



## **Legislative Assembly for the Australian Capital Territory**

Standing Committee on Justice and  
Community Safety

# **Inquiry into the Electoral Amendment Bill 2021**

Legislative Assembly for the Australian Capital Territory  
Standing Committee on Justice and Community Safety

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Approved for publication

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Report 4  
10th Assembly  
February 2022



# About the committee

## Establishing resolution

The Assembly established the Standing Committee on Justice and Community Safety on 2 December 2020. The committee's areas of responsibility are:

- ACT Electoral Commission
- ACT Integrity Commission
- Gaming
- Minister of State (JACS reporting areas)
- Emergency management and the Emergency Services Agency
- Policing and ACT Policing
- Corrective services
- Attorney-General
- Consumer affairs
- Human rights
- Victims of crime
- Access to justice and restorative practice
- Public Trustee and Guardian

You can read the full establishing resolution [on our website](#).

## Committee members

Mr Jeremy Hanson CSC MLA, Chair (until 10 February 2022)

Mr Peter Cain MLA, Chair (from 10 February 2022)

Dr Marisa Paterson MLA, Deputy Chair

Ms Jo Clay MLA (until 9 December 2021)

Mr Andrew Braddock MLA (from 9 December 2021)

## Secretariat

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## About this inquiry

The Electoral Amendment Bill 2021 was presented in the Assembly on 2 December 2021. It was then referred to the Standing Committee on Justice and Community Safety as required by clause 5 of the establishing resolution. This clause allows committees to inquire into and report on bills within two months of their presentation (or within three months if the inquiry period covers the summer break).

The committee decided to inquire into the bill on 8 December 2021.

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# Acronyms

Acronym	Long form
ACTCOSS	ACT Council of Social Service
AEC	Australian Electoral Commission
FDEU	Federal Direct Enrolment and Update
JRA	Joint Roll Arrangement
MLA	Member of the Legislative Assembly

# Recommendations

## Recommendation 1

The committee recommends the Electoral Amendment Bill 2021 not be passed by the Assembly.

## Recommendation 2

The committee recommends that ACT Government explore ways to further engage young people in the democratic process.



# 1. Introduction

- 1.1. The Electoral Amendment Bill 2021 was presented in the Assembly on 2 December 2021 by Mr Davis MLA and Mr Braddock MLA.
- 1.2. The Bill proposes to lower the voting age for territory elections from 18 years to 16 years.
- 1.3. A fixed timeline applies to Bill inquiries, and the committee was required to report to the Assembly by 3 March 2022.

## Conduct of the inquiry

- 1.4. On 8 December 2021, the committee agreed to inquire and report on the Bill. The following day, on 9 December 2021, the committee membership changed, when Ms Clay MLA resigned, and Mr Braddock MLA was appointed.
- 1.5. While Mr Braddock is a co-sponsor of the Bill, he participated in this inquiry as a member of the committee.
- 1.6. On 14 December 2021, the committee issued a media release inviting the community to participate in the inquiry by making a submission or completing an online survey. The inquiry was publicised through social media, and direct emails to stakeholders.
- 1.7. The committee allowed as much time as possible for community consultation during this inquiry, given the fixed deadline for reporting. It is unfortunate that the consultation period coincided with the summer break, however the timing of this inquiry was not within the committee's control.
- 1.8. During this inquiry, the committee received [18 submissions](#), which are published on the inquiry webpage and listed at [Attachment A](#). The online survey received 438 responses and a summary of results is provided at [Appendix E](#). The submission and survey results are summarised in this report, so that community views may inform the Assembly debate on the Bill.
- 1.9. A public hearing was held on Thursday 3 February 2022, and witnesses are listed at [Appendix B](#). The [transcript](#) and [video recording](#) are available on the Assembly website. Two questions were taken on notice during the hearing. The answers to questions are listed at [Appendix C](#), and published on the inquiry webpage.
- 1.10. On 10 February 2022, Mr Hanson resigned from the committee and Mr Cain was appointed.

## Overview of the report

- 1.11. A large part of this report summarises the evidence put forward during this inquiry, for Members of the Assembly to reference when considering their position on the Bill.
- 1.12. The first chapter contains a summary of the Electoral Amendment Bill 2021.
- 1.13. Chapter 3 summarises submissions received during this inquiry.

- 1.14. Chapter 4 contains the results of the online survey.
- 1.15. In final chapter, the committee presents its assessment of the Bill.

## **Acknowledgements**

- 1.16. The committee thanks everyone who participated in this inquiry by making a submission, participating in the online survey, or attending a hearing.

## 2. Overview of the Bill

- 2.1. The [Electoral Amendment Bill 2021](#) (the Bill) seeks to amend the [Electoral Act 1992](#) (Electoral Act) by lowering the voting age for territory elections from 18 years to 16 years.

### Lowering the voting age

- 2.2. Clause 9 of the Bill proposes to amend the definition of ‘eligible elector’ in section 121(4) of the Electoral Act to be ‘an elector who is, or will be, at least 16 years old on polling day for the election’.
- 2.3. Clause 4 proposes to enable people aged 16 or 17 years to be enrolled for an electorate, by amending section 72 of the Electoral Act. Section 72 of the Electoral Act provides:
- ‘(1) A person is entitled to be enrolled for an electorate if— (a) the person is entitled to be enrolled on the Commonwealth roll otherwise than under the Commonwealth Electoral Act, section 100; and (b) the person’s address is in the electorate.’
- 2.4. Section 100 of the *Commonwealth Electoral Act 1918* provides:
- ‘(1) A person who: (a) has turned 16, but is under 18, years of age; and (b) would be entitled, in respect of residence at an address, to be enrolled for a Subdivision if he or she were 18 years of age; may send or deliver a claim to have his or her name placed on the Roll for that Subdivision to the Electoral Commissioner.’
- 2.5. Clause 4 would omit the language ‘otherwise than under the Commonwealth Electoral Act, section 100’ from section 72 of the Electoral Act, thereby removing the explicit exclusion of people aged 16 or 17 years from enrolment in a territory electorate.
- 2.6. Clause 10 proposes to establish that people aged 16 or 17 years are entitled to vote in territory elections, by amending section 128(2) of the Electoral Act to state that ‘a person who is enrolled is not entitled to vote at an election unless the person will be at least 16 years old on the day the poll for the election is required to be held’.

### Early enrolment

- 2.7. Clause 8 of the Bill proposes to allow for people to apply for early enrolment on the electoral roll from the age of 14 years (by amending section 75 of the Electoral Act).

### Updating the electoral roll

- 2.8. Clause 5 of the Bill proposes to require people aged 16 or 17 years who are enrolled for an electorate to update their details on the electoral roll if they move to another address within the ACT (by amending section 73(4) of the Electoral Act).

- 2.9. Clause 6 proposes to provide that, where people aged 16 or 17 years who enrol or update their details on the Commonwealth roll, the information is ‘taken to be the particulars recorded on the roll for the electorate’ (by amending section 73(5) of the Electoral Act).

## Penalties

- 2.10. Clause 7 of the Bill proposes to amend s73(6) of the Electoral Act to establish a lower penalty for people aged 16 or 17 years who fail to enrol, or fail to update the details on the roll when they change address. The maximum penalty under s73(6) is currently 0.5 penalty units (or \$80 at date of reporting).<sup>1</sup> The Bill proposes a maximum penalty of 0.25 penalty units (or \$40) for people aged 16 or 17 years, while retaining the current penalty for adults.
- 2.11. Clause 11 proposes to amend s129(1) of the Electoral Act to establish a lower penalty for people aged 16 or 17 years who fail to vote. The maximum penalty under s129(1) is currently 0.5 penalty units (or \$80). The Bill proposes a maximum penalty of 0.25 penalty units (or \$40) for people aged 16 or 17 years, while retaining the current penalty for adults.
- 2.12. Clause 12 proposes to amend s161(2) of the Electoral Act to establish a lower prescribed penalty for a default notice issued to people aged 16 or 17 years who appear to have failed to vote in an election. The prescribed penalty under s161(2) is currently \$20 or any higher penalty prescribed by regulation. The Bill proposes to retain these arrangements for adults, but prescribe a penalty of \$10, or half of any penalty prescribed by regulation, for people aged 16 or 17 years.

## Commencement

- 2.13. The Bill proposes to commence 12 months after notification day (under clause 2).

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<sup>1</sup> Section 133 of the *Legislation Act 2001*

### 3. Submissions and hearings

- 3.1. During this inquiry, the committee received [18 submissions](#), which are published on the inquiry webpage and listed at [Attachment A](#).
- 3.2. Eleven submissions were in favour of lowering the voting age,<sup>2</sup> five submissions expressed concern about lowering the voting age,<sup>3</sup> and two submissions provided input to the inquiry without adopting a position.<sup>4</sup>

#### Arguments for lowering the voting age

- 3.3. Most submissions supported the Electoral Amendment Bill, and its proposal for compulsory enrolment and voting for people aged 16-17 years.
- 3.4. The ACT Government position is that the idea of lowering the voting age is worth consideration:

‘The Government is committed to increasing voter participation in the Territory, and to increasing the engagement of young people in our democratic process... the Government believes there is merit in further exploring lowering the voting age within the context of compulsory voting.’<sup>5</sup>

#### Compulsory or voluntary voting

- 3.5. Some submissions advocated for young people aged 16-17 years to be able to vote on a voluntary basis.<sup>6</sup> Others argued that compulsory voting should be protected,<sup>7</sup> or pointed out that voluntary voting is not legally possible in the ACT, due to entrenched provisions in the *ACT Proportional Representation (Hare-Clarke) Entrenchment Act 1994*.<sup>8</sup>

#### People aged 16 already possess a range of legal responsibilities

- 3.6. Several submissions argued that voting at 16 is consistent with other opportunities and responsibilities at this age, such as driving, working, paying taxes, caring for family members, and enlisting in the Australian Defence Force.<sup>9</sup>

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<sup>2</sup> Professor George Williams, *Submission 1*; Name withheld, *Submission 3*; ACT Greens, *Submission 4*; The Greens Institute, *Submission 5*; Professor Judith Bessant and 29 others, *Submission 6*; Jahin Tanvir, *Submission 7*; Name withheld, *Submission 8*; Northside Community Service, *Submission 9*; Youth Coalition of the ACT, *Submission 11*; ACTCOSS, *Submission 12*; Australia Institute, *Submission 18*.

