



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY  
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## Submission Cover Sheet

Inquiry into 2020 ACT Election and the Electoral Act

**Submission Number: 022**

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Select Committee on 2020 Act Election and Electoral Act  
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## **LIBERAL DEMOCRATS SUBMISSION TO THE INQUIRY INTO THE 2020 ACT ELECTION AND THE ELECTORAL ACT**

The ACT branch of the Liberal Democratic Party (Liberal Democrats) considers that this inquiry provides an opportunity to restore trust in Canberra politics and governance by increasing the political freedoms and choices of the ACT electorate.

However, many of the issues listed in the Inquiry's terms of reference have the potential to further erode confidence in the ACT's electoral system. If implemented, these issues may further disadvantage minor parties at a time when increasing numbers of voters are turning to alternatives to the major parties.

In particular, proposals to reduce the ability of minor parties to put their message across will chill free speech. Lowering the voting age to 16 would run the risk of criminalising minors, flies in the face of public opinion, and is out of step with research indicating that the average 16 and 17-year-old does not possess the interest in or knowledge of politics to fully participate in the electoral system.

A number of recommendations to the Inquiry by the ACT Electoral Commission represent unnecessary intrusions into the operations of parties and would add administrative burdens to minor parties.

The inquiry should grasp this chance to ensure that the ACT has an electoral system fit for the 21<sup>st</sup> century by trusting adults to make decisions about their future based on the values of voluntary and flexible participation.

## **SUMMARY**

In summary, the ACT Liberal Democrats make the following recommendations in relation to this inquiry:

1. The lessons of the COVID-19 pandemic show that deregulation – both of voting rules and more widely – can be pursued with little detriment to the wider community.
2. The **voting age** for ACT elections should remain at 18 years of age, and if either the ACT Legislative Assembly or ACT Government proceeds with introducing legislation to lower the voting age to 16, it should only be on the basis of:
  - a. voting by 16 and 17 year-olds is **not compulsory**;
  - b. first seeking the views of the ACT electorate through a binding **referendum**;
  - c. that the referendum also seeks the electorate's approval for the scheme of public funding and whether voting for ACT elections should be compulsory; and
  - d. any government programs aimed at engaging young people in the political process should stress that solutions to problems do not necessarily come from government action.

3. The ‘truth in advertising’ legislation should be abolished. Freedom of political speech is vital to the interests of all Canberrans.
4. On party governance and campaigning, the ACT Liberal Democrats consider that:
  - a. parties that are already registered in another Australian jurisdiction to be automatically registered in the ACT;
  - b. in the interests of safety, the time frame for electoral signs (‘corflutes’) to be removed should be extended from 48 hours after the close of polls to one week.

The ACT Liberal Democrats do not support:

  - a. limiting the number of candidates that a party can run in an electorate to five;
  - b. mandated formats, font heights and colours for authorisations on political material.
5. Public funding should be abolished. In the absence of its elimination:
  - a. the \$8.62105 per vote for first preference votes should be reduced to whichever is the lower of the amount equivalent to the smallest level of funding elsewhere in Australia OR a quarter of actual expenditure by the political party or candidate;
  - b. funding should not exceed the amount of election expenditure of the funded party or candidate;
  - c. the first preference vote threshold of 4 per cent should be eliminated, with public funding should be available to all candidates per first preference vote;
  - d. a yes/no question should be included on every ballot paper asking the voter whether they wish to contribute to public funding to any candidate receiving 4 per cent or more of the first preference vote in that seat.
6. Expenditure caps should be removed - as they curtail freedom of political speech.
7. Prohibition of donations from any one group – such as property developers – should be abolished. If they are retained then:
  - a. donations from groups that stand to gain from government funding – such as ACT public servants – should also be banned; and
  - b. The penalties for breaching the cap should be removed.
8. Transparency through robust reporting mechanisms should replace the existing unnecessary and onerous caps on expenditure and donations. However, the reporting regime should not come at the expense of smaller parties and independent candidates.

## KEY POINTS

THE ACT LIBERAL DEMOCRATS CONSIDER THAT:

COVID-19 DEMONSTRATES THAT ELECTORAL LAW CAN BE DEREGULATED.

THERE IS NO CASE FOR LOWERING THE VOTING AGE.

THE A.C.T. ELECTORAL COMMISSION SHOULD NOT MANDATE THE CONTENT OF PARTY CONSTITUTIONS.

‘TRUTH IN POLITICAL ADVERTISING’, COMPULSORY VOTING, PUBLIC FUNDING OF PARTIES, CAPS ON EXPENDITURE AND DONATIONS, THE 100 METRE RULE, AND RESTRICTIONS ON PRE-POLLING SHOULD BE ABOLISHED.

CANBERRANS CAN BE TRUSTED TO EXERCISE THE ELECTORAL RIGHTS WITHOUT ALL OF THESE RESTRICTIONS. CAPS ON DONATIONS AND EXPENDITURE SHOULD BE REPLACED BY ROBUST TRANSPARENCY PROCESSES.

9. The ACT has a very short timeframe for reporting electoral expenditure – one week compared to 21 days in NSW and Victoria. The ACT should move to a 21 day reporting time frame to allow more comprehensive reporting.
10. Improving trust in democracy in the ACT would be enhanced by:
  - a. **abolishing compulsory voting** – and if voting remains mandatory the penalties should be abolished, not increased as recommended by the ACT Electoral Commission;
  - b. adding a “**none of the above**” option to ACT Legislative Assembly ballot papers and electronic voting;
  - c. as the ACT has no house of Review **citizen initiated votes** should be introduced, this would allow laws to be struck down following a two part process involving: a petition requiring the signatures of, say, 4 per cent of eligible electors, submitted to the ACT Electoral Commission; then giving the electorate the chance to vote Yes or No to abolish the law in question;
  - d. **abolishing the 100 metre ban** on canvassing and replaced with the same rules that apply for Federal elections and including a direct question in the ACT Electoral Commission’s exit poll voter survey of voters asking voters whether how to vote cards are useful;
  - e. lifting the restrictions on **pre-poll voting** as this would promote freedom of choice and reduce disrespect for unnecessary laws; and
  - f. enhancing the ability to vote for the homeless as well as voters overseas.

## IMPACT OF COVID-19

The ACT Liberal Democrats recognise that holding an election in the midst of a global pandemic placed tremendous stress on the residents of the ACT, on those standing for election, and those—particularly the ACT Electoral Commission—responsible for organising the election.

As part of its response to the COVID-19 Pandemic, the Legislative Assembly passed the *COVID-19 Emergency Response Legislation Amendment Act 2020 (No 2)*, which expanded the eligibility criteria for early voting so that any eligible elector of the ACT could cast a vote before election day at an early voting centre. However, this change was in place only for the 2020 ACT election and was set to expire on 17 April 2021.

It is salutary that it took a pandemic to allow the removal of an unnecessary—and pointless—piece of legislation that had required voters to justify their reasons for pre-polling. If ACT voters could be trusted to vote early in 2020 it is difficult to see why they cannot do so at every election.

The ACT Liberal Democrats were the only party to support the ACT Electoral Commission’s recommendation to the ACT Legislative Assembly<sup>1</sup> in 2017 to make a similar amendment. The Legislative Assembly failed to take up this recommendation at that time.

KEY POINTS
<p style="text-align: center;">THE COVID-19 PANDEMIC DEMONSTRATES THAT UNNECESSARY REGULATIONS CAN BE REMOVED WITH LITTLE DETRIMENT TO THE COMMUNITY.</p> <p style="text-align: center;">VOTERS IN THE A.C.T. SHOULD NOT HAVE TO STATE A REASON FOR VOTING EARLY AND SHOULD BE FREE TO RECEIVE ELECTION MATERIAL WITHIN 100 METRES OF A POLLING PLACE.</p>

<sup>1</sup> ACT Electoral Commission (2017) "Report on the ACT Legislative Assembly Election 2016". See recommendation 2, pages 44-45; and ACT Liberal Democrats (2017) "Liberal Democrats Submission to Inquiry into the 2016 ACT election and the Electoral Act page 12".

In its report on the 2020 Election, the ACT Electoral Commission has recommended that the ACT should reinstate the amended eligibility requirement for an early vote, permitting all eligible ACT electors to attend an early voting centre and cast a vote on a day and at a time that suited their particular circumstances.

