



Legislative Assembly for the
Australian Capital Territory

Standing Committee on the Integrity
Commission and Statutory Office
Holders

Submission Cover Sheet

Inquiry into the operation of the 2024 ACT Election and Electoral Act 1992

Submission number: 002.1

Submitter: The Canberra Alliance for Participatory Democracy

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Subsidiary submission to 2024 ACT Election Inquiry

From the Canberra alliance for Participatory Democracy.

To: The Standing Committee on the Integrity Commission and Statutory Office Holders
LACommitteeIntegrity@parliament.act.gov.au

Thank you for the opportunity to make a subsidiary submission to the 2024 Election Inquiry to comment on the draft Elections ACT Report on the 2024 Election.

Summary

The Canberra alliance for Participatory Democracy submits:

1. We support the draft recommendations 10, 11, 20 and 22.
2. We do not support the draft recommendation 24 to leave the ballot paper instructions unchanged.

We think clearer and consistent wording on the website (as per our original submission) and clearer wording on the ballot paper would support the saving provision, and contribute to lower rates of informal voting.

General Response to the Recommendations

Overall the Canberra alliance for Participatory Democracy (CAPaD) is neutral on most recommendations.

CAPaD would be supportive of recommendations 10 (limiting public funding to parties to actual spending, so public funding does not exceed money spent) and 11 (about donations caps).

Of particular relevance to CAPaD are Parts 3 (maximise opportunities for participation) and 4 (areas for improvement).

We would also strongly support recommendation 20 about improving civics education in the curriculum so it is given in years 11 and 12 when it is more salient to young people. We submit that this needs to be done in a manner that is attractive to young people and does not burden teachers with extra work.

From some preliminary discussion with young people and teachers, this most appropriately would be delivered as a brief intensive module with online support material.

We would also support recommendation 22 which proposes the Commissioner has "discretion to approve a telephone voting process for electors outside of Australia during the voting period. The Commission further recommends that the Commissioner be granted the discretion to use such a system for domestic-based electors outside of the ACT during the voting period."

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Specific response to Part 4

The main thrust of our initial submission was centered on Part 4. We suggested:

1. "Standardise the wording about voting and the Hare-Clark system across all pages of the website and printed material where relevant.
2. Have a simpler up front explanation of voting and vote counting with more detailed supporting material available either further down the page or on a separate page.
3. Remove the focus on and all references to five candidates / numbering five boxes as this is misleading for voters and open up instead the expectation people can vote for as many candidates as they want.
4. CAPaD suggests the ACT government explores ways to simplify access to candidates' information for voters that is consistent across election all levels of government in the ACT.
5. We suggest that the importance of column rotation as well as row rotation on ballot papers be investigated and if causing demonstrable change in vote distribution, column rotation be introduced. In any case we submit the question be addressed by providing information about it on the Elections ACT website".

The draft report and recommendation do not respond to simplifying or making consistent the language across platforms which we made in 1 and 2. Neither is there a response to 4 (about simplifying voter access to information about candidates), and 5, which admittedly is more of a query.

Regarding our point 3., clarifying the wording on the ballot paper so it was consistent with the Electoral Act, was less confusing for voters and did not imply a voter only had a limit of 5 preferences.

We submitted:

3. **Reword potentially misleading instructions on the ballot paper**

The current ballot paper, under the electorate name, says: "Number five boxes from 1 to 5 in the order of your choice".

We submit this wording carries the implication that only five boxes need to be numbered.

To test this, we randomly surveyed 16 voters and asked "What do you think these instructions mean?"

Seven interpreted the instruction correctly as number at least five boxes but seven interpreted it to mean number **only** five boxes. Two interpreted it as meaning something else but their responses weren't recorded. One of these had English as a second language. There was also uncertainty about numbering down columns or across rows. This is despite the smaller wording underneath instructing "You may then show as many further preferences as you wish by writing number from 6 onwards in other boxes".

Comments made included misleading (1), confusing (3), ambiguous (1).