<sup>3</sup> Dr Bruce Baer Arnold, *Submission 2*; Zhenghao Dai, *Submission 14*; ACT Electoral Commission, *Submission 15*; Canberra Liberals, *Submission 16*; Martin Gordon, *Submission 7*.

<sup>4</sup> ACT Labor, *Submission 10*; ACT Government, *Submission 13*.

<sup>5</sup> ACT Government, *Submission 13*.

<sup>6</sup> Professor George Williams, *Submission 1*; Australia Institute, *Submission 18*.

<sup>7</sup> ACT Labor, *Submission 10*; ACT Greens, *Submission 4*.

<sup>8</sup> ACT Government, *Submission 13*; ACT Electoral Commission, *Submission 15*; ACT Greens, *Submission 4*.

<sup>9</sup> Professor George Williams, *Submission 1*; ACT Greens, *Submission 4*; The Greens Institute, *Submission 5*; Professor Judith Bessant and 29 others, *Submission 6*; Northside Community Service, *Submission 9*; Dr Justin Barker, *Committee Hansard*, 3 February 2022, p 16.

‘People under 18 can leave school, get a job, drive a car and pay taxes. They can also enlist in the Australian defence forces, become a parent and, in exceptional circumstances, get permission to marry.’<sup>10</sup>

‘Young people are currently excluded from the democratic process despite assuming the rights of a legal personality in many other capacities (criminal responsibility, property, employment, taxation etc.)’<sup>11</sup>

## Developmental capacity

- 3.7. A major theme in submissions was the question whether young people aged 16-17 years have the developmental capacity and maturity to engage in the electoral process.
- 3.8. ACT Greens stated that lowering the voting age is ‘congruent with understandings of the cognitive maturity and development of young people’.<sup>12</sup>
- 3.9. Professor Judith Bessant et al told the committee that 16-year-olds have the maturity and cognitive competences required for voting:

‘cognitive capacity - the basic cognitive processes supporting the ability to reason logically - is in place by 16 years. That is, 16-year-olds reached the same level of moral reasoning as most adults and have logical reasoning abilities which are indistinguishable from adults’<sup>13</sup>

- 3.10. Northside Community Service referenced their direct experience in providing services to young people when stating that young people aged 16 years and over:

‘have the capacity and political maturity to make decisions about their own future, contribute to decision making about the future direction of their jurisdiction and hold the State accountable for decision-making’<sup>14</sup>

- 3.11. Youth Coalition stated that psychological evidence supports lowering the voting age:

‘By the age of 16 the thinking skills and capacity that are required for voting are sufficiently developed... Furthermore, research has demonstrated that, by the age of 15, young people have understandings of the principles behind political judgements and their long term social impact.’<sup>15</sup>

## Young people are being held to a higher standard

- 3.12. Some submissions acknowledged that some young people lack the knowledge and maturity to make an informed vote, but suggested such problems are not limited to this age group:

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<sup>10</sup> Professor George Williams, *Submission 1*.

<sup>11</sup> Northside Community Service, *Submission 9*.

<sup>12</sup> ACT Greens, *Submission 4*.

<sup>13</sup> Professor Judith Bessant and 29 others, *Submission 6*.

<sup>14</sup> Northside Community Service, *Submission 9*.

<sup>15</sup> Youth Coalition of the ACT, *Submission 11*; Dr Justin Barker, *Committee Hansard*, 3 February 2022, p 15.

‘Australians of all ages typically have low levels of knowledge about government and can express disinterest about politics.’<sup>16</sup>

- 3.13. Several submissions suggested young people are being held to a higher standard than adults, as not all adults are politically mature, but their fitness to vote is not questioned.<sup>17</sup>

‘When debating this important issue it is imperative that we do not hold 16 and 17 year olds to a higher standard than we expect of other sections of the community regarding political education, knowledge and capacity.’<sup>18</sup>

‘[C]ommon arguments made against reducing the voting age discriminatorily hold younger people to higher standards than the rest of the population. Responsibility and political knowledge are not compulsory criteria for voters over the age of 18 and there is no onus on adult voters to prove such responsibility or knowledge.’<sup>19</sup>

## Young people have the most at stake

- 3.14. A common theme in submissions was the argument that young people have the most at stake in elections, as parliamentary and government decisions will affect them disproportionately.<sup>20</sup>
- 3.15. ACT Greens told the committee that complex, long term problems such as ‘climate change and growing inter-generational inequality’ have an asymmetrical impact on young people, and therefore it is ‘only fair that they are enfranchised to help shape [the] future’.<sup>21</sup>
- 3.16. The Greens Institute stated that young people will live with the results of political decisions for a longer period than others in the community:

‘So many of the issues that politics in the 2020s is faced with have long-term implications. Whether it’s the climate crisis or housing affordability, transport investment or urban planning, the decisions being made in the ACT Legislative Assembly will have tremendous impacts for decades to come.’<sup>22</sup>

## Promoting political engagement of young people

- 3.17. Some submissions supported lowering the voting age, to address democratic disengagement by young people.<sup>23</sup> Dr Gemma Killen from ACTCOSS<sup>24</sup> and Judith Bessant et al suggested lowering the voting age would improve electoral participation:

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<sup>16</sup> Professor George Williams, *Submission 1*.

<sup>17</sup> Professor Judith Bessant and 29 others, *Submission 6*.

<sup>18</sup> Youth Coalition of the ACT, *Submission 11*.

<sup>19</sup> ACTCOSS, *Submission 12*.

<sup>20</sup> Name withheld, *Submission 3*; ACT Greens, *Submission 4*; The Greens Institute, *Submission 5*; ACTCOSS, *Submission 12*; Australia Institute, *Submission 18*.

<sup>21</sup> ACT Greens, *Submission 4*.

<sup>22</sup> The Greens Institute, *Submission 5*.

<sup>23</sup> Name withheld, *Submission 3*; Professor Judith Bessant and 29 others, *Submission 6*; ACT Greens, *Submission 4*; Youth Coalition of the ACT, *Submission 11*.

<sup>24</sup> Dr Gemma Killen, *Committee Hansard*, 3 February 2022, p 50.

At a time when the most visible forms of young people's politics are conducted on the street in protests, school strikes and other voices of dissent, we are losing young people from the ballot box. Younger people have the civic knowledge to participate and the reasoning abilities to contribute to democratic governance, but they are excluded from elections because of their age.<sup>25</sup>

- 3.18. Several submissions, and witnesses at hearing, reflected on their personal life experience of feeling disenfranchised and alienated as teenagers when they held strong views on a political issue but were not yet old enough to participate in an election.<sup>26</sup> One participant presented a contrasting view, telling the committee that he 'could not think of anything worse' than potentially having to manage a fine or court appearance 'when there was so much going on in my life at the time'.<sup>27</sup>
- 3.19. The committee was told that 'early enfranchisement improves the potential for life-long voting',<sup>28</sup> and countries who permit people to vote at age 16 years see improvements in youth engagement and pro-civic attitudes.<sup>29</sup> The committee clarified during the hearing that the research evidence originated in jurisdictions with voluntary voting, not compulsory voting schemes such as Australia.<sup>30</sup>

## Natural extension of voting rights

- 3.20. Three submissions looked to history to argue that lowering the voting age to 16 years is a natural and logical extension of voting rights.<sup>31</sup> Youth Coalition stated that the Australian electoral system has evolved over the past 120 years, alongside changes in society's attitudes to women, to Aboriginal and Torres Strait Islander people, and to young people aged 18-21 years.<sup>32</sup>
- 3.21. The Greens Institute told the committee that past attempts to extend the franchise were met with 'a similar chorus of objections by those at that time wielding power':

When men without property, women, First Nations people, won the right to vote after long struggles, they had to contend with offensive claims that they were unable to make sensible and informed decisions, that they were immature or uneducated or untrustworthy.<sup>33</sup>

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<sup>25</sup> Professor Judith Bessant and 29 others, *Submission 6*.

<sup>26</sup> Mr Johnathan Davis MLA, *Committee Hansard*, 3 February 2022, p 4; Mr Michael Brewer, *Committee Hansard*, 3 February 2022, p 18; Jahin Tanvir, *Submission 7*; Name withheld, *Submission 3*.

<sup>27</sup> Ash van Dijk, *Committee Hansard*, 3 February 2022, p 23.

<sup>28</sup> Professor Judith Bessant and 29 others, *Submission 6*.

<sup>29</sup> Youth Coalition of the ACT, *Submission 11*.

<sup>30</sup> Dr Justin Barker, *Committee Hansard*, 3 February 2022, p 13; Damian Cantwell, *Committee Hansard*, 3 February 2022, p 41; Adam Poulter, *Committee Hansard*, 3 February 2022, p 47.

<sup>31</sup> ACT Greens, *Submission 4*; The Greens Institute, *Submission 5*; Youth Coalition of the ACT, *Submission 11*.

<sup>32</sup> Youth Coalition of the ACT, *Submission 11*.

<sup>33</sup> The Greens Institute, *Submission 5*.