The ACT Liberal Democrats support this recommendation. The Liberal Democrats believe that people in the ACT should not have to wait for pandemics to be granted more freedom in how they vote and how they live their lives.

The COVID-19 pandemic, and the response to it, also made it more difficult for smaller parties and individual candidates to campaign. It curtailed many of the most effective means of reaching people directly – e.g. through doorknocking and other direct approaches. The 100 metre rule made campaigning even more difficult. The importance of corflutes was also highlighted by the pandemic. The ACT Liberal Democrats believe that the 100 metre rule should be abolished and that no further restrictions should be imposed on the use of corflutes.

COVID-19 has also demonstrated that unnecessary regulations can be removed with little detriment<sup>2</sup>. The ACT Legislative Assembly should bear this in mind when considering changes to electoral legislation that would further limit the personal freedom of Canberrans.

## VOTING AGE

The ACT Liberal Democrats do not support lowering the voting age to 16.

The report of the previous inquiry<sup>3</sup> recommended that the ACT retain the current minimum voting age of 18 and the Government agreed to that recommendation in its response to that inquiry<sup>4</sup>. This was the correct approach. There is no strong evidence that reducing the voting age would improve the political maturity of 16-17 year olds. Under our system of compulsory voting, it could criminalise minors who do not comply.

The onus should be on the proponents of lowering the voting age to 16 to provide convincing evidence that minors are capable of exercising the franchise. The state of the evidence on political maturity is at best mixed. However, overall it does not provide a sound case for lowering the voting age (Appendix A refers). Given the state of the evidence—together with the existence of compulsory voting and penalties for not voting—there is no evidence-based case for lowering the voting age to 16.

### KEY POINTS

THE VOTING AGE SHOULD NOT BE LOWERED TO 16 AS IT RISKS CRIMINALISING MINORS AND DOES NOT ADDRESS DISATISFACTION WITH THE POLITICAL PROCESS.

IT IS BETTER TO TEACH YOUNG PEOPLE THAT SOLUTIONS TO MOST PROBLEMS ARE NOT FOUND THROUGH TURNING TO GOVERNMENT FOR ACTION.

<sup>2</sup> See Berg, Chris (2020), "This silent deregulation must become a pillar of recovery", Australian Financial Review, 27 April 2020.

<sup>3</sup> Report of the Select Committee on the 2016 ACT Election and Electoral Act, November 2017, page 23.

<sup>4</sup> ACT Government (2018) "Response to the Select Committee on the 2016 Election and Electoral ACT Report, Inquiry into the 2016 ACT Election and Electoral Act". Response to recommendation 5.

## Criminalising minors

As pointed out by the ACT Electoral Commission<sup>5</sup>, lowering the voting age runs the risk of criminalising minors. Criminalising 16 and 17 year olds for failing to vote in circumstances where they have less interest in, and weaker knowledge of, politics, is inconsistent with community standards. This problem was recognised in the ACT Electoral Commission's submission to the Standing Committee on Education, Training and Young People Inquiry into Voting Age Eligibility. The Commission noted that the Self-Government Act would require the ACT Legislative Assembly to maintain compulsory enrolment for all eligible voters, including 16 and 17 year olds unless the Commonwealth parliament amended the Self-Government Act. In the absence of such an amendment, enforcing compulsory enrolment of 16 and 17 year olds would have the effect of imposing a criminal penalty on minors, which could be seen as unacceptable.

## Lack of support for lowering the voting age

The Australian public does not support lowering the voting age. Polling indicates that:

- 78 per cent of survey respondents opposed lowering the voting age from 18 to 16 (2013<sup>6</sup>)
- 77 per cent of survey respondents favoured keeping the voting age at 18 (2015<sup>7</sup>).

Proposals to reduce the voting age may be influenced by political motives rather than concern for the political rights of the young. Research undertaken in Denmark<sup>8</sup> suggests that Left-leaning citizens are substantially more likely to support lowering the voting age. Polling by Essential Report indicates that Greens voters are most likely to support giving 16-17 year olds the vote<sup>9</sup>. The Essential Report opinion polls in 2013 and 2015 noted:

- support for lowering the voting age from 18 to 16 was highest among Greens voters (24 per cent) and respondents aged 25-34 (25 per cent)
- (either voluntary or compulsory) were Greens voters (38 per cent) and those aged 18-24 (33 per cent).

## International experience

A number of submissions and reports<sup>10</sup> argue that lowering the voting age in Australia should not be at the expense of compulsory voting. While compulsory voting is an imposition on the political freedom of voters of all ages, internationally all jurisdictions that allow voting for 16 and 17 year olds either do not have compulsory voting or exempt 16 and 17 years olds from compulsory voting (**Table 1** refers).

International experience also suggests that turnout of 16 and 17 year old voters is substantially lower than for older voters and may do little to arrest the decline in voting (see **Appendix B**).

Lowering the voting age is far ahead of public opinion. In countries where the voting age has been lowered to 16 it has usually been without direct reference to the views of the people. The ACT Liberal

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<sup>5</sup> ACT Electoral Commission (2006) "Submission to the Standing Committee on Education, Training and Young People Inquiry into Voting Age Eligibility", [http://www.elections.act.gov.au/\\_\\_data/assets/pdf\\_file/0010/831592/SubmissionVotingAgeEligibility.pdf](http://www.elections.act.gov.au/__data/assets/pdf_file/0010/831592/SubmissionVotingAgeEligibility.pdf), page 2.

<sup>6</sup> Essential Report (2013) <http://www.essentialvision.com.au/voting-age>. The report noted that only 13% of respondents supported lowering the voting age from 18 years to 16 years and 78% opposed.

<sup>7</sup> Essential Report (2015) <http://www.essentialvision.com.au/voting-age-2>. The report noted that 77% of respondents favoured keeping the compulsory voting age at 18.

<sup>8</sup> Larsen, EK, Levinsen, K and Kjaer, U (2016) Democracy for the youth? The impact of mock elections on voting age attitudes, *Journal of Elections, Public Opinion and Parties*, 26:4, 435-451, DOI: 10.1080/17457289.2016.1186031

<sup>9</sup> Essential Report (2015) <http://www.essentialvision.com.au/voting-age-2>.

<sup>10</sup> See Select Committee on the 2016 ACT Election and Electoral Act (2017), "Inquiry into the 2016 ACT Election and the Electoral Act, Report", November 2017. section 4.7, pages 33-35.

Democrats are not aware of any jurisdiction that has lowered the voting age to 16 has done so after consulting its electorate, e.g. through conducting a referendum. Where referenda have been held, the proposal has been defeated. Moreover, it appears that more electors would prefer giving voting rights to non-citizen adults than extending them to 16 and 17 year olds.

- In 2020 voters in California rejected lowering the voting age to 17<sup>11</sup>, and again rejected a proposal to lower the voting age in local elections to 16-years-old in San Francisco.
- The case of Luxembourg is salutary – in 2015 voters overwhelmingly

voted against lowering the voting age from 18 to 16 (81 per cent). This No vote was even larger than the vote taken at the same time to let foreigners register to vote if they had lived in the Grand Duchy for at least 10 years (78 per cent No vote)<sup>12</sup>.

### Engaging young people

In its response to the previous inquiry the Government noted that it is “important that young people are able to express their views and engage in the political process” and that “the Government believes these aims are not best served by lowering the minimum voting age.”<sup>13</sup>

The ACT Liberal Democrats agree with that view and also consider that any government programs aimed at engaging young people in the political process should stress that solutions to problems do not necessarily come from government action. In most instances voluntary and bottom-up approaches are likely to be more effective and mutually beneficial.

Country/Region	Legal voting age (national elections)	Is voting compulsory?		Date of extending voting to 16 or 17 year olds
		generally	for 16 and 17 year olds	
Argentina	16 <sup>a</sup>	Yes <sup>b</sup>	No	2012
Austria	16	No	No	2007
Brazil	16	Yes <sup>c</sup>	No	1988
Cuba	16	No	No	-
Ecuador	16	Yes <sup>d</sup>	No	2009
Guernsey	16	No	No	2007
Indonesia	17	No	No	-
Isle of Man	16	No	No	2006
Jersey	16	No	No	2007
Malta	16	No	No	2018
Nicaragua	16	No	No	-
Scotland	16	No	No	2015
Timor - Leste	16	No	No	-

**Notes:** **a** Voting age for native Argentines is 16 years old while voting age for naturalized Argentines is 18 years old; **b** exemptions apply for citizens aged 16–18 and older than 70; **c** exemptions apply for citizens aged 16–18 and older than 70; **d** exemptions apply for citizens aged 16–18, illiterates, and older than 65.