We then asked if they had seen the instruction at the bottom of the ballot paper: "Remember, number at least five boxes from 1 to 5 in the order of your choice". Seven had and seven hadn't.

One of the two who mis-interpreted the top instruction, corrected themselves on reading the second instruction.

We think this confirms that the current instructions leads some voters to understand they only number five boxes. **We argue that this constrains voters' democratic participation in the election by reducing the number of preferences they mark. Ballot paper and voting instructions should not do this.**

As mentioned above, we submit that the wording used in other places, the website and the Early Voting Guide, also give this potentially misleading impression to voters.

We submit that the wording needs to be revised so that it does not lead to this interpretation in all places. We submit that one clear instruction is better and will be more easily read and interpreted than three slightly differing instructions in three different places on the ballot paper.

We suggest the following wording that does this:

Number as many boxes as you want in the order you want candidates to be elected.

We suggest that is put only at the top of the ballot paper.

Elections ACT recommends leaving the instructions the same. Their argument is that changing to words to our suggestion would:

"If adjustments were made either to the ballot paper instructions or through the removal of the savings provision, the impact on the election outcome could be considerable. For instance, if the instructions were altered to align with the legislated ability to count any paper as long as it includes a unique first preference, it is highly likely that the percentage of electors who number at least as many preferences as there are vacancies would significantly decrease from 98.2%. Currently, 68.4% of all formal voters follow the first line of the instructions exactly, numbering 'five boxes from 1 to 5 in the order of [their] choice'. This change in voter behaviour would likely result in a significant increase in the number of ballot papers exhausting at early counts of a scrutiny, having no further candidates preferenced to continue the distribution. Such an outcome is likely to lead to more candidates elected having not reached quota along with greater margins between their final vote tally and the quota. This consequence could be argued as undesirable for the integrity of the election outcome and the legitimacy of the elected members."

We support the savings provision which permits a voter's preference to be counted up to the point that they miss or add a number. We are not clear that the change to wording would change anything in relation to the savings provisions particularly if it encouraged voters to number more than five preferences.

We are not convinced that the wording need not be changed. We are open to other possible wording that provides clear instruction.

Table 45 on voter understanding of the adequacy of the instructions on ballot papers and their summary comment "Voter satisfaction with the instructions given to explain how to fill out the ballot paper has been strongly positive since 1998, displaying around 90 per cent satisfaction throughout but does appear to be declining. The 2024 election saw around 82% of voters considering the instructions to be very adequate or adequate", indicates that a **not insignificant** level of dissatisfaction exists. The

numbers show 9% of voters reporting inadequate (3% or 8921 voters) or unsure (6% or 17,842 voters), and 8% (22,350 voters) not knowing. Only the *unsure* category has really increased over time.

We submit that **this might be grounds to reconsider recommendation 24.**

Regarding the Formal Vote survey (p.91), and more instructively the Table 32 *Breakdown of informal paper ballots by reason for informality*, it is clear from the analysis of the mistakes voters make resulting in an informal vote that 24.8% of votes may be informal because voters don't understand how to assign or make mistakes in assigning preferences; 2.1% put numbers but omitted 1, 0.9% put a tick or a cross and 21% messed up preferencing in some other way.

This is comparable to other major reasons for informal voting: 18.7% put some irrelevant mark or writing and 21.7% of ballot papers were blank.

We note that only 1.9% of total votes were informal, which is 5308 voters.

From our perspective, 24.8% of 1.9% is 0.47% of total vote, that is 1316 voters, might have informally voted due to misunderstanding preferential voting, possibly related to confusion about the ballot paper instructions, although other explanations such as poor English proficiency are possible. Only a formal survey of voters might clarify this.

We could submit therefore a revision to our proposed change so it says **Number as many boxes as you want (at least 5), starting at 1, in the order you want candidates to be elected**, or some variation on this. We submit also that the voting instructions appear only in one place (at the top) of the ballot paper to minimise distraction and possible confusion.

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