## Some overseas jurisdictions have lowered the voting age

- 3.22. The committee was informed that thirteen countries have lowered the voting age to 17 years or 16 years (Argentina, Austria, Bosnia, Brazil, Cuba, East Timor, Ecuador, Estonia, Greece, Indonesia, Israel, Malta, and Nicaragua).<sup>34</sup>
- 3.23. The Youth Coalition told the committee that, as young people in these countries have begun to participate in elections, researchers have studied the impact of lowering the voting age. The Youth Coalition told the committee that the empirical data suggests there are no negative effects of lowering the voting age, but in many instances, positive effects.<sup>35</sup>
- 3.24. During the hearing, Adam Poulter from ACTCOSS<sup>36</sup> and Dr Justin Barker from the Youth Coalition said the research shows beneficial effects on individual young people:
- it is actually seen to increase self-efficacy, this idea that you actually have a bit more control and agency in your life, which is really positively correlated with positive self-esteem and good mental health.<sup>37</sup>
- 3.25. The Youth Coalition claimed the research evidence addresses many of the concerns about lowering the voting age. They told the committee that, in overseas jurisdictions, misunderstandings were resolved, and public opinion shifted, after communities witnessed young people engaging in the electoral system.<sup>38</sup>
- 3.26. The committee clarified during the hearing that the research evidence has so far originated in jurisdictions with voluntary voting, not compulsory voting schemes such as Australia.<sup>39</sup>

## Strengthen democracy

- 3.27. A cluster of submissions suggested that lowering voting age would increase diversity in democratic process, improve democratic outcomes, and improve social cohesion.<sup>40</sup>
- 3.28. The Greens Institute told the committee that ‘broad participation in decision-making leads to better outcomes’.<sup>41</sup>

The greater the diversity of views heard and represented in democratic conversations the better both the process and the outcomes will be.<sup>42</sup>

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<sup>34</sup> Professor Judith Bessant and 29 others, *Submission 6*; Youth Coalition of the ACT, *Submission 11*.

<sup>35</sup> Youth Coalition of the ACT, *Submission 11*; Dr Justin Barker, *Committee Hansard*, 3 February 2022, pp 12-13.

<sup>36</sup> Adam Poulter, *Committee Hansard*, 3 February 2022, p 47.

<sup>37</sup> Dr Justin Barker, *Committee Hansard*, 3 February 2022, pp 12-13.

<sup>38</sup> Youth Coalition of the ACT, *Submission 11*.

<sup>39</sup> Dr Justin Barker, *Committee Hansard*, 3 February 2022, p 13; Damian Cantwell, *Committee Hansard*, 3 February 2022, p 41; Adam Poulter, *Committee Hansard*, 3 February 2022, p 47.

<sup>40</sup> The Greens Institute, *Submission 5*; Professor Judith Bessant and 29 others, *Submission 6*; Northside Community Service, *Submission 9*; ACTCOSS, *Submission 12*; Australia Institute, *Submission 18*.

<sup>41</sup> The Greens Institute, *Submission 5*.

<sup>42</sup> The Greens Institute, *Submission 5*.

- 3.29. During the hearing, Mr Davis told the committee ‘we think it is really important that... as many people as possible are reflected in the vote’.<sup>43</sup>
- 3.30. Professor Judith Bessant et al stated that the legitimacy of a law, policy or decision is enhanced when more people have a say in its adoption.<sup>44</sup>
- 3.31. Northside Community Service told the committee that youth empowerment and participation are ‘critical to the development of civically engaged, connected and cohesive communities’.<sup>45</sup>

## Government will listen to young people

- 3.32. Several submissions argued that lowering the voting age would ensure government and parliaments pay greater attention to the views and perspectives of young people.
- 3.33. Australia Institute told the committee that their research found that ‘if you don’t vote, you don’t count’. They stated there were significant beneficial policy shifts after the franchise was extended to women and African American communities in the US, and suggested similar outcomes could occur for young people if the voting age was lowered.<sup>46</sup>
- 3.34. Youth Coalition described the dynamic in this way:

Due to their ineligibility to vote, young people aged 16-17 are unable to hold politicians and governments to account through electoral processes, resulting in youth affairs seldom being a priority for the government. Consequently, the challenges that young people experience frequently go unaddressed. Giving 16 and 17 years olds the vote will entourage [sic] political parties to more seriously consider the needs and address the issues that are important to and face young people.<sup>47</sup>

## Concerns about lowering the voting age

- 3.35. Five submissions did not support the Electoral Amendment Bill, and expressed concern about the proposal for compulsory enrolment and voting for people aged 16-17 years.
- 3.36. Some submissions that supported the Bill also put forward improvements, or noted areas of implementation that would need to be carefully considered.

## Exposing young people to criminal penalties

- 3.37. Submissions on both sides of the argument expressed the view that imposing criminal offences and penalties on young people under the age of 18 years is undesirable. Some argued that voting for people aged 16 and 17 years should be voluntary, to avoid this

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<sup>43</sup> Mr Johnathan Davis MLA, *Committee Hansard*, 3 February 2022, p 3.

<sup>44</sup> Professor Judith Bessant and 29 others, *Submission 6*.

<sup>45</sup> Northside Community Service, *Submission 9*.

<sup>46</sup> Australia Institute, *Submission 18*.

<sup>47</sup> Youth Coalition of the ACT, *Submission 11*.

problem.<sup>48</sup> Others suggested young people be exempt from penalties.<sup>49</sup> This topic is discussed below from paragraph 3.72.

- 3.38. The Electoral Commission described the penalties and enforcement that would apply to young people if the Bill is passed:<sup>50</sup>

Failure to enrol and/or vote by 16 and 17 year olds would be a criminal offence which may result in criminal court proceedings heard in the ACT Childrens Court, and the imposition of a fine, a conviction or other sentence if found guilty. This is considered undesirable from an electoral perspective, and may discourage future participation by youth in electoral processes, regardless of the reduced penalty amounts for minors as proposed by the Bill.<sup>51</sup>

## Negative impacts on young people not ready to vote

- 3.39. A significant topic of discussion during the hearing was the potential negative impacts of a law requiring (not just allowing) voting before the age of 18 years.
- 3.40. The Electoral Commission acknowledged that the Bill would ‘enable some politically attuned 16 and 17 year olds to both enrol and vote in the ACT elections’, but expressed concern that mandatory enrolment and voting for all young people aged 16-17 years would cause ‘significant negative issues’ to young people who may not yet be interested in voting.<sup>52</sup>
- 3.41. There is a cohort of young people who are politically engaged and who would be excited about voting. However, there are also young people in the community who are not yet willing or able to participate in the electoral process, and would do so involuntarily, or be subject to penalties. During the hearing, the committee sought to examine the potential impact of the Bill on this second group of young people.
- 3.42. The committee noted that age 16-17 years is a significant time in young people’s development, when they are managing the complexity of school, peer interactions, mental health challenges, and planning for the future. The committee asked witnesses for their views on whether the Bill would impose adult responsibilities on young people too early, add unnecessary pressure to their lives, and disempower young people by exposing them to compulsion to vote, and criminal proceedings if they fail or refuse to do so.
- 3.43. In response to these questions, Mr Davis told the committee that he hopes voting may be a way for young people to alleviate the anxiety they feel about ‘a range of social, environmental, and economic pressures that young people are disproportionately facing’.<sup>53</sup> In his experience:

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<sup>48</sup> Professor George Williams, *Submission 1*; Australia Institute, *Submission 18*.

<sup>49</sup> Professor Judith Bessant and 29 others, *Submission 6*; Northside Community Service, *Submission 9*.

<sup>50</sup> Damian Cantwell, *Committee Hansard*, 3 February 2022, p 35.

<sup>51</sup> ACT Electoral Commission, *Submission 15*.

<sup>52</sup> ACT Electoral Commission, *Submission 15*.

<sup>53</sup> Mr Johnathan Davis MLA, *Committee Hansard*, 3 February 2022, pp 3-4.

It was the feeling of helplessness and detachment from the issues being talked about in this building and the decisions being made in my name, in my community, that actually for me led to that sense of anxiety and frustration. Because it was as if no one was listening, nobody was responding.<sup>54</sup>

- 3.44. Dr Barker agreed that young people face stress and pressure, and told the committee that voting would be a beneficial experience:

And you are right. Young people do face a range of pressures that are currently being ignored. Currently no one is adequately responding to the mental health needs, educational training, housing, social issues, environmental issues, that young people are saying are distressing them. And the idea that allowing them to have a say on what is going to affect their lives would be distressing to them. I think—not any flies on the face of the evidence—I do not think it makes a lot of sense.<sup>55</sup>

- 3.45. Dr Bruce Baer Arnold told the committee that, in other areas of life, such as health care and family law, the legal concept of Gillick competence is used to enable young people to participate in decision making at a stage of life and in a manner that is appropriate for their personal level of maturity and developmental capacity. In contrast to this individualised approach, the Electoral Amendment Bill 2021 extends a ‘major legal responsibility to all people who are 16 or 17’ regardless of their capacity.<sup>56</sup>

## Age of adulthood

- 3.46. While acknowledging that people aged 16 years can participate in mature activities such as driving and working, some submissions nonetheless saw the voting age should align with the age of adulthood:

‘While there are activities for which the age of maturity is 16, the majority of government regulated activities is still 18. The Canberra Liberals maintain 18 is the appropriate age to extend the franchise and is in line with other civic responsibilities.’<sup>57</sup>

## Confusion across jurisdictions

- 3.47. Two submissions warned of potential for confusion should the Bill be passed, as the ACT would be out of alignment with other Australian jurisdictions:

Currently, voting in all Australian jurisdictions is based on a compulsory voting age of 18 years. If the voting age is lowered in the Territory, there is potential for this to lead to confusion amongst voters. This would be a particular risk where

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<sup>54</sup> Mr Johnathan Davis MLA, *Committee Hansard*, 3 February 2022, p 4.

<sup>55</sup> Dr Justin Barker, *Committee Hansard*, 3 February 2022, p 15.

<sup>56</sup> Dr Bruce Baer Arnold, *Submission 2*.

<sup>57</sup> Canberra Liberals, *Submission 16*.