**Sources:** ACE Electoral Knowledge Network; International Institute for Democracy and Electoral Assistance (International IDEA); BBC News (2016) "Guernsey Election 2016: As it happened", 27 Apr 2016; BBC News Scotland Election 2016; Echeverría, G (2015) "Access to Electoral Rights: Ecuador: EUDO Citizenship Observatory; Joint Standing Committee on Electoral Matters (2019) Advisory report on Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation) Bill 2018; Austrian Embassy, Canberra.

<sup>11</sup> See San Francisco CBS (2020), “Election 2020: Split Decisions on Lowering Voting Age to 16 In San Francisco, Oakland”, 4 November 2020. <https://sanfrancisco.cbslocal.com/2020/11/04/election-2020-split-decisions-on-lowering-voting-age-to-16-in-san-francisco-oakland/>. This follows a similar proposal in 2017, see San Francisco Department of Elections, November 8 2016 General Election results, <http://www.sfelections.org/results/20161108/>.

<sup>12</sup> Euroobserver, 8 Jun 2015 “Luxembourg referendum rejects foreigner voting rights”, <https://euobserver.com/beyond-brussels/129004>.

<sup>13</sup> ACT Government (2018) “Response to the Select Committee on the 2016 Election and Electoral ACT Report, Inquiry into the 2016 ACT Election and Electoral Act”, page 7.

## Referendum on changes to electoral laws

There is a requirement for the Commonwealth to amend the *Australian Capital Territory (Self-Government) Act 1988*<sup>14</sup> to allow the Legislative Assembly to enact any proposed change to voting age. Before any such action, the question of whether to lower the voting age to 16 should be put by referendum to the ACT electorate. At the same referendum the electors of the ACT should also be asked to approve public funding of electoral campaigns and whether voting should be compulsory.

## PARTY GOVERNANCE AND CAMPAIGNING

The ACT Electoral Commission makes a number of recommendations concerning party constitutions, and authorising and displaying electoral matter<sup>15</sup>. While on the face of it recommendations 15 and 16 seek to clear up confusion brought about by poor legislation relating to authorisation on social media accounts, it is not clear that these recommendations would assist voters without adding burden to small parties and independents.

Of greater concern are the Commission's recommendations regarding party constitutions. The ACT Liberal Democrats fail to see how it is within the remit of the Electoral Commission to dictate matters that should be included in party constitutions (recommendation 1). In particular, a requirement that a party's functions and objectives include the promotion of the election to the ACT Legislative Assembly of endorsed candidates tramples over the freedom of parties to set their own electoral strategies in the interest of their members.

To be clear, the Liberal Democrats believe that it is entirely appropriate for a political party to advance political discourse and ideas without necessarily holding the "objective" of getting one of their endorsed candidates elected to the Legislative Assembly.

The ACT Liberal Democrats consider that the Electoral Commission should only provide a 'quality assurance' function at the point of application. The best Constitution is one that is flexible and suits the internal and external requirements of the organisation, for example whether the party is part of a federal organisation. While standard good governance procedures can generally reliably predict the minimum required content of a Constitution, we oppose rigid formalisation of what constitutes a 'valid' constitution.

The Commission's recommended amendments to the member lists maintained for checking that a party retains the right to be registered (recommendation 3) would add more burden to parties. The Electoral Commission already has access to the electoral rolls

### KEY POINTS

MANY OF THE A.C.T. ELECTORAL COMMISSION'S RECOMMENDATIONS ON PARTY GOVERNANCE AND CAMPAIGNING SHOULD NOT BE ACCEPTED.

THEY APPEAR TO BE TELLING PARTIES WHAT TO WRITE, HOW TO WRITE IT, AND IN WHAT FORMAT.

THEY ALSO SEEK TO PUT THE - ADMITTEDLY IMPOSSIBLE - JOB OF REGULATING TRUTH IN POLITICAL ADVERTISING TO A NEW MINISTRY OF TRUTH.

<sup>14</sup> See chapter 5 of ACT Standing Committee on Education, Training and Young People (2007), *Inquiry into the Eligible Voting Age*.

[http://www.parliament.act.gov.au/\\_data/assets/pdf\\_file/0005/380039/05educVotingAge.pdf](http://www.parliament.act.gov.au/_data/assets/pdf_file/0005/380039/05educVotingAge.pdf)

<sup>15</sup> See ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020" recommendations 1, 2, 3, 4, 14, 15, 16 and 17.



and asking that parties maintain date of birth and email address information of members runs the risk of a data spill of personal information.

Beyond seeking confirmation that a member is an adult, it is not the place of political parties to ask members for their date of birth.

Political parties, although exempt from certain provisions of the Privacy Act, should still apply best practice in the collection, retention, and use of personal information. Specifically for the ACT Liberal Democrats branch, we do not hold dates of birth locally. This information is held securely in the federal LDP systems. We only request the minimum information we need, when we need it for a specific purposes (e.g. holding an annual general meeting). We are fortunate to have the scale (despite being a minor party) to do this, but new/small parties and/or independents may not have the resources, and in any case, they should not be laden with this burden.

The ACT Liberal Democrats find it hard to understand the purpose of the Commission's recommendation that the number of candidates that a registered political party can run in electorate be limited to five (**recommendation 4**). This appears to be a non-problem in search of an unnecessary piece of legislation. While the situation (to our knowledge) has never arisen, to legislate away this possibility appears to be inconsistent with the spirit of the Hare Clark electoral system's emphasis on electors voting by showing preferences for *individual* candidates. The ACT Liberal Democrats believe that unnecessary laws should not be put in place.

While the ACT Liberal Democrats support the Commission's **recommendation 14**<sup>16</sup>, we consider that amendments to the Electoral Act should go further and allow parties that are already registered in another Australian jurisdiction to be automatically registered in the ACT.

The Commission's suggestion that authorisations on political material follow mandated formats, font heights and colours (**recommendation 17**) is overly-intrusive and inflexible. The Commission does not provide any case for making this change which may lead parties and the Commission into dispute resolution over trivial breaches.

The ACT Liberal Democrats oppose any further moves to restrict the use of signs ('corflutes'). Despite many objections from the public about the unsightly nature of corflutes, such signs are a small price to pay for democracy. They can be one of the few means for smaller parties and independents to get their message across to voters. The Liberal Democrats also consider that the existing provision that electoral signs must be removed within 48 hours after the close of polls places a disproportionate burden on small parties and independent candidates and should be extended to one week.

The current arrangements mean that volunteers have extremely limited time – effectively one non-working day – to remove signage often in hazardous conditions of low light and inclement weather. An extension to one week would enhance the safety of candidates and volunteers charged with removal of material – especially on busy arterial roads and/or high traffic areas.

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<sup>16</sup> See ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020", recommendation 14, page 51 "The Commission recommends that the Electoral Act be amended to require the individual who authorises or authors electoral matter to be an elector on the Commonwealth electoral roll or the electoral roll of any state or territory."

## ‘Truth in political advertising’

The ACT Liberal Democrats opposed the introduction of a new offence for misleading electoral advertising in the *Electoral Amendment Act 2020*. The answer to bad speech does not lie in the imposition of arbitrary rules but in the promotion of more speech.

Politics is an area of life that can entail a high degree of passion and persuasion. It would be costly, time-consuming and procedurally burdensome to litigate 'truth in advertising' claims during a campaign.

A comprehensive report on improving the quality of information and discourse during UK elections studied the operation of truth in advertising in South Australia and recommended that it not be adopted in the United Kingdom. The report noted that the “benefits of any misinformation ban are necessarily limited: only manifestly false claims can be stopped; it is all too easy to word a misleading claim in a way that is not strictly false, so change to discourse would be slight. The UK’s particularly adversarial political and media culture means that any such benefits could easily be outweighed by costs. A system of banning misinformation would likely be ‘weaponised’ as part of the political game.”<sup>17</sup>

The same report quoted the South Australian Electoral Commission as stating that complaints relating to a by-election in 2009, ‘appeared to degenerate into a “tit for tat” distraction and the Commissioner’s role was one of frustration in dealing with an extremely high workload that diverted attention away from managing the election’<sup>18</sup>.

