that work as an increased trend. We believe that the electoral commissions across Australia, including the NSW Electoral Commission, have a lot of technical knowledge and the institutional experience to do this. I would encourage this Committee and the Government to ensure that they are well resourced.

Finally, I think all of us here—all the members of this Committee and, I would say, probably all the members of the New South Wales Parliament—are genuine in their desire to ensure that all voters have access to an accessible voting system. We know there is goodwill there. We know there is a desire to do the right thing. But this has been a problem that has occurred for many years. New South Wales led the way in the country in developing iVote. I think 2011 was the first election where it was in place. But since that time and that wonderful innovation back in 2011, the Electoral Commission has not been resourced to the level that it needed in order to ensure that that system could perform at the level that was needed. We are aware that's why some of the challenges occurred in 2021, which led to its suspension. We know that there is genuine goodwill, but we really hope that that translates. Party politics or ideology shouldn't factor into this issue. This is democracy in its purest form, and we hope that all members of the Government and the Parliament give the electoral commissions the resourcing to do the job properly.

**GRACE WHITE:** NEDA hasn't received any specific feedback on Fairfield or Liverpool. However, I wish to comment on consistency and the importance of that. We have consistently heard from our autistic stakeholders about the importance of consistency and being able to understand what a voting process will look like, or any engagement that they are about to go into. I, myself, am autistic, and voting is already so overwhelming. So when the process changes, whether it's between electorates, that's really significant and can really impact someone's ability to vote because that, in itself, affects accessibility. Consistency for autistic voters is very important.

I also want to flag this because we're all here looking for very valuable and important change. But change is still change and, if there is going to be significant change, I think it's very important to support people through change. If something is going to look different or go in a different direction than it did in the previous years or the previous times, it's very important to support autistic voters through that process: what it's going to look like this time—perhaps through the use of social stories—and "This is what you will go through", step by step. I think the

consideration of autistic voters, and how all those needs are diverse for culturally and linguistically diverse autistic voters as well, is very important, as we consider positive and very important change.

**Mr STEPHEN BALI:** Apart from focusing directly on elections, we are also looking at civics and post-election matters. Parking the CALD communities, because we have had representations from them, I am trying to explore, firstly, better ways to provide information about civics and, secondly, what avenues there are for elected people to communicate better with your communities. We go to lots of outdoor and big events. Probably not as many people from your community would be attending those things. How can we, as elected representatives, better communicate between elections with your communities?

**The CHAIR:** Who would like to jump in on that one?

**BASTIEN WALLACE:** I can. It depends on what the opportunity is. Certainly, if you reach out to the key bodies for people with disabilities we can circulate opportunities, but it really depends what format those activities are going to be in. As Grace has outlined, we have people who need to keep COVID-safe. Sometimes big gatherings to talk to a politician just aren't a COVID-safe activity. In other instances it might just mean that maybe the information hasn't been provided accessibly or people don't see that that's something that matters as much to them, if there has never been any engagement by that MP on issues related to disability or issues that that person cares about. I have observed some MPs doing things like putting out polls or even letterbox material to ask people what interests them. So that point of engagement is a tricky one. I can't tell you how to run your political office. But, certainly, it's considering what people in your electorate might need to engage with you in terms of their ability to understand what it is you want and their ability to engage with you around the issues that are of importance to them.

**The CHAIR:** Does anyone else on the panel have any comments?

**BRUCE MAGUIRE:** I think it's very important for politicians to engage with organisations like Vision Australia and Blind Citizens Australia, thinking about the blindness and low vision community, because we have, certainly between the two of us, the most extensive outreach networks in that community that exists in Australia. We have a variety of channels, such as social media, such as certain radio, and the capacity to organise virtual meetings and even in-person events specifically targeting people who are blind or have low vision. So I think that is the most effective way to communicate or develop effective communication strategies, rather than trying to do it without any of that outreach into the sector.

**GRACE WHITE:** I just want to add to and certainly endorse particularly what Bastien has said there, as well as bringing in, again, the intersectional lens. If you are looking for engagement from and with culturally and linguistically diverse people with disability, it's important not to encourage separation of people's identity into discrete units, to park their cultural and linguistic diversity and talk about someone's disability or encourage them to show up as a person with disability but not as culturally and linguistically diverse. I just wanted to flag the importance of that and how important it is not to park cultural and linguistic diversity as those are groups within disability who are most affected and more affected across disability types, and also to be really conscious of the language that we use when we engage in consultation with people in disability and their representative organisations. Thank you.

**JACKSON REYNOLDS-RYAN:** If I may, I will endorse those points that have been made, especially by Mr Maguire, about engaging with us as peak bodies and the channels that we have into the communities, but I also really reinforce the point about intersectionality. I think this is something that can grow with time. We represent people who are blind or vision-impaired, but there are people who are blind or vision-impaired who are autistic. There are people who are blind or vision-impaired who come from cultures and languages other than English. There is a range of intersectionality concerns or things to think about at least that I believe need to just become more part of people's habit, and it's not necessarily taken into consideration at the moment in the way that we would like it to be.

As has already been said, we're not going to tell people how to run their electoral offices, but working with us in the community, many of our members and the people that we represent are very engaged in the political process in one way or another, and want to be more engaged. They just need some assistance and support to do so and the more that we can embed that in just accepted practice, the easier it's going to be going forward and the less we'll have to think about it. It will just be the done thing. I really encourage elected representatives, whether they're candidates standing for election or after they've been successful to being elected, to engage with disability communities, think about that intersectional lens and embed that in their everyday process, as one of my colleagues said, to think about the people who exist in their communities and the different ways that they can engage with all the different members of their constituencies.

**The CHAIR:** Thank you. I will take my prerogative as Chair to ask one last question and ask if you could all take on notice this one: We've just been through the ACT and the Queensland elections and by-elections in New South Wales. As national organisations, if you become aware of practices in any of those elections that you think would be particularly beneficial in New South Wales, can you please pass those on to the Committee? They would be valuable for us to have as information so that we can consider them as practical and as specific as possible. If I could ask you to do that for the Committee, that would be great. Thank you for appearing before us today. You will be provided with a copy of the transcript of your evidence for correction. Committee staff will also email any questions taken on notice today and any supplementary questions from the Committee. Again, I really appreciate you being here today and thank you very much for your contribution.

**(The witnesses withdrew.)**

**The Committee adjourned at 16:30.**