Territory and Commonwealth elections are held over a similar timeframe, or where voters move between jurisdictions.<sup>58</sup>

- 3.48. An example of the potential for confusion is the overlap of election campaigns in 2004, when the federal election was held on 9 October and the ACT election was held one week later on 16 October.<sup>59</sup> People aged 16-17 years who move to Canberra from interstate may not be aware of an obligation to vote in a territory election.<sup>60</sup>
- 3.49. Mr Davis was invited to comment on these concerns during the hearing, and he suggested that a distinction between territory and Commonwealth electoral processes ‘might present a wonderful opportunity to explain to a growing pool of electors the difference between our two tiers of government’.<sup>61</sup>
- 3.50. The Electoral Commission told the committee that lowering the voting age ‘is not currently under active consideration in any other Australian jurisdiction’.<sup>62</sup>
- 3.51. While advocates for the Bill told the committee that 13 countries have lowered the voting age, the Electoral Commission pointed out that the vast majority (more than 150 countries) have set 18 years as the minimum voting age, with some at 21 years.<sup>63</sup>

## Administrative burden and cost of implementation

- 3.52. A common theme in submissions was the operational consequences of the Bill, and the potential costs of implementation.

### Electoral roll costs

- 3.53. The committee heard that, if the voting age is lowered to 16 years, there are likely to be cost implications for the territory related to the Australian Electoral Commission (AEC) maintaining a separate ACT-only electoral roll.<sup>64</sup>
- 3.54. The Electoral Commission described the current arrangements for the territory electoral roll. The ACT electoral roll is maintained by the AEC under the Joint Roll Arrangement (a memorandum of understanding) between the Commonwealth and the ACT. The Electoral Commission pays the AEC to maintain the joint electoral roll.<sup>65</sup>
- 3.55. A key feature of the joint roll is the Federal Direct Enrolment and Update (FDEU) of electors, which is based on automated information from state and territory driver’s licence authorities, Centrelink and the Australian Taxation Office without need for the elector to complete an enrolment application.<sup>66</sup>

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<sup>58</sup> ACT Government, *Submission 13*.

<sup>59</sup> ACT Electoral Commission, *Submission 15*.

<sup>60</sup> Ash van Dijk, *Committee Hansard*, 3 February 2022, p 28; Damian Cantwell, *Committee Hansard*, 3 February 2022, p 40.

<sup>61</sup> Mr Johnathan Davis MLA, *Committee Hansard*, 3 February 2022, p 7.

<sup>62</sup> ACT Electoral Commission, *Submission 15*.

<sup>63</sup> ACT Electoral Commission, *Submission 15*.

<sup>64</sup> ACT Government, *Submission 13*.

<sup>65</sup> ACT Electoral Commission, *Submission 15*.

<sup>66</sup> ACT Electoral Commission, *Submission 15*.

- 3.56. The Electoral Commission told the committee the ACT would need to negotiate a new MOU with the Commonwealth, to accommodate the following implementation challenges:

16-17 year olds are not included in existing FDEU legislation or processes because their enrolment is not compulsory under s 100 of the *Commonwealth Electoral Act 1918*.

Data sources and evidence of identity for the age group 14-17 would need to be identified and established, requiring new agreements to be negotiated by the AEC with established FDEU data providers and potentially the ACT Education Directorate, with additional costs passed to the Commission.

A unique Territory specific notation for ACT only 16-17 year olds would need be established, agreed to and added in the AEC's enrolment systems.

A new separate Memorandum of Understanding (MoU) would need to be negotiated and agreed with the AEC under the JRA, including ACT specific electoral event roll products, incurring associated additional costs to the Commission.

Legal issues would require further consideration by the AEC, including the application of FDEU for 16-17 year olds, their legal responsibilities for enrolment, and whether 14-17 year olds would require guardian or parental support.

Changes would be required to existing AEC online and paper based enrolment processes and forms specific to the ACT, with additional costs passed to the Commission.<sup>67</sup>

- 3.57. During the hearing the committee asked about rates of provisional enrolment. The Electoral Commission provided the most recent data: there were 25 people aged 16 years, and 125 people aged 17 years provisionally enrolled on the ACT electoral roll as at 31 December 2021. Population estimates are 4,510 territory residents aged 16 years, and 4,611 residents aged 17 years. Therefore the Commission calculated that approximately 0.6% of eligible 16-year-old, and 2.8% of eligible 17-year-olds are currently provisionally enrolled. The Commission described this as 'a very low take up' of provisional enrolment, but acknowledged that 'electoral events significantly impact the rate of enrolment by newly eligible young Australians' (ie. that the rate of enrolment will increase closer to the next election).<sup>68</sup>

## Education costs

- 3.58. ACT Government told the committee an education and communication campaign would be necessary to support the new law if the Bill is passed.<sup>69</sup>

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<sup>67</sup> ACT Electoral Commission, *Submission 15*.

<sup>68</sup> ACT Electoral Commission, answer to question taken on notice.

<sup>69</sup> ACT Government, *Submission 13*.

- 3.59. The committee heard that the task of engaging young people aged 16-17 years in the electoral process, and communicating with them about their obligations, will fall primarily to the Electoral Commission and the Education Directorate of ACT Government, and require additional resources.<sup>70</sup>
- 3.60. ACT Labor and the Electoral Commission described challenges in supporting voter turnout and electoral engagement among young people.<sup>71</sup>
- 3.61. The Electoral Commission told the committee that they have not yet determined the costs of developing and delivering tailored education programs about a lowered voting age, and they would need to consult closely with the Education Directorate:

An important consideration would be the need for the necessary community and school education programs arising from the Bill to both publicise the change in the lead up to the 2024 ACT election, and to inform subsequent generations of 16 and 17 year olds of the special provisions for ACT legislative Assembly elections separate to their obligations federally and in other jurisdictions. Delivery of such programs to 16 and 17 year olds is outside the existing senior school curriculum and subject to control of the Education Directorate.<sup>72</sup>

- 3.62. During the hearing, Mr Davis told the committee that the Electoral Commission would need ‘substantially greater resourcing’ to inform young people how they can exercise the right to vote.<sup>73</sup>

## Election costs

- 3.63. The committee heard there would also potentially be an additional cost per election to cover the increased running costs of supporting a larger number of voters.<sup>74</sup>

Based on the number of 18 and 19 year olds enrolled for the 2020 election, it is estimated that around 8,000 16 and 17 year olds would enrol and vote at an Assembly election if they were entitled to and if voting was compulsory. Servicing these extra voters would require additional funding to employ more polling staff, print extra ballot papers and procure additional voting equipment. It is estimated, based on a per-electoral rate, that up to an additional \$145,000 would be required in an election year to service the additional 16 and 17 year olds on the ACT roll.<sup>75</sup>

## Stress on Electoral Commission staff

- 3.64. The Electoral Commission expressed concern about increased stress for Elections ACT staff who would be ‘dealing with minors facing potential criminal court action for failing to vote’.<sup>76</sup> The Commissioner told the committee that currently ‘it is a heavy workload’ for

<sup>70</sup> ACT Electoral Commission, *Submission 15*.

<sup>71</sup> ACT Labor, *Submission 10*.

<sup>72</sup> ACT Electoral Commission, *Submission 15*.

<sup>73</sup> Mr Johnathan Davis MLA, *Committee Hansard*, 3 February 2022, p 7.

<sup>74</sup> ACT Government, *Submission 13*.

<sup>75</sup> ACT Electoral Commission, *Submission 15*.

<sup>76</sup> ACT Electoral Commission, *Submission 15*.

staff to deal with ‘people who will argue directly about such compulsion to enrol and vote’.<sup>77</sup> At the time of the hearing, the Commission was in the process of referring 1,400 eligible voters to the Magistrates Court for failure to vote in the 2020 election without a valid or sufficient reason, and refusing/failing to pay the \$20 penalty. The Commissioner expressed concern that the Bill would lead to such proceedings against minors, and difficult interactions with young people and their parents/carers who express anger about the requirement to vote.<sup>78</sup>

## Potential barriers to accessing the electoral process

- 3.65. The Electoral Commission and ACT Government drew attention to potential barriers to people aged 16-17 years enrolling to vote, particularly the fact that some young people do not have ‘readily available identification (such as a driver’s licence) that they can use to enrol’,<sup>79</sup> and a small cohort of young people have no fixed address.<sup>80</sup>
- 3.66. To enrol, citizens must provide proof of identity in the form of an Australian driver’s licence or an Australian passport, or they must have someone who is enrolled confirm their identity. Currently, the AEC does not accept any other forms of identification, such as 18+ or Proof of Age cards. The Electoral Commission told the committee it could be considered unfair for the Electoral Act to apply penalties for failure to enrol when the process of enrolment is onerous.<sup>81</sup>

## Voting is not the only means of political participation

- 3.67. Some submissions stated that voting is not the only means by which young people can express their views and participate in politics and democracy.
- 3.68. Canberra Liberals agreed with the sentiment of the Bill, that ‘it is vital that young people feel heard and optimistic about their future’, but told the committee there is ‘no evidence to support extending the franchise will assist in this’.<sup>82</sup>
- 3.69. The Electoral Commission expressed concern that penalising young people for not voting will ‘discourage future participation by youth in electoral processes’.<sup>83</sup>
- 3.70. Dr Bruce Baer Arnold suggested that access to the vote will not necessarily make young people feel heard and empowered, as ‘that sense of lacking a voice or agency is not restricted to people under 18’ but felt by others such as ‘members of Australia’s First Nations’ and ‘many adults in rural and metropolitan Australia’.<sup>84</sup>

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<sup>77</sup> Damian Cantwell, *Committee Hansard*, 3 February 2022, p 39.

<sup>78</sup> Damian Cantwell, *Committee Hansard*, 3 February 2022, p 39.

<sup>79</sup> ACT Government, *Submission 13*.

<sup>80</sup> Northside Community Service, *Submission 9*.

<sup>81</sup> ACT Electoral Commission, *Submission 15*; Damian Cantwell, *Committee Hansard*, 3 February 2022, pp 43-44.

<sup>82</sup> Canberra Liberals, *Submission 16*.

<sup>83</sup> ACT Electoral Commission, *Submission 15*.

<sup>84</sup> Dr Bruce Baer Arnold, *Submission 2*.