On numerous occasions the South Australian Electoral Commission or former Commissioners have recommended the substantial amendment or removal of the truth in advertising provisions. For example, in 2014 the Commission recommended that the Government:<sup>19</sup>

*Consider removing this provision as no other State in Australia has truth in political advertising. The Australian Parliament has determined that the Commonwealth Electoral Act 1918 should not regulate the content of political advertising.*

*There is an ethical question as to whether the Electoral Commissioner should be responsible for deciding whether political messages published or broadcast during an election are misleading to a material extent.*

### KEY POINTS

TRUTH IN POLITICAL ADVERTISING LEGISLATION WILL DO NOTHING TO IMPROVE POLITICAL DISCOURSE.

INSTEAD, IT WILL EMBROIL THE A.C.T. ELECTORAL COMMISSION IN MAKING JUDGMENTS ON VEXATIOUS DISPUTES THAT WILL UNDERMINE ITS INDEPENDENCE AND DIVERT ITS RESOURCES FROM MANAGEMENT OF AN ELECTION.

<sup>17</sup> See Renwick, A and Palese, M (2019) “Doing democracy better: How can information and discourse in election and referendum campaigns in the UK be improved?”. The Constitution Unit, University College London, March 2019, page 231.

<sup>18</sup> See Renwick, A and Palese, M (2019) “Doing democracy better: How can information and discourse in election and referendum campaigns in the UK be improved?”. The Constitution Unit, University College London, March 2019, page 25.

<sup>19</sup> Electoral Commission SA "Election Report"2014 page 79, <http://www.ecsa.sa.gov.au/publications?view=document&id=1005>

*Enforcement of this provision compromises the role of Electoral Commissioner and often requires the Commissioner to determine who is 'right' or 'wrong' in terms of the two major parties. These decisions can then be used during political campaigning and can offend against the independence of the Electoral Commissioner.*

The ACT Liberal Democrats believe that the ACT Electoral Commission has been handed a poisoned chalice and can understand why it recommends that a separate independent body to administer complaints, commence investigations and ultimately lodge prosecutions into matters of misleading electoral advertising (**recommendation 18**). However, creating an Orwellian new “truth” body is not the solution to the problem. The ACT’s truth in political advertising legislation should simply be abolished.

## FUNDING AND DONATION RULES

### Public funding

The ACT Liberal Democrats oppose government funding of things that private individuals or organisations are willing to pay for voluntarily.

At \$8.62105 per first preference vote, public funding is as unjustified, as it is outrageous.

The funding is not meeting its intended purpose of reducing the risk of donors buying favourable policies. The underlying problem is that governments already intrude into our lives too much. There would be less need to lobby a government that did less. As it stands, business success can often depend on favourable ministerial decisions and there is no shortage of people keen to enlist the government’s support to impose their views on the rest of us.

Public funding forces taxpayers to contribute to parties they would never support voluntarily. It is ludicrous that their money pays for virtually every political poster, leaflet and television advertisement. Public funding reached almost \$2.1 million for the 2020 election, a rise of 22 per cent on 2016 (**Table 2**). Together, the Labor and Liberal parties received 94 per cent of the public funding despite achieving 85 per cent of the first preference vote.

The ACT’s rate of public funding is the highest in Australia. As at November 2018 it was more than three times the rate of WA (which provides the lowest funding amount of any state, see **Table 3**). The ACT public funding scheme is also more generous than other Australian jurisdictions where public funding is provided – it is the only such jurisdiction that does not cap public funding to expenditure.

#### KEY POINTS

VOTERS SHOULD NOT BE FORCED TO PROVIDE FUNDING TO POLITICAL PARTIES AND CANDIDATES THAT THEY DO NOT SUPPORT.

TRANSPARENCY AND REPORTING SHOULD REPLACE EXPENDITURE CAPS AND POLITICAL DONATIONS.

NO GROUP OF AUSTRALIANS SHOULD BE BANNED FROM MAKING POLITICAL DONATIONS.

THE UNDERLYING PROBLEM IS THAT GOVERNMENT IS TOO LARGE AND INTRUSIVE. THERE WOULD BE LESS NEED TO LOBBY A GOVERNMENT THAT DID LESS.

**Table 2: Public funding at the 2012, 2016 and 2020 elections**

Political party/candidate	2012 election		2016 election			2020 election		
	amount	share of funding	amount	share of funding	share of first preference vote	amount	share of funding	share of first preference vote
Australian Labor Party	\$171,982	42.0%	\$750,488	43.7%	38.4%	\$877,847	41.8%	37.8%
Liberal Party of Australia	\$172,064	42.0%	\$717,056	41.8%	36.7%	\$784,921	37.4%	33.8%
The ACT Greens	\$47,546	11.6%	\$200,768	11.7%	10.8%	\$313,539	14.9%	13.5%
Belco Party (ACT)						\$45,381	2.2%	2.0% <sup>a</sup>
Canberra Progressives						\$21,949	1.0%	2.0% <sup>b</sup>
Democratic Labour Party						\$21,699	1.0%	1.4% <sup>c</sup>
Australian Sex Party ACT			\$29,552	1.7%	3.1%			
Fiona Carrick						\$32,613	1.6%	1.4% <sup>d</sup>
Kim Huynh			\$18,920	1.1%	1.0%			
Australian Motorist Party	\$9,588	2.3%						
Bullet Train for Canberra	\$8,222	2.0%						
<b>TOTAL</b>	<b>\$409,402</b>	<b>100.0%</b>	<b>\$1,716,784</b>	<b>100.0%</b>		<b>\$2,097,949</b>	<b>100.0%</b>	

**Sources:** ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020", Tables 5 and 32; ACT Electoral Commission "2020 ACT Legislative Assembly Election Statistics" [https://www.elections.act.gov.au/\\_\\_data/assets/excel\\_doc/0003/1671672/Election-Statistics-2020-election.xlsx](https://www.elections.act.gov.au/__data/assets/excel_doc/0003/1671672/Election-Statistics-2020-election.xlsx); ACT Electoral Commission (2017) "Report on the ACT Legislative Assembly Election 2016", Tables 5 and 30; ACT Electoral Commission (2017) "Election statistics 2016".

**Notes:** <sup>a</sup> The Belco Party (ACT) received in 9.40 per cent of first preference votes in Ginninderra; <sup>b</sup> The Canberra Progressives received 5.03 per cent of first preference votes in Kurrajong; <sup>c</sup> The Democratic Labour Party received 4.71 per cent of first preference votes in Yerrabi; <sup>d</sup> Fiona Carrick received 7.04 per cent of first preference votes in Murrumbidgee.

The ACT Liberal Democrats consider that public funding should be abolished. However, if public funding is retained, it should be reduced to the lower of either:

- the amount equivalent to the smallest level of funding elsewhere in Australia, or
- a quarter of actual expenditure by the political party or candidate.

Public funding should never exceed the amount of election expenditure of the funded party or candidate, and the 4 per cent vote threshold should also be eliminated as this discriminates against minor parties and independent candidates.

In addition, the ballot paper should include a yes/no question asking whether the voter wishes to contribute to public funding (of \$8.62105 per vote) to any candidate receiving 4 per cent or more of the first preference vote in that seat. There should also be a presumption that any voter not answering this question with a yes vote would prefer not to give public funding for any candidate/party.

**Table 3: Commonwealth, State and Territory public funding and disclosure settings, as at November 2018**

	Cwth	NSW	Vic	SA	Qld	Tas	WA	ACT	NT
Gift disclosure threshold	\$13,800	\$1,000	\$1,000	\$5,191	\$1,000	×	\$2,500	\$1,000	\$1,500
Per vote public funding	\$2.74	\$3/\$4 <sup>a</sup>	\$6.00 <sup>b</sup>	\$3.19	\$3.14	×	\$1.91	\$8.24 <sup>c</sup>	×
Funding capped to expenditure	✓	✓	✓	✓	✓	..	✓	×	..
Election donation reporting	×	21 days	21 days	Weekly	✓	×	✓ <sup>d</sup>	Weekly	✓

**Notes:** <sup>a</sup> \$4 per vote in the Legislative Assembly and \$3 per vote in the Legislative Council; <sup>b</sup> this is up from \$1.668 per vote as of 31 October 2015; <sup>c</sup> ACT amount was \$8.62105 for the 2020 election; <sup>d</sup> gifts over the disclosure threshold at any time must be reported within seven days.