## Questions for consideration in the legislative process

- 3.71. ACT Government told the committee that ‘there are no legislative barriers to lowering the voting age on a compulsory basis in the ACT’,<sup>85</sup> however the Bill presents a range of policy and operational questions that the Assembly will need to consider during debate.

## Offences and penalties

- 3.72. A major theme in submissions was whether young people aged under 18 years should be exposed to offences and penalties under the Electoral Act.
- 3.73. The Electoral Commission informed the committee that, currently, electors who fail to vote without a valid and sufficient reason may pay a \$20 penalty to discharge any liability for failing to vote. The Bill proposes to halve the penalty for a default notice issued to people aged 16-17 years. However, if the penalty is not paid, a young person would be exposed to ‘criminal court proceedings in the ACT Childrens Court, and the imposition of a fine, a conviction or other sentence if found guilty’.<sup>86</sup>
- 3.74. ACT Government called for further consideration of the human rights implications of the proposal in the Bill to impose a penalty for failure to vote on people aged under 18 years. The government submission to this inquiry identified a potential tension between section 11(2) and section 17 of the *Human Rights Act 2004* (the right of every child to be afforded the protection needed by the child by virtue of being a child; and the right to take part in public life). Section 28 of the Human Rights Act requires that any limitation on human rights must be reasonable and proportionate. In the government’s view, ‘[a] penalty on 16- and 17-year-olds for failing to vote may be difficult to justify as reasonable and proportionate’.<sup>87</sup>

## Protect young people from penalties

- 3.75. Many submissions offered suggestions for modifying the penalty scheme should the voting age be lowered to 16 years.
- 3.76. ACT Government noted that the Electoral Commissioner could exercise discretion under section 161(1) of the Electoral Act to waive fines on a case-by-case basis, however recommended ‘further policy assessment on the scope and application of this discretion’ as ‘it would not be enshrined in legislation and is currently exercised by the independent Electoral Commissioner’.<sup>88</sup>
- 3.77. ACT Greens called for a ‘legislated’ form of ‘discretionary fine dismissal’ to apply to all voters (not just young people) in extreme or extenuating circumstances, as ‘even a modest fine can have a large impact on people facing financial difficulty’.<sup>89</sup>

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<sup>85</sup> ACT Government, *Submission 13*.

<sup>86</sup> ACT Electoral Commission, *Submission 15*.

<sup>87</sup> ACT Government, *Submission 13*.

<sup>88</sup> ACT Government, *Submission 13*.

<sup>89</sup> ACT Greens, *Submission 4*.

- 3.78. Professor Judith Bessant et al suggested either an exemption or the application of a means test for students, pensioners, and health care card holders, so they are subject to a significantly reduced fine or none at all.<sup>90</sup>
- 3.79. Northside Community Service called for penalties not to be enforced for young people who do not vote.<sup>91</sup>
- 3.80. ACTCOSS described the Bill as ‘capping’ fines for young people at \$10, and called for alternatives such as community service or mandatory education be made available ‘to ensure equitable outcomes for those that cannot afford to pay’.<sup>92</sup>
- 3.81. ACT Labor suggested the application of penalties for people aged 16-17 years would be unfair when it may be difficult to fully inform them of their voting obligations, as ‘research already indicates being able to communicate and engage effectively with this group is a challenge for governments’.<sup>93</sup>

### Apply full penalties to young people

- 3.82. Three participants in the inquiry said the \$10 prescribed penalty for a default notice proposed in the Bill would be manageable and proportionate.<sup>94</sup>
- 3.83. Youth Coalition noted that there are provisions in the Electoral Act by which any voter can ‘explain why they did not vote to exempt them from the fine’. They suggested most young people could access support from family and school to help explain their reason for non-voting or pay the fine.<sup>95</sup>
- 3.84. Three submissions said the same penalties should apply to all voters as a matter of principle, to protect the integrity of the electoral system. Martin Gordon told the committee that, for consistency and equality, there should be a single penalty regime, regardless of age, gender or other characteristics.<sup>96</sup> Canberra Liberals expressed the view that, if the Bill proposes to treat people aged 16-17 years as mature enough to vote, then it should also regard them as mature enough to understand the consequences of not voting.<sup>97</sup> Dr Bruce Baer Arnold suggested the reduced penalty scheme gives young people the rights of adults, but not the responsibilities of adults; and that a \$10 penalty is trivial, and ‘signals that as a society we do not regard non-voting by young people as serious’.<sup>98</sup>

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<sup>90</sup> Professor Judith Bessant and 29 others, *Submission 6*.

<sup>91</sup> Northside Community Service, *Submission 9*.

<sup>92</sup> ACTCOSS, *Submission 12*; Adam Poulter, *Committee Hansard*, 3 February 2022, p 47; Dr Gemma Killen, *Committee Hansard*, 3 February 2022, p 51.

<sup>93</sup> ACT Labor, *Submission 10*.

<sup>94</sup> Australia Institute, *Submission 18*; Dr Justin Barker, *Committee Hansard*, 3 February 2022, p 14; Michael Brewer, *Committee Hansard*, 3 February 2022, p 22.

<sup>95</sup> Youth Coalition of the ACT, *Submission 11*; Dr Justin Barker, *Committee Hansard*, 3 February 2022, p 14.

<sup>96</sup> Martin Gordon, *Submission 7*.

<sup>97</sup> Canberra Liberals, *Submission 16*.

<sup>98</sup> Dr Bruce Baer Arnold, *Submission 2*.

## Accessibility of the electoral process

- 3.85. Many submissions to this inquiry pointed to the need for a public awareness campaign and strong civics education should the Bill be passed. The need to resource the Electoral Commission and Education Directorate is discussed above from paragraph 3.58. ACT Greens stated that young voters would need to be informed of their new civic responsibilities.<sup>99</sup> Youth Coalition said civic and political education would be essential to ‘inform young people of the role and importance of ACT elections to their lives’.<sup>100</sup>
- 3.86. Beyond the general community education directed to all people aged 16-17 years in the ACT, the committee heard that additional targeted support will need to be provided to vulnerable young people who would experience particular challenges in engaging with the electoral process.
- 3.87. Northside Community Service recommended the electoral process be reviewed to ensure it is inclusive of young people with disability, learning difficulties, language barriers, or no fixed address.<sup>101</sup>
- 3.88. The committee heard that young people at risk (disengaged from family and school) or experiencing other challenges in their life will need assistance to navigate the process of enrolment and voting:

the introduction of compulsory voting for young people at risk of homelessness, those disengaged from family and school, or experiencing other challenges in their life, could add to the existing stressors that young people experiencing vulnerability face on a daily basis.<sup>102</sup>

## Regulating political activity in schools

- 3.89. During the hearing, the committee asked witnesses about the increased potential for canvassing in schools, and the likely need for the Electoral Commission to expand their oversight activity to schools to ensure political activity complies with the Electoral Act. The committee noted in questioning that in some situations it would be challenging to draw a line between educational activities and ‘electoral matter’.
- 3.90. ACT Labor expressed concern about the potential for ‘the idea of introducing politics onto school campuses’.<sup>103</sup>
- 3.91. The Electoral Commission told the committee that there is nothing in the Electoral Act that would prohibit the distribution of authorised electoral matter in schools outside the four-yearly voting period.<sup>104</sup> They said they the Commission ‘would have to pay attention to

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<sup>99</sup> ACT Greens, *Submission 4*.

<sup>100</sup> Youth Coalition of the ACT, *Submission 11*.

<sup>101</sup> Northside Community Service, *Submission 9*.

<sup>102</sup> Northside Community Service, *Submission 9*.

<sup>103</sup> Ash van Dijk, *Committee Hansard*, 3 February 2022, p 26.

<sup>104</sup> Ro Spence, *Committee Hansard*, 3 February 2022, p 43.

making sure that the provisions that require authorisation statements are fully understood'.<sup>105</sup>

- 3.92. ACTCOSS told the committee that, if the Bill is passed, there would be a need for strong guidelines around electoral campaigning in schools.<sup>106</sup>

## Standing for election

- 3.93. During the inquiry, the question was raised whether young people aged 16 years will be able to stand for election and be appointed to the Assembly.
- 3.94. The Electoral Amendment Bill 2021 does not propose amendment to section 103 of the Electoral Act (which provides that anyone on the electoral roll and 18 years or over is eligible to be an MLA). During the hearing the ACT Greens confirmed they had not considered the matter in developing the Bill.<sup>107</sup>

I think that it is something that should be considered down the track. Obviously, this is the first step.<sup>108</sup>

- 3.95. The Electoral Commission stated that, if the voting age is lowered to 16 years, the Assembly could choose to maintain a harmony between voting and candidacy as an MLA by also lowering the age of candidacy to 16; or it could keep the age of candidacy at 18 irrespective of the voting age.<sup>109</sup>

## Consultation with young people

- 3.96. It is not clear from the explanatory statement and presentation speech whether the sponsors of the Bill consulted with young people outside ACT Greens membership in developing the Bill.
- 3.97. The Electoral Commission estimates that around 8,000 young people aged 16-17 years would be required to enrol and vote at an Assembly election if the voting age was lowered.<sup>110</sup>
- 3.98. One submitter to this inquiry, and 46 participants in the online survey, identified as young people (between 12 to 25 years of age).
- 3.99. Two submissions put the view that young people want to be able to vote.<sup>111</sup> The ACT Greens told the committee that '[t]he Youth Coalition of the ACT found that a majority of young people supported the ACT Greens' position to empower 16- and 17- year-olds to vote', however further information about these findings was not provided in evidence to this inquiry.

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<sup>105</sup> Damian Cantwell, *Committee Hansard*, 3 February 2022, p 42.

<sup>106</sup> Adam Poulter, *Committee Hansard*, 3 February 2022, p 47.

<sup>107</sup> Michael Brewer, *Committee Hansard*, 3 February 2022, p 23.

<sup>108</sup> Michael Brewer, *Committee Hansard*, 3 February 2022, p 23.