**Sources:** Muller, D (2018) "Election funding and disclosure in Australian states and territories: a quick guide", Parliamentary Library, updated 28 November 2018; ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020".

## Expenditure caps

The ACT Liberal Democrats consider that expenditure cap rules unduly favour incumbents and unreasonably limit political communication by third parties. The caps should be removed.

With a large share of public funding virtually guaranteed for the three major parties, the spending caps act as a burden on minor and emerging parties. For the 2020 election the Labor Party and the Liberal Party received 83 and 74 per cent of their expenditure from the ACT taxpayer, while the Greens received \$2.50 of public funding for every dollar they spent (**Table 4** refers).

**Table 4: Electoral expenditure and public funding received, 2020 election**

Political party/candidate	Electoral expenditure	Public funding received	Public funding as a share of electoral expenditure
Australian Labor Party	\$1,052,682	\$877,847	83%
Liberal Party of Australia	\$1,066,876	\$784,921	74%
Greens	\$124,768	\$313,539	251%
Belco Party	\$56,798	\$45,381	80%
Fiona Carrick	\$13,693	\$32,613	238%
Canberra Progressives	\$36,387	\$21,949	60%
Democratic Labour Party	\$12,893	\$21,699	168%
All others	\$78,610	..	..
<b>TOTAL</b>	<b>\$2,442,707</b>	<b>\$2,097,949</b>	<b>86%</b>

**Source:** ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020", Table 33.

While on occasion smaller parties or independent candidates can achieve more than 4 per cent of the first preference vote in an individual seat, recent history suggests that this does not translate into success at the next election. For example, Kim Huynh and the Sex Party received public funding for the 2016 election, neither Mr Huynh or the Sex Party stood in the 2020 election. The same fate may await those smaller parties and candidates who received public funding in the 2020 election, two of which received public funding vastly higher than their election spending (see **Table 4**).

Electoral expenditure caps are an unnecessary fettering of free political speech. There is no sound evidence that funding caps meet their intended purpose of addressing undue influence on political campaigns<sup>20</sup>.

It is not clear that there is a nexus between expenditure and voting outcomes. Famously, in the 2016 ACT election, electoral expenditure for Canberra Community Voters was \$191,652, or 7.2per cent of total expenditure while this party achieved less than one per cent of the primary vote.

In August 2020 the Legislative Assembly passed the *Electoral Amendment Act 2020* which, among other things, prohibited gifts from property developers and their close associates (to come into effect after the 2020 ACT election). The ACT Liberal Democrats do not support singling out any group of donors. Not only is their political speech just as valid as that of other donors, prohibitions placed on one type of

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<sup>20</sup> Refer to Standing Committee on Justice and Community Safety (2011) 'A Review of Campaign Financing Laws In the ACT'.

donor are likely to find their way to political candidates in one way or another. Good reporting of donations, and transparency, are the way to go.

Furthermore, this singling out of one group of donors sets a dangerous precedent. Applying the same logic (i.e. banning donations from those who potentially stand to gain) to individuals that potentially stand to gain from a larger size of government. In this case, the argument that there should be a ban on political donations from serving ACT public servants, also holds.

#### *Penalties and enforcement*

The penalties (equal to twice the amount by which the expenditure exceeds the expenditure cap)<sup>21</sup> are onerous, arbitrary, pernicious and unnecessary and should be removed.

#### *Reporting*

The ACT Liberal Democrats consider that transparency through robust reporting mechanisms should replace the existing unnecessary and onerous caps on expenditure and donations.

However, the reporting regime should not come at the expense of smaller parties and independent candidates. The ACT has a very short timeframe for reporting electoral expenditure – one week compared to 21 days in NSW and Victoria. The ACT should move to a 21 day reporting time frame to allow more comprehensive reporting.

#### *Electoral Commission recommendations*

The ACT Electoral Commission has made a number of recommendations concerning public funding and electoral expenditure (see recommendations, 20, 21 and 22). The ACT Liberal Democrats do not support these recommendations as it considers that public funding and expenditure caps should be abolished. That said, in the absence of the LDP's preferred approach to abolishing or reducing public funding, we agree with the Commission's recommendation 22 which would limit the amount of public funding that can be received by a political party or candidate to ensure that the amount received does not exceed the amount of electoral expenditure incurred.

## PARTICIPATION

### *End compulsory voting*

The LDP considers that enrolment and voting should be voluntary.

The Liberal Democrats would make voting a right rather than an obligation. The right to do something implies that you have a choice not to do that thing. It would be absurd to say that Australians have the "right" to pay tax. Paying tax is a legal obligation, not a right. Under current laws, voting is also a legal obligation rather than a right.

The right to vote is a civil freedom, like free speech or freedom of association. Free speech does not imply a requirement to speak and freedom of association does not imply a requirement to join clubs or

#### KEY POINTS

COMPULSORY VOTING IS NOT THE SOLUTION TO THE DECLINE IN TRUST AND POLITICAL ENGAGEMENT.

VOTING SHOULD BE VOLUNTARY AND IF IT REMAINS COMPULSORY THE PENALTIES SHOULD BE ABOLISHED – NOT INCREASED.

<sup>21</sup> ACT Electoral Commission "Electoral expenditure cap: The ACT Legislative Assembly electoral expenditure cap Factsheet".

movements. Likewise, the freedom to vote should not imply a requirement to vote.

Compulsion is not required in order to have good representation. A study published in 2016 found that the average turnout for 170 countries with voluntary voting was 66 per cent – not substantially lower than the average turnout of 72 per cent for the 26 countries with compulsory voting (**Table 5** and **Figure 1** refer). The difference between average turnout in countries with and without compulsory voting is not statistically significant at a standard 95 per cent confidence level.

**Table 5: Voter turnout in countries with compulsory or voluntary voting<sup>a</sup>**

	number	average turnout (%) <sup>b</sup>
Countries with compulsory voting	26	72.1
Countries with voluntary voting	170	66.2
All countries	196	66.9

**Source:** Solijonov, A (2016) Voter Turnout Trends around the World, International Institute for Democracy and Electoral Assistance, Annex 1.

**Notes:**

**a** Solijonov's report relates to turnout at latest election to 2015, covering 196 countries. Most recent election year ranges from the year 2009 to 2015 for countries with compulsory voting (mode 2013); and from year 2001 to 2015 for countries with voluntary voting (mode 2015).

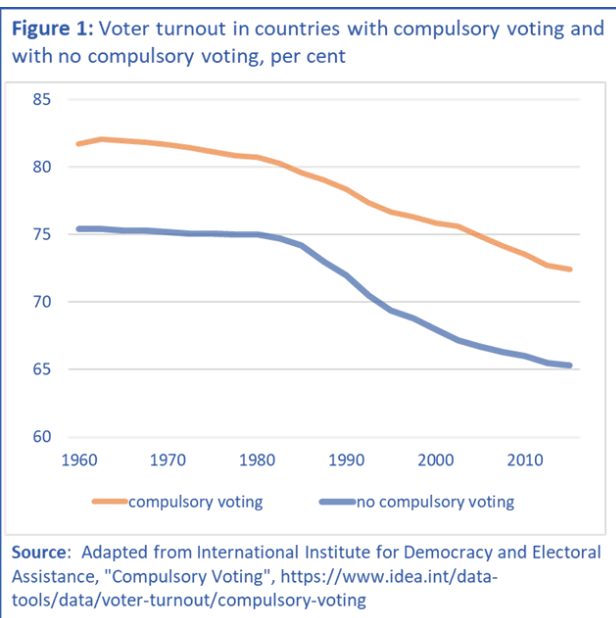
**b** averages are simple average of country turnout rates for each category of country.

Compulsory voting is also likely to increase the informal vote share. – a study of 417 elections in 73 countries found that enforced compulsory voting is a strong predictor for invalid voting<sup>22</sup>.

The problem of declining electoral engagement by voters does not relate to whether there is compulsory voting. Since the 1960s, turnout declined on average by about 0.2 to 0.3 per cent per annum for countries with or without compulsory voting (**Figure 1**).

It is also noteworthy that a number of countries have abandoned compulsory voting in recent times: Chile (2012), Dominican Republic (2010), and Fiji (2014).

The ACT Liberal Democrats do not support the Commission's recommendations relating to penalties for failing to vote. In particular **recommendation 23** would increase the fine for failing to vote to be increased and linked to a



<sup>22</sup> See Martinez i Coma, F and Werner, A (2018) "Compulsory voting and ethnic diversity increase invalid voting while corruption does not: an analysis of 417 parliamentary elections in 73 countries", *Democratization*, Volume 26, 2019 - Issue 2.

quarter of penalty unit, rounded down to the nearest \$5 (ie doubled from \$20 currently to \$40)<sup>23</sup>.

The Commission also recommends a non-voter infringement notice system or eliminating the issuing of all court summonses, with only those electors wishing to further contest the matter requiring the Magistrates Court and the DPP to be involved (recommendation 24).

The ACT Liberal Democrats do not agree with these recommendations. As voting should not be compulsory there should be no penalties for failing to vote. However, these proposals are troublesome.

Such penalties disproportionately penalise groups such as the disadvantaged, students, and workers with uncertain working hours (including nurses and emergency workers). These penalties should be eliminated. In any case, as it currently stands, this recommendation would result in the penalty for not voting being out of line with the current Commonwealth penalty (\$20).

The proposed power to issue non-voting infringement notices to be enforced "in a similar manner as other failure to pay matters in the ACT such as driver's licence suspension"<sup>24</sup> beggars belief. Far from acting as an incentive non-voters to pay up early to avoid a summons to the magistrates court, it represents a further intrusion of the heavy hand of government into people's lives.

## The state of democracy

Unlike the Legislative Assembly committee inquiry into the 2016 ACT election, the terms of reference for the current inquiry do not seek views on how fairness and equity for smaller parties may be achieved in the electoral process. The current electoral system is unfair and inequitable to smaller parties. This is true at a time when support for major parties is declining in Australia (see Figures 2a and 2b), while trust in government and satisfaction with democracy are also declining (see Figures 2c and 2d).

### KEY POINTS

DECLINING SATISFACTION WITH DEMOCRACY SHOULD BE RESTORED THROUGH MORE POLITICAL SPEECH NOT LESS.

THE 100 METRE RULE SHOULD BE ABOLISHED.

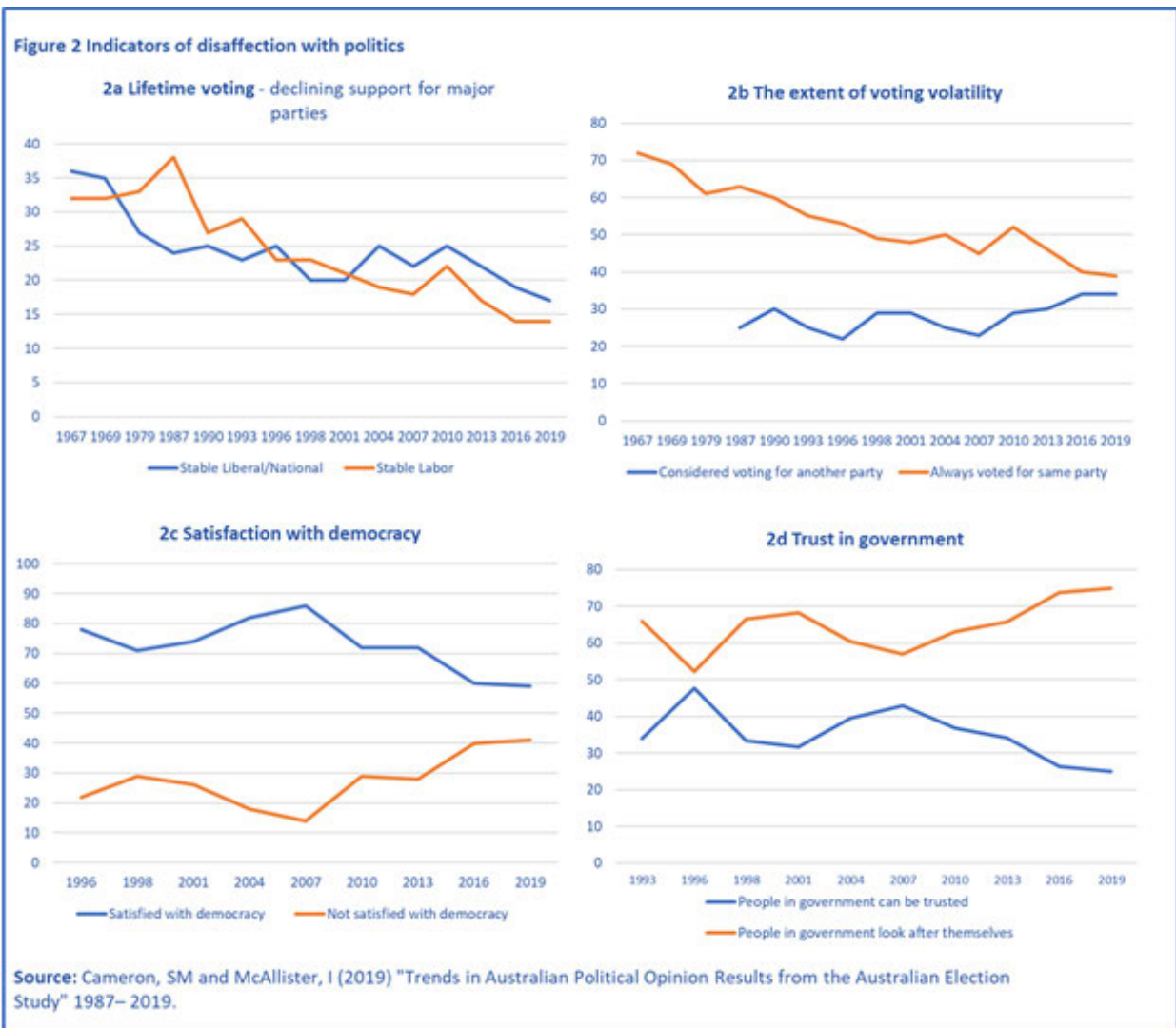
THE A.C.T. HAS NO HOUSE OF REVIEW - CITIZEN INITIATED VOTES WOULD ADDRESS THAT PROBLEM.

A "NONE OF THE ABOVE" OPTION WOULD HELP RESTORE CONFIDENCE IN DEMOCRACY.