<sup>109</sup> ACT Electoral Commission, *Submission 15*.

<sup>110</sup> ACT Electoral Commission, *Submission 15*.

<sup>111</sup> ACT Greens, *Submission 4*; Jahin Tanvir, *Submission 7*.

- 3.100. Northside Community Service called for stakeholders in the legislative process to provide young people with 'meaningful and appropriate opportunities to express their own views on this amendment' and ensure young people are involved in the implementation process if the Bill is passed.<sup>112</sup>
- 3.101. The Youth Coalition told the committee that research shows the potential positive effects of lowering the voting age are more likely to occur if the implementation process is informed by and involves young people:

the Youth Coalition recommends a collaborative process between government, the community sector and young people to work together to develop and refine the process for introducing, educating and supporting the community.<sup>113</sup>

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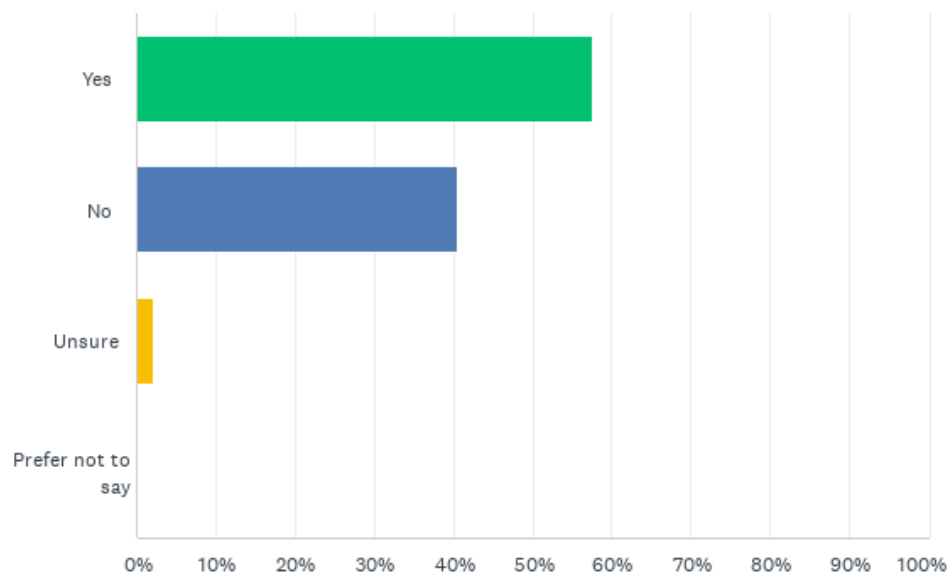
<sup>112</sup> Northside Community Service, *Submission 9*.

<sup>113</sup> Youth Coalition of the ACT, *Submission 11*.

## 4. Online survey results

- 4.1. The committee conducted an online survey from 14 December 2021 to 7 February 2022, as a means of enabling wider community participation in this inquiry. The survey provided an alternative to writing a submission; it was a more accessible means of expressing a view on the topic of the voting age, and contributing to the inquiry.
- 4.2. The survey questions are provided at [Appendix D](#). The survey does not have the validity or reliability of scientific study (the questions were not extensively tested; and the sampling was not random, so participants were more likely to be drawn to the survey if they had a strong view on the topic). Therefore, the committee is cautious in drawing conclusions from the results.
- 4.3. There were a total of 438 responses to the survey. 26 respondents reported an age under 18 years, and 60 respondents reported an age between 18-25 years. A summary of the results is provided in [Appendix E](#).
- 4.4. When asked if people aged 16-17 years should be able to vote in territory elections, 252 people (58%) said yes, and 177 people (40%) said no.

**Diagram 1: Do you think people aged 16-17 years should be able to vote in Territory elections?**



## 5. Committee assessment of the Bill

- 5.1. A large part of this report summarises the evidence put forward during this inquiry, for Members of the Assembly to reference when considering their position on the Electoral Amendment Bill 2021. In this chapter, the committee presents its assessment of the Bill.
- 5.2. First, the committee is concerned that the Bill exposes young people aged under 18 years to criminal offences and penalties. No clear solution to this problem arose during the inquiry.
- 5.3. The proposal in the Bill to halve the prescribed penalty for a default notice issued to people aged 16 or 17 years who appear to have failed to vote in an election does not guarantee young people will not be exposed to criminal proceedings and more serious penalties.
- 5.4. At the same time, exempting young people from penalties, or waiving penalties for non-enrolment or non-voting, has the potential to create perceptions of inconsistency and inequality which may undermine respect for the electoral process. The committee is hesitant to introduce any changes to the Electoral Act that might erode community support for compulsory voting.
- 5.5. Second, the committee is concerned about possible negative effects of imposing an obligation to vote on young people aged 16-17 years. In particular, the potential impact on the mental health and wellbeing of young people who are not yet willing or able to engage with the political process.
- 5.6. Third, the committee is concerned that the potential positive impacts of lowering the voting age, described in overseas research journals, will not automatically translate to the ACT context as they arose in jurisdictions with voluntary voting schemes.
- 5.7. The Electoral Amendment Bill 2021 is likely unique in proposing to require people aged 16-17 years to enrol and vote, and applying criminal offences and penalties for non-compliance.
- 5.8. In this context, it is difficult for the committee to assess the research evidence presented to the inquiry claiming benefits for young people and communities when the voting age is lowered, as it is not clear that such benefits would be demonstrated in a situation where young people are voting involuntarily.
- 5.9. For these reasons, the committee does not support the Bill.

### Recommendation 1

The committee recommends the Electoral Amendment Bill 2021 not be passed by the Assembly.

### Recommendation 2

The committee recommends that ACT Government explore ways to further engage young people in the democratic process.

## 6. Conclusion

- 6.1. While the committee does not support the Electoral Amendment Bill 2021, it fully recognises the valuable contribution that young people make to the Canberra community.
- 6.2. The committee acknowledges the cohort of young people who are excited about reaching the age when they can vote in elections. The committee also acknowledges young people who are not yet ready to participate in the electoral process, for a range of reasons.
- 6.3. The committee thanks everyone who contributed to this inquiry, particularly the young people who responded to the online survey or made a submission.

Peter Cain MLA

Chair

16 February 2022



## Appendix A: Submissions

No.	Submission by	Received	Published
1	Professor George Williams	18/12/21	2/02/22
2	Dr Bruce Baer Arnold	3/1/22	2/02/22
3	Bec Colvin	18/1/22	2/02/22
4	ACT Greens	27/1/22	2/02/22
5	The Greens Institute	27/1/22	2/02/22
6	Professor Judith Bessant and 29 others	27/1/22	2/02/22
7	Jahin Tanvir	27/1/22	2/02/22
8	Lilly Rotich	27/1/22	2/02/22
9	Northside Community Service	28/1/22	2/02/22
10	ACT Labor	28/1/22	2/02/22
11	Youth Coalition of the ACT	28/1/22	2/02/22
12	ACTCOSS	28/1/22	2/02/22
13	ACT Government	28/1/22	2/02/22
14	Zhenghao Dai	28/1/22	2/02/22
15	ACT Electoral Commission	28/1/22	2/02/22
16	Canberra Liberals	28/1/22	2/02/22
17	Martin Gordon	28/1/22	2/02/22
18	Australia Institute	31/1/22	2/02/22

# Appendix B: Witnesses

Thursday 3 February 2022

## Co-sponsor of the Bill

- **Mr Johnathan Davis MLA**

## Youth Coalition of the ACT

- **Dr Justin Barker**, Executive Director
- **Hannah Watts**, Director Policy and Development

## ACT Greens

- **Michael Brewer**, Convenor
- **Fleur Morales**, Party Director

## ACT Labor

- **Ash van Dijk**, Secretary

## ACT Electoral Commission

- **Damian Cantwell AM CSC**, Electoral Commissioner
- **Ro Spence**, Deputy Commissioner

## ACTCOSS

- **Adam Poulter**, Deputy CEO
- **Dr Gemma Killen**, Head of Policy

## Individual

- **Dr Bruce Baer Arnold**

## Appendix C: Questions taken on notice

### Questions taken on notice

No.	Date	Asked of	Subject	Response received
1	3/02/22	Electoral Commission	Preliminary enrolment data	8/02/22
2	3/02/22	Dr Bruce Baer Arnold	Literature list	

## Appendix D: Online survey questions

Question 1: Do you think people aged 16-17 years should be able to vote in Territory elections?

Question 2: These are views of people who support lowering the voting age. Tell us what you think.

- Young people aged 16-17 years are considered mature enough to work, pay taxes, and drive a car, so they should also be able to vote.
- People aged 16-17 years will be more affected than older people by the long-term consequences of Assembly and government decisions. That's why they should have a voice in electing our decision-makers.
- If people aged 16-17 years can vote, political candidates and MLAs will care more about issues that matter to young people.
- Lowering the voting age to 16 will increase the engagement and citizenship of young people.

Question 3: These are views of people who support keeping the voting age at 18 years. Tell us what you think.

- The most appropriate age for voting is when young people are legally considered adults.
- People under 18 years shouldn't be subject to statutory penalties like the ones in the Electoral Act.
- People under 18 years shouldn't be politicised, or pressured to vote a certain way by parents, friends or classmates.
- Requiring people under 18 years to vote in Territory elections will cause confusion, because they can't vote in federal elections.

Question 4: Do you have other views on the voting age that weren't listed in the previous two questions?

Question 5: If the voting age was lowered to 16 years, do you think voting should be compulsory or voluntary for people aged 16-17 years?

Question 6: If you answered 'compulsory', do you think people aged 16-17 years should be fined for failing to vote?

Question 7: Is there anything else you want to say about the voting age?