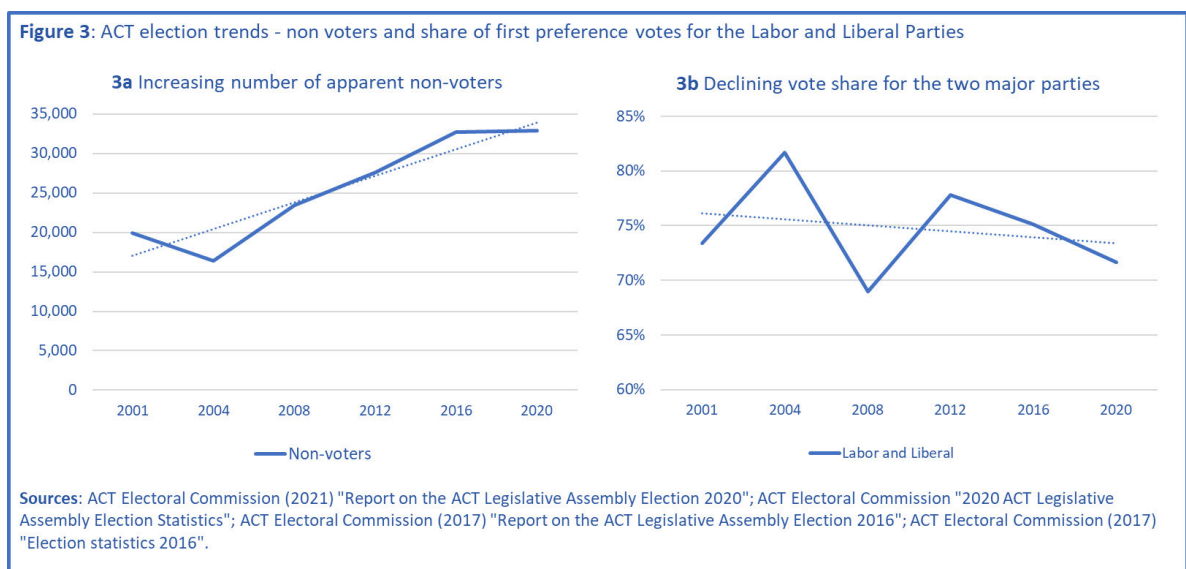
<sup>23</sup> It is an offence to fail to vote at an ACT election without a valid and sufficient reason. Failure to vote will result in receiving a letter asking for an explanation. If you have a valid reason you will not be fined. If you do not have a valid reason, you will be given the opportunity of paying a \$20 penalty. If you do not pay the penalty you may be taken to court, where the penalty is \$50 plus court costs. See Elections ACT failure to vote payments, [https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/1584/~/\\_elections-act-failure-to-vote-payments#:~:text=It%20is%20an%20offence%20to,of%20paying%20a%20%2420%20penalty.](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1584/~/_elections-act-failure-to-vote-payments#:~:text=It%20is%20an%20offence%20to,of%20paying%20a%20%2420%20penalty.)

<sup>24</sup> ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020", page 71.-





The ACT is experiencing similar disillusion with politics as usual. Notwithstanding the high turnout in 2020 (where early voting was available at more locations than at previous elections) the apparent number of non-voters has been rising since the early 2000s (see **Figure 3a**) and support for the two major parties declining (see **Figure 3b**)



These overall trends in disaffection are unlikely to be arrested by reducing the voting age, forcing people to vote or growth in the size of the government sector.

### None of the above option

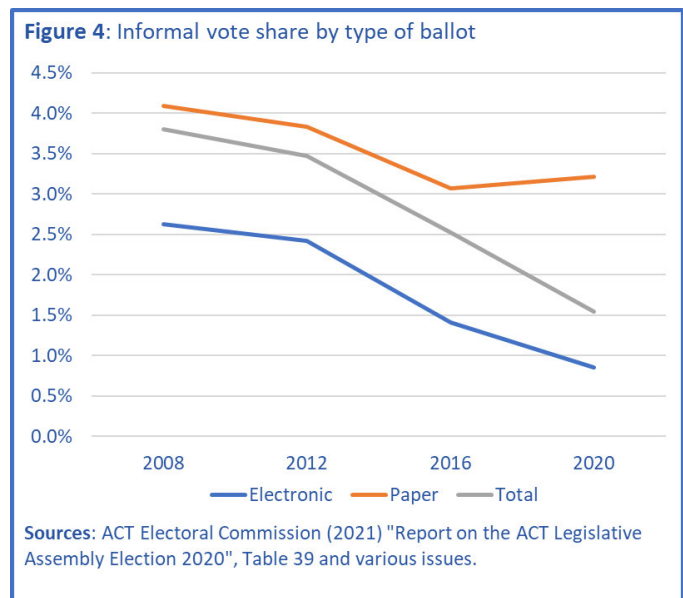
The ACT Liberal Democrats also consider that a “**none of the above**” option should be included on ACT Legislative Assembly ballot papers. This choice is available in several jurisdictions. Nevada has had a “None of These Candidates” choice since 1976.<sup>25</sup>

Recent research indicates that a “none of the above” option has the potential to increase participation and divert protest votes from inferior candidates (from the voter’s point of view)<sup>26</sup>.

This proposal has also been put to the ACT Legislative Assembly by Dr Graeme Orr<sup>27</sup>, Professor, Law, University of Queensland. In his submission to the 2007 ACT Legislative Assembly Committee on Education, Training and Young People Inquiry on Lowering Voting Age to 16, Orr suggested that 16 and 17 year olds could be issued with a distinct ballot paper which made it clear that if they genuinely had no choice, they could write ‘none of the above’ on the ballot. Orr has argued for this option should be available to everybody in a compulsory voting democracy, to register the real level of discontent.

The Liberal Democrats consider that such an option should be available to all voters irrespective of whether voting is mandatory.

While the move to increased use of electronic voting has seen a large decline in informal voting in ACT elections (**Figure 4** refers), to some extent this is masking dissatisfaction as there is no opportunity to make deliberate protest votes as occurs where voters make marks, slogans, or even write in an alternative candidate’s name as occurs with paper ballots. It is noteworthy that the informal vote share for paper ballots did not decline at the 2020 ACT election.



### Citizens initiated vote

The ACT Liberal Democrats believe that government is a servant and not a master. The people of a nation or territory should be able to strike down what they see as fundamentally unjust or unfair laws (including regulations).

Citizen Initiated Votes would allow laws to be struck down in a two part process. First, a petition requiring the signatures of a share (e.g. 4 per cent of eligible electors) would be submitted to the ACT Electoral Commission.

<sup>25</sup> Benkof, D (2016) 2016 Proves “None Of The Above” Belongs On The Ballot, The Daily Caller, 19 October 2016, <http://dailycaller.com/2016/10/19/2016-proves-none-of-the-above-belongs-on-the-ballot/>

<sup>26</sup> Ambrus, A, Greiner, B and Zednik, A (2019) The effect of a ‘None of the above’ ballot paper option on voting behavior and election outcomes, Economic Research Initiatives at Duke, Working Papers Series, March 2019.

<sup>27</sup> Orr, G (2006) Submission to ACT Legislative Assembly Committee on Education, Training and Young People Inquiry on Lowering Voting Age to 16

[http://www.parliament.act.gov.au/\\_\\_data/assets/pdf\\_file/0018/380025/Voting\\_08\\_-\\_Orr.pdf](http://www.parliament.act.gov.au/__data/assets/pdf_file/0018/380025/Voting_08_-_Orr.pdf)

Second, following a period long enough for people to think the issue over, the electorate would have the chance to vote Yes or No to abolish the law in question. The decision would be made on a simple majority basis. If the vote is no, there would be no opportunity to hold another referendum for a significant period (e.g. two years).

This policy effectively introduces the citizenry as a part-time, voluntary “house of review” that exercises a citizen’s veto” over bad government policy. This will replace other sham attempts at consultation, such as unrepresentative citizen juries. The politicians would retain responsibility for introducing new legislation but in the knowledge that grossly unpopular laws, taxes or regulations could be repealed.

As citizen’s initiated votes would only be for repealing legislation – and not for introducing new legislation –they would still allow an elected government to get on with the job that they were elected to do.

However, citizen’s initiated votes would act as an insurance policy against the major parties doing deals, like that between the Labor Party and the Greens, which mean that Canberrans suffer policies that they never voted for. One salient example being the ACT Light Rail project.

#### The 100 metre rule

The effective ban on how-to-vote cards (the **100 metre rule**) should be abolished. This impinges freedom of political communication to effectively participate in democracy. The rule adversely affects the ability of minor parties and independents to put forward their candidate details, voter preferences and campaign platforms.

Since the 2001 election, about 10 per cent of voters surveyed by the ACT Electoral Commission have found it a problem that how-to-vote cards were not available<sup>28</sup>. While the Electoral Commission continues to conclude that the number of voters with this view is small<sup>29</sup>, the fact that one in ten voters consider that that the lack of how to vote cards is a problem demonstrates there is a deficiency in the system.

As with the survey conducted for the 2016 election, the survey methodology for the 2020 election did not report whether or not the remaining 9 in 10 survey respondents would have found cards useful.

Rules on the distribution of political material at polling places should not be more restrictive or onerous than the rules that apply at Federal elections.

#### Other measures to increase opportunities to vote

The ACT Liberal Democrats participated in the ACT Electoral Commission’s trials of new electronic voting screens and ensured that voters who wished to vote informal could easily do so using such screens.

During the COVID-19 Pandemic, early voting using electronic voting screens was even more important than ever. In future elections, the screens should allow a “none of the above option” to be selected.