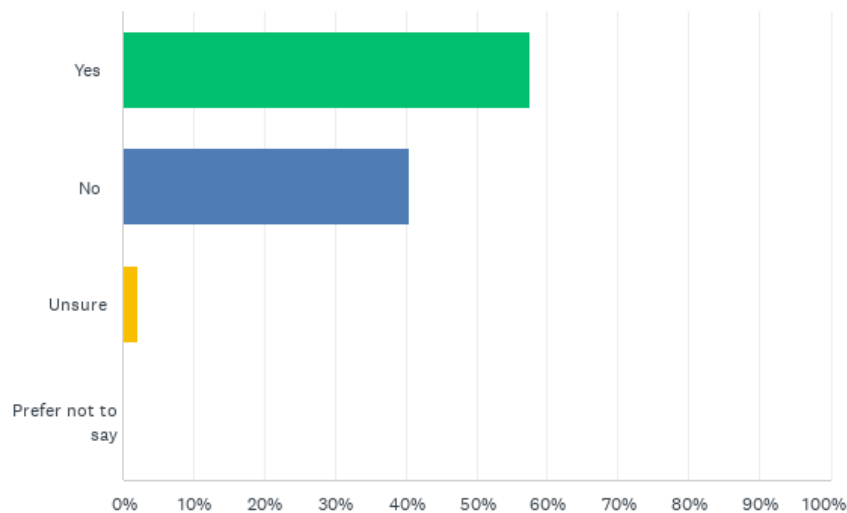
Question 8: Please select the age group you are in.

Question 9: If you would like to be placed on the contact list for this inquiry, and receive updates, please provide your details below. Or if you want your survey response to remain confidential, you can email the secretary separately.

## Appendix E: Online survey results

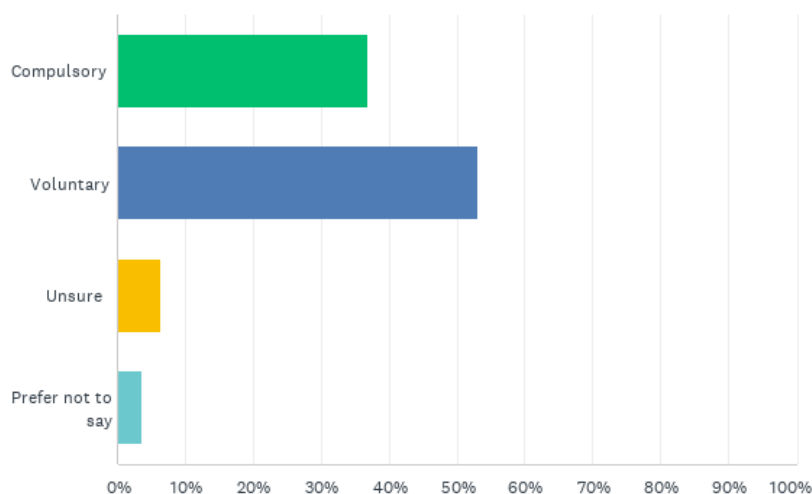
- 6.4. There were a total of 438 responses to the survey. 26 respondents reported an age under 18 years, and 60 respondents reported an age between 18-25 years.
- 6.5. When asked if people aged 16-17 years should be able to vote in territory elections, 252 people (58%) said yes, and 177 people (40%) said no.

**Diagram 1: Do you think people aged 16-17 years should be able to vote in Territory elections?**



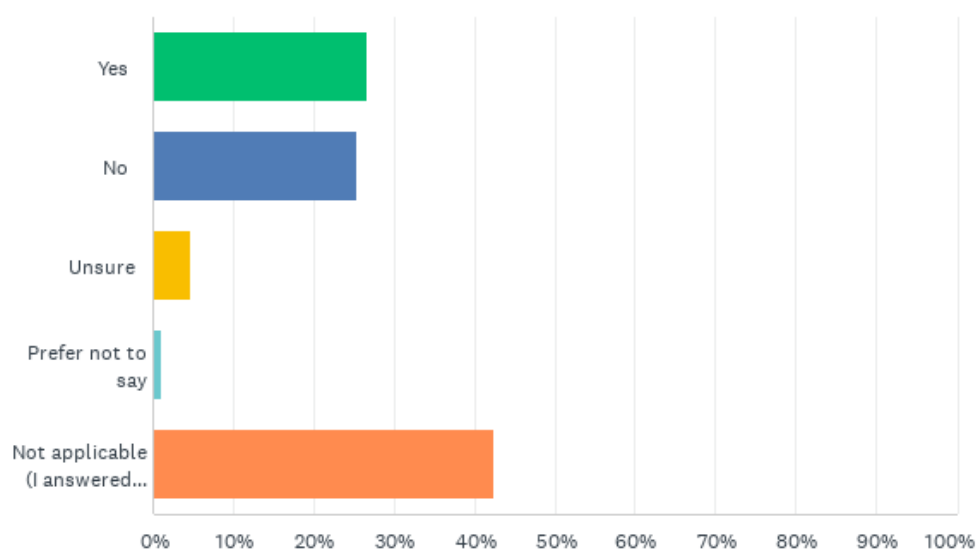
- 6.6. Of the survey respondents who reported an age under 18 years, 10 people (38%) said yes, and 16 people (62%) said no.
- 6.7. When asked if the voting age was lowered to 16 years, should voting be compulsory or voluntary for people aged 16-17 years, 231 people (53%) said 'voluntary' and 160 people (37%) said 'compulsory'.

**Diagram 2: If the voting age was lowered to 16 years, do you think voting should be voluntary or compulsory for people aged 16-17 years?**



- 6.8. The next question invited those who responded ‘compulsory’ to say whether they think people aged 16-17 years should be fined for failing to vote. 110 people (27%) said yes, and 105 people (25%) said no.

**Diagram 3: If you answered compulsory, do you think people aged 16-17 years should be fined for failing to vote?**



- 6.9. When provided four examples of arguments in support of lowering the voting age, more people agreed than disagreed with each statement (see Table 1). The statement with highest level of agreement (62%) was ‘if people aged 16-17 years can vote, political candidates and MLAs will care more about issues that matter to young people’.

**Table 1: These are views of people who support lowering the voting age. Tell us what you think.**

Statement	Agree or strongly agree	Neither agree nor disagree	Disagree or strongly disagree
Young people aged 16-17 years are considered mature enough to work, pay taxes, and drive a car, so they should also be able to vote.	264 60.37%	15 3.43%	158 36.16%
People aged 16-17 years will be more affected than older people by the long-term consequences of Assembly and government decisions. That’s why they should have a voice in electing our decisionmakers.	257 58.81%	31 7.09%	149 34.04%
If people aged 16-17 years can vote, political candidates and MLAs will care more about issues that matter to young people.	272 62.38%	41 9.40%	123 28.21%
Lowering the voting age to 16 will increase the engagement and citizenship of young people.	253 57.81%	37 8.47%	147 33.64%

- 6.10. When provided four examples of arguments in support of retaining the voting age at 18 years, more people agreed than disagreed with two of the statements. However, more people agreed than disagreed with the statement ‘people under 18 years shouldn’t be

subject to statutory penalties like the ones in the Electoral Act', suggesting a preference for voluntary voting.

**Table 2: These are views of people who support keeping the voting age at 18 years. Tell us what you think.**

Statement	Agree	Neither agree nor disagree	Disagree
The most appropriate age for voting is when young people are legally considered adults.	179 41.24%	56 12.90%	199 45.85%
People under 18 years shouldn't be subject to statutory penalties like the ones in the Electoral Act.	223 51.51%	108 24.94%	102 23.56%
People under 18 years shouldn't be politicised, or pressured to vote a certain way by parents, friends or classmates. <sup>114</sup>	269 62.13%	59 13.63%	105 24.15%
Requiring people under 18 years to vote in Territory elections will cause confusion, because they can't vote in federal elections.	166 38.25%	45 10.37%	223 51.39%

6.11. There were two free text questions, in which people could express any other views on the voting age that weren't listed in the survey; and convey anything else they wanted to say about the voting age. Some of the more common themes, and examples of comments, are provided in Table 3 and Table 4 below.

**Table 3: Comments in support of lowering the voting age**

Support for lowering the voting age	Sample comments
Young people have the right to have a say in decisions that affect them	<p>'lowering the voting age is good for democracy. Young people have a right to have an effective say in decision that effect them'</p> <p>'Young people should be acknowledged as an important part of civic life. It's their act too. If we are making decisions about youth detention, youth affairs, sports, adolescent health care, And high school funding, they absolutely be part of voting the people making those decisions'</p> <p>'Young people are part of our society and should have a say in who represents them. It is not about maturity. Maturity doesn't make you worthy or not of a voice.'</p>
Young people are treated as adults in other ways, so should also vote	<p>'If you can be taxed, YOU MUST BE ALLOWED TO VOTE'</p> <p>'Paying taxes - if you can pay tax, you should have a say where that money goes/how it is used'</p> <p>'If I can drive, have sex, and die for my country at age 16, I should also be able to vote'</p>
Voting would help educate young people	<p>'Passing this change will facilitate more study and understanding of the electoral system in younger voters. Preparing them for federal elections and encouraging them to learn more about party policies.'</p>

<sup>114</sup> The committee notes the language of this part of the survey question could have been drafted more clearly.

	<p>'Introducing voting for 16 and 17 year olds could also be an important part of their civic education. Classes about elections, and the rights and responsibilities around voting, could be included in civics classes as part of the curriculum in the year before they start to vote (eg taught in year 9). It is important that they know that their vote does matter, and would hopefully counter some of the general scepticism that is commonly attributed to older teenagers and young adults.'</p>
Young people should not be held to a higher standard than adults	<p>'There is no fitness test for adult voting, so there is no strong case for exclusion'</p> <p>'People who are affected by laws should have a right to have input into those laws. Whether they are capable of giving a mature opinion on them is irrelevant. We don't disqualify the elderly or the mentally handicapped from voting, nor those with brain damage.'</p> <p>'I believe that young people who could be pressured into voting a certain way would be just as susceptible to that influence at 18 as they are at 16 or 17.'</p>
Voting should be voluntary for this age group	<p>'It should be lowered but not made mandatory'</p> <p>'Could we make it opt in? So that youth aren't financially burdened by fines?'</p> <p>'Should be an opt in as not ALL 16 /17 year old are mature enough to vote'</p> <p>'It would be good for them to have the option to vote if they want too. I don't think it should be made compulsory, but there are a lot of teens who have very strong and well informed political view - they should be allowed to participate in elections if they want to.'</p>

**Table 4: Comments in support of retaining the voting age at 18 years**

Support for retaining the voting age at 18 years	Sample comments
Young people don't have the necessary maturity or developmental capacity for voting	<p>'I don't think under 18s are old enough to make an informed choice in government that's why they are at school.'</p> <p>'I personally think the voting age should be 25! Frontal lobe is dully developed, people have had a bit of life experience.'</p> <p>'People under the age of 18 do not have the maturity and experience to consider the implications on the community of political decisions'</p> <p>'Sorry but many, if not most, 16 and 17 year olds do not have enough maturity to deal with the complexities of politics. Mind you many over 18 don't either but why add to the problem.'</p> <p>'18 is more than young enough. Too little life experience &amp; understanding before then. And it was only lowered to 18 as 18yos were being sent to Vietnam in a war, lowering to 18 was probably a mistake too.'</p>



Voting is too burdensome for people in this age group	<p>‘Children of 16 and 17 years of age are completing the schooling and should not have the extra burden of Voting thrust upon them, they have enough to deal with.’</p> <p>‘Voting is an adult responsibility; 16 and 17 year olds are not adults and should not be given this important responsibility.’</p> <p>‘Teenagers in that age group have enough to cope with; most of them are in school and worrying about growing up, finding a job, pursuing further education; why add more weight?’</p>
Let kids be kids	<p>‘Let kids be kids, peer pressure and authoritarian figures will allow loom large over this age group, I believe they're too easily swayed.’</p> <p>‘I see politicisation of young people as potentially very damaging. Leave the kids alone.’</p> <p>‘Value what they can contribute, don't force them to make decisions beyond the level of their maturity.’</p>
Consistency with other jurisdictions	<p>‘Australia has a voting age of 18 as described in the Electoral Act. It is not appropriate to seek to change this for one territory.’</p> <p>‘Keeping the age at 18 is consistent with other jurisdictions’</p> <p>‘It's never good when a rogue state thinks they know best with matters such as this. It's also dangerous as a state could choose any age.’</p>
Young people can have a say in other ways without voting	<p>‘Prefer to see surveys of teen views used to inform policy making, through balanced consideration of budget priorities across entire community's spectrum of interests. If politicians wish to give more weight to youth views that is possible, without lowering voting age.’</p> <p>‘Young adults should have a voice in the way of advisory groups, lobby groups, and other representation, but do not have the emotional maturity to vote on issues that affect more than their own generation.’</p> <p>‘Instead of lowering the voting age, engaging young people in the political process should stress that the best solutions to problems do not necessarily come from government action but from the bottom up’</p>

## **Dissenting report by Mr Andrew Braddock MLA**

## **Dissenting Comments – Justice and Community Services Committee Inquiry into the Electoral Act Amendment Bill 2020**

I would like to thank my fellow committee members for their consideration of the Bill. The Inquiry process has demonstrated the value of Committee inquiries into Bills, enabling a wider range of community views to be heard combined with presenting and testing evidence and viewpoints.

I do not support the Committee's conclusions for the following reasons:

- There was no substantive or empirical evidence to support the Committee Assessment of “....*potential impact on the mental health and wellbeing of young people...*” (Paragraph 5.5)
- There is no reason that the positive benefits extensively documented by overseas jurisdictions that have extended voting rights would be negated in our jurisdiction by compulsory voting. No evidence was presented to support the argument that “..*[it] will not automatically translate to the ACT context..*” (Paragraph 5.6).

I would like to provide the following comments against specific concerns raised during the inquiry.

### **Strength of evidence provided**

Chapter 3 summarises the arguments presented but does not analyse the strength of evidence and rigor that lay behind submission statements.

Submissions to the inquiry, and accompanying hearings, could be regarded on a spectrum from expert to layperson, with a level of supporting evidence ranging from extensive to personal opinion only.

Community voices and expert evidence should play different roles in committee deliberations. Lived expertise often adds a depth of perspective and insights that are not represented through other means. In this case, however, we were dealing with a hypothetical change in voting age – so Canberrans were not able to speak of their experience with such a change.

Similarly, hearing the concerns of the public about proposed changes to policies is an important way to gauge public understanding and support of an issue. This may help in determining next steps, for example where work may need to be put into accurate and evidence-based education and communication. The Community Survey undertaken was an important part of a robust democratic process in order to understand the range of community views on issues of franchise, participation, and civic education.

The value of community views does not, however, preclude an evaluation of the quality and quantity of evidence provided. Evidence-based policy must have mind to, but look beyond, the vagaries of public opinion to understand the likely impacts of any kind of government

policy. To do so we often must look to the most comparable examples that currently exist. The ACT is an unusual jurisdiction both locally and globally. We cannot assume that impacts in other jurisdictions will necessarily translate perfectly to here. But we can look to the experiences of others to inform our conversations and policy formation.

In this vein, submissions in support of extending voting rights to 16 and 17 year-olds included strong evidence in the form of references to peer-reviewed journal articles across a range of relevant disciplines including psychology, sociology, education, youth studies, and medicine. Much of this research drew on extensive empirical evidence across the jurisdictions that have expanded voting rights to 16+.

Submissions that did not support extending voting rights had far less, or no, supporting evidence relying more on perceptions, anecdotes, or opinions. Bessant et al's submission also made this critique through a forensic and referenced analysis of common arguments against lowering voting age. They found *"arguments made against reducing the voting rely more on prejudice than rigorous empirical evidence"*. As an example, one academic witness who did not support the proposed legislation was invited to demonstrate the evidence behind his assertions, but had failed to do so by the time of writing. We are therefore unable to rely on the substance of their arguments, and see these submissions as contributing to our understanding of public concerns, rather than having empirical merit.

The evidence for cognitive development and capacity was directly applicable regardless of jurisdiction and the compulsory or voluntary nature of voting. We can conclude from this that the weight of empirical evidence that "there are no credible grounds for continuing to believe that young people lack the relevant cognitive and moral capacities enabling them to vote", as argued by Bessant et al in their submission.

### **Exposing vulnerable cohorts to criminal penalties**

The most consistent concern across all submissions was exposing young people to criminal penalties and the court system. This warrants attention, but unfortunately the range of possible solutions was not explored during the inquiry.

Critically, the concerns identified by the committee are not unique to 16 and 17 years olds and apply to Canberrans of all ages, and across many different offences.

For the population as a whole, the benefits of compulsory voting are seen to outweigh the costs of the consequences. It is perhaps time to re-examine infringement policies more broadly, and their inequitable impacts across the community. I would like to acknowledge the work and legacy of my colleague Caroline Le Couteur in this space.

The co-sponsors will explore these issues further.

### **Confusion across jurisdictions**

Whilst acknowledging the inconsistency in voting across jurisdictions that the Bill would present, I am of the view that young people already have demonstrated capacity to manage cross jurisdictional variations in other aspects of life (for example road rules, public transport concessions or tertiary study applications).

I will note similar Bills to lower the voting age have been introduced in the South Australian, and Victorian Parliaments and are currently under consideration.

### **Regulating Political Activity in Schools**

Schools should be encouraged to provide students an understanding of the democratic system, how to critically analyse political statements and offerings, and how to ensure their vote is valid. As Dr Barker and others stated there are potential efficiencies and effectiveness in doing all relevant and necessary education through the school system.

I support the ACTCOSS position that there would be a need for strong guidelines around electoral campaigning in schools. Any encouragement or inducement to vote in a particular direction in a learning environment is unacceptable. Whilst this may be easily managed within the ACT Government schools, some independent schools have previously sent material home with students intended to influence how parents and guardians should vote. Guidelines will need to be established to ensure schools do not actively electioneer.

I do note that in the ACT, students in their final years are frequently aged 18 and older. There have been no reports of 'politicisation of the school grounds,' or adverse effects or experiences within ACT schools from existing student cohorts who are already able to vote. No evidence was provided from overseas jurisdictions to demonstrate any such negative impacts had occurred when voting ages had been lowered. Therefore, this opinion lacks any substantive supporting evidence.

### **Consultation with young people**

In developing the Bill the co-sponsors consulted with a variety of community organisations both run by and representing young people and advocates, as well as young Canberrans. Submissions refer to academic articles on young people's desire to achieve these reforms.

### **Voter accessibility**

I also note one issue raised in the ACT Government's Submission not addressed in the committee inquiry was voter accessibility and the location of polling booths. I look forward to working with the Minister of Transport to ensure voters of all ages can catch accessible and affordable public transport to polling booths which are typically held in schools, that the 16- and 17-year-olds also attend.

**Recommendation 2: The committee recommends that ACT Government explore ways to further engage young people in the democratic process**

I do support Recommendation 2 in principle but view it as a substandard offer in lieu of the franchise, that simply kicks the can further down the road.

**Conclusion**

I would like to conclude by quoting the consensus committee report that considered this issue in 2007. This report did not mention criminal penalties, nor courts, nor fines, except to note that young people routinely face criminal courts and fines at much younger ages. Instead, that committee agreed:

*“As the criteria for membership of the political community, the franchise is a valuable symbol of inclusion within democracies. Historically, the vote has been claimed and won by a number of distinct groups (including non-propertied people, Aboriginal people and women). Consequently, the criteria for enfranchisement have been expanded as our democratic system of government has developed and evolved. The vote, in this sense, has political value.”*

*“The franchise delivers a political dividend to those who are entitled by creating a political system that is responsive to the needs of voters. From this perspective, the difference for young people between having and not having the vote is a system that does or does not take genuine account of their political interests.”*

Finally, I would like to sincerely thank everyone who took the time to respond to this inquiry.

Andrew Braddock MLA

17 February 2022