As already noted above in the section of this submission on the “Impact of Covid-19”, the ACT Liberal Democrats support the ACT Electoral Commission’s recommendation that the Electoral Act be amended to provide that any elector may vote early at an early voting centre without the need to declare they are unable to attend a polling place on election day (**recommendation 13**).

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<sup>28</sup> ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020", Table 54.

<sup>29</sup> See page 89 of ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020, as well as page 29 of ACT Electoral Commission (2017) "Report on the ACT Legislative Assembly Election 2016", p 29.

The ACT Liberal Democrats commend the Electoral Commission for its outreach with homeless people in the 2020 election wherein it used the Early Morning Centre (EMC) on Northbourne Avenue as a temporary voting centre.<sup>30</sup> The Liberal Democrats believe that there should be more engagement with civil society organisations rather than turning to the government sector. In this light, the ACT Liberal Democrats support the Commission's recommendation that Division 10.5 of the Electoral Act be amended to allow mobile polling to be conducted at locations across the ACT where homeless electors congregate to access government and welfare services (**recommendation 12**). We note that this outreach should not focus on government centres at the expense of community groups. Moreover, such schemes should not lead to homeless people being penalised for not voting.

The ACT Liberal Democrats also support other measures to increase opportunities to vote, including the ACT Electoral Commission's recommendation that the overseas e-voting supporting legislation that was in place for the 2020 ACT election be enacted for all future ACT elections (**recommendation 11**). That said, the use of such voting technology should not result in any penalties for not voting by ACT voters overseas.

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<sup>30</sup> ACT Electoral Commission (2021) "Report on the ACT Legislative Assembly Election 2020", page 45.

## APPENDIX A

### SUMMARY OF EVIDENCE ON POLITICAL MATURITY AND TURN-OUT OF YOUNGER VOTERS

The onus should be on the proponents of lowering the voting age to 16 to provide convincing evidence that minors are capable of exercising the franchise. The state of the evidence on political maturity is at best mixed but overall does not provide a sound case for lowering the voting age

- McAllister (2014)<sup>31</sup>, using evidence from Australia, found no evidence that lowering the voting age would increase political participation or that young people are more politically mature today than they were in the past.
- Chan and Clayton (2006)<sup>32</sup> found that 16- and 17-year olds in the UK have lower interest and engagement in politics, political knowledge, and consistency and stability in political attitudes than do older voters and concluded that voting age should not be lowered to sixteen.
- After Austria reduced its voting age to 16 in 2007 some studies (e.g. Zeglovits and Aichholzer, 2014<sup>33</sup>) concluded that there is a strong “first-time voting boost” among the youngest voters as turnout was (a) higher compared to 18- to 20-year-old first-time voters and (b) not substantially lower than the average turnout rate.
- Analysis presented in Appendix B of voting the Isle of Man indicates that a boost from first - time voting by 16-17 year olds appears to dissipate. In the Isle of Man election in 2016 overall turnout was 53 per cent but turnout of 16-17 year olds was 46 per cent.
- Wagner et al (2012)<sup>34</sup>, using data from Austria found that while the turnout levels of young people under 18 are relatively low, their failure to vote wasn’t explained by a lower ability or motivation to participate. They also concluded that the quality of their choices is similar to that of older voters.
- A study in Norway (Bergh, 2013)<sup>35</sup> found that 18-year-olds are more interested in politics than younger high school students, and also have greater sense of political efficacy than 16- and 17-year-olds. Bergh found no evidence that a lowering of the voting age affects the political maturity of 16- and 17-year-olds.
- While a study relating to Ghent (Belgium) found a small effect of enfranchisement to (check) on attention to politics, there is no evidence for an effect of enfranchisement on political engagement overall<sup>36</sup>.
- Developmental psychology considers adolescence to be a developmental period characterized by suboptimal decisions and actions that are associated with an increased incidence of

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<sup>31</sup> McAllister, I. 2014. “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence.” *Australian Journal of Political Science* 49 (1):68–83. <http://dx.doi.org/10.1080/10361146.2013.868402>

<sup>32</sup> Chan, TW and Clayton, M (2006) “Should the Voting Age be Lowered to Sixteen? Normative and Empirical Considerations”, *Political Studies*: 2006 VOL 54, 533–558

<sup>33</sup> Zeglovits, E and Julian Aichholzer, J (2014) “Are People More Inclined to Vote at 16 than at 18? Evidence for the First-Time Voting Boost Among 16- to 25-Year-Olds in Austria”, *Journal of Elections, Public Opinion and Parties*, Vol. 24, No. 3, 351–361, <http://dx.doi.org/10.1080/17457289.2013.872652>

<sup>34</sup> Wagner, M, Johann, D and Kritzinger, S (2012) “Voting at 16: Turnout and the quality of vote choice”, *Electoral Studies* 31 (2012) 372–383, doi:10.1016/j.electstud.2012.01.007

<sup>35</sup> Bergh, J (2013) “Does voting rights affect the political maturity of 16-and 17-year-olds? Findings from the 2011 Norwegian voting-age trial”, *Electoral Studies* 32 (2013) 90–100. <http://dx.doi.org/10.1016/j.electstud.2012.11.001>

<sup>36</sup> Stiers, Dieter, Hooghe, Marc and Dassonneville Ruth (2020) “Voting at 16: Does lowering the voting age lead to more political engagement? Evidence from a quasi-experiment in the city of Ghent (Belgium)”, *Political Science Research and Methods*, First View , pp. 1 – 8.

unintentional injuries, violence, substance abuse, unintended pregnancy, and sexually transmitted diseases<sup>37</sup>.

Given the state of the evidence and, with compulsory voting, penalties for not voting, there is no evidence-based case for lowering the voting age to 16.

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<sup>37</sup> Casey, BJ, Jones, RM and Todd A. Hare, TA, 2008 "The Adolescent Brain" *Ann N Y Acad Sci.* 2008 March; 1124: 111–126 doi: 10.1196/annals.1440.010; Leshem, R 2016 "Brain Development, Impulsivity, Risky Decision Making, and Cognitive Control: Integrating Cognitive and Socioemotional Processes During Adolescence—An Introduction to the Special Issue", *Developmental Neuropsychology*, 41:1-2, 1-5, DOI: 10.1080/87565641.2016.1187033 <http://dx.doi.org/10.1080/87565641.2016.1187033>

## APPENDIX B

### TURNOUT OF SIXTEEN AND SEVENTEEN YEAR OLDS AT ISLE OF MAN ELECTIONS

The Isle of Man lowered the voting age to 16 in time for the 2006 general election for the House of Keys. At all three House of Keys elections since 2006, the turnout for 16 and 17 year olds was 3 to 7 percentage points lower than the turnout for all voters – with the gap widening in the 2016 election. The number of 16 and 17 year olds voting in 2016 fell by 20 per cent on 2011, compared to an 8 per cent decline for all voters (**Table B1** and **Figure B1** refer). The next election in the Isle of Man is scheduled for later in 2021.

**Table B1: Isle of Man, voter registration and turnout by age at House of Keys elections**

	all voters			16-17 year olds <sup>d</sup>			16-17 year olds, share of registered voters	
	registered	voted	turnout (%)	registered	voted	turnout (%)	registered	voters
2006	49,855 <sup>a</sup>	30,502 <sup>a</sup>	61.2%	718	397	55.3%	1.4%	1.3%
2011	60,382 <sup>b</sup>	34,369 <sup>b</sup>	56.9%	1,234	668	54.1%	2.0%	1.9%
2016	59,963 <sup>c</sup>	31,757 <sup>c</sup>	53.0%	1,158	535	46.2%	1.9%	1.7%

**a source:** Isle of Man House of Keys 2006 General Election Results, excludes Ayre (where the candidate was unopposed), <https://www.gov.im/media/622793/electionresults2006v11.pdf>

**b source:** House of Keys 2011 General Election Results <https://www.gov.im/media/626429/2011electionresults.pdf>

**c source:** 2016 General Election - Turnout Figures, <https://www.gov.im/media/1353348/2016-general-election-turn-out-figures.pdf>

**d source:** Isle of Man, Breakdown of 16 and 17 year Old Voters at 2016 General Election, <https://www.gov.im/media/1354314/16-17-year-olds-election-turnout-2016.pdf>

