



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

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INQUIRY INTO THE OPERATION OF THE 2024 ACT ELECTION AND ELECTORAL ACT 1992

Formal Submission

Greg Tannahill

I make this submission in my capacity as a private citizen.

This submission does not represent the view of any group or organisation.

Background

I have participated in every territory election, federal election, and federal referendum held in the ACT since 1998 as a voter, and since 2008 in some capacity as a campaigner on behalf of (variously) the ACT Democrats, the ACT Greens, and the “Yes” campaign for marriage equality. On most of those occasions I have been active as a party volunteer at polling booths on election day, and on some occasions I have volunteered at pre-poll booths and/or as a scrutineer. In 2008 I was a candidate in the ACT territory election on behalf of the ACT Democrats.

Based on that experience, I wish to make the following submissions, addressing the inquiry’s terms of reference in order.

Executive summary:

- Expand the right to vote to 16 and 17 year olds, and to long-term non-citizen ACT residents.
- Ban roadside political signage.
- “Truth in political advertising” laws are likely to be unworkable and unhelpful and there is no strong evidence that we require them in the ACT.
- Abolish the 100m exclusion zone for campaigning at polling places.
- Abolish public electoral funding for candidates.
- Increasing funding to Elections ACT to resolve electoral complaints in a swift and timely manner during elections.
- If roadside signage is not abolished, then require authorisation statements on roadside signage to be large enough to be clearly legible to passing cars, where party branding does not otherwise make the authorisation clear.
- Prohibit candidates from using AFP, ACT Corrections, ESA, or military uniforms, signage or locations in campaign material, whether they are currently serving members in those organisations or not.

Detail:

1) The report of the ACT Electoral Commissioner into the 2024 ACT Election.

At the time of making this submission (19 December 2024), I was unable to locate a publicly accessible version of the ACT Electoral Commissioner’s report regarding the 2024 ACT Election. The most recent one showing on the Elections ACT page was for 2020.

<https://www.elections.act.gov.au/about-the-commission/publications/election-reports>

2) Voter engagement

From my perspective the number and distribution of regular polling places appeared to be wholly sufficient. Waiting times to vote have always been very reasonable in the ACT, and since the introduction of pre-polling those waiting times have dropped even further.

The right to vote in ACT elections should be expanded to include 16 and 17 year olds. There is no evidentiary reason to think they understand the issues of elections any less than many adults who vote (and noting that we allow adults with severe mental health conditions or brain damage to vote), and they are often disproportionately affected by the decisions of government, both in terms of their current status, and their future rights and wellbeing.

The right to vote in ACT elections should also be expanded to include long-term non-citizen residents. Any individual who lives in the ACT and is invested long-term in its community should have a say in its government.

3) The voting process

From my perspective the voting process was conducted in a professional, unbiased and world-leading manner and I do not urge any changes.

4a) Electoral authorisation on digital platforms

As far as possible, voters should always be clearly aware of who is making a political statement in a public place, and who they're making it on behalf of. I think there is room to improve that in the digital space, but I have no specific recommendations for how to do so.

4b) Restrictions on roadside signage

We should ban political electoral signage on public land.

I note that the report into the 2020 ACT Election by the Justice and Community Safety, led by Mr Jeremy Hanson (Liberal) and with the support of Dr Marisa Paterson (Labor) and Jo Clay (Greens), also unanimously made that recommendation, which the Assembly for its own reasons declined to act upon during the previous term.

Every party in the ACT publicly agreed during this election that it was ugly, distracting, and that Canberrans didn't want it. And yet every party except the ACT Greens invested in it heavily.

In 2020, without using roadside signage, the ACT Greens delivered their best electoral result in the ACT ever. And, to the extent that the ACT Greens vote dropped in 2024 off that record high, it's hard to say it was a result of a lack of roadside signage, rather than a combination of normalisation, a strong campaign by specific independents, and other campaign factors.

There's simply no evidence that roadside signage is necessary in order to reach and communicate with voters or alert them to the identity of candidates. That being the case, and given the widespread distaste that Canberrans have for the practice, it should be discontinued.

It represents a win for Canberrans, who won't have their beautiful city marred by ugly corflutes over election season. It also represents a win for parties, who can redirect the significant costs of printing all those corflutes into other electoral activity. It represents a win for the environment, as most of those corflutes ultimately end up in landfill. And it lowers the bar for small parties and independents, who struggle to keep up with large party spending in this area.

4c) The operation of truth in political advertising provisions

We all want an election based on truth and reason. And we all get frustrated when parties or candidates make statements that we see as untrue or misleading.

However, the question of arbitrating what is “true” is one that is best carried out at the ballot box. There is simply no way of policing the “truth” of statements that isn’t fraught, argumentative, and likely to be politicised. In addition, all such mechanisms inherently favour large parties who can afford lawyers, and raise barriers to political engagement to independent candidates and small parties.

I do wish to note that the 2024 campaign was actually conducted in a relatively positive manner by all parties, and (from my perspective) no party substantially based their campaign or their public messaging on a single statement of disputed truth.

The last time we had this debate about “truth” at the centre of a campaign was in regard to statements made by the Canberra Liberals about Labor rates policy in 2020. The Liberals campaigned hard on several disputed statements regarding rates, and in the end result they had an enormously disappointing result in that campaign, which suggests that where Canberran voters are suspicious of the honesty of candidates, they are more than willing to express that suspicion at the ballot box.

I also note that the disputed statements about rates on that occasion, while certainly contested and possibly misleading, were unlikely to have been declared manifestly untrue by an independent body, as they turned on the question of what was the appropriate way to read the data and extrapolate it into the future, rather than a factual “yes/no” question with an unambiguous answer.

At a practical level, it’s unlikely that any mechanism to police “truth” in electoral communication would be effective. Electoral campaigns are fast paced, over a relatively limited period of time, and it seems unlikely that an alleged “mistruth” could be reported to a regulatory body, reasonably investigated with time for a right of reply, and action taken to correct it, in a sufficiently timely manner to make a difference.

Also, such processes often simply re-broadcast the original mistruth to a wider audience and create a larger media platform for the candidate or party making the disputed statement.

It seems likely that truth in political advertising laws would only create a fertile ground for tactical litigation without meaningfully enriching the public debate.

4d) Restrictions on campaigning activity outside of polling places

The Assembly should abolish the 100 metre exclusion zone for campaigning activity outside of polling places, for the following reasons:

- a) Its well-intentioned original purpose was to prevent the harassment and intimidation of voters and enable them to vote without being influenced. However, there is no evidence that such harassment of voters ever has happened in the ACT, or is likely to

happen, and federal elections in the ACT proceed to a world-leading standard without this restriction.

- b) The 100 metre exclusion zones are often poorly defined, poorly communicated, and poorly enforced.
- c) 100 metre exclusion zones require an inefficient deployment of pamphleting volunteers to cover multiple points of approach to a polling site, rather than simply one or two volunteers at the queue outside the polling place entrance. They waste the resources of all parties, but they also inherently favour large parties with many volunteers who can afford to waste those resources, over small parties and independents who cannot.
- d) Voters (of all parties) frequently expressed confusion and disappointment about the 100 metre exclusion zone. They are accustomed through federal elections to getting a pamphlet from each party immediately prior to entering the polling place (along with their customary “democracy sausage”) and felt put off by the strange distance caused by the exclusion rule.
- e) The 100 metre rule has very different effects at different polling places, in a way that can cause inequalities across the ACT. In some places it results in pamphleting volunteers standing in fairly sensible places down the road from the main polling entrance. In others it places them at potentially dangerous intersections or on nature strips. For some polling places it is effectively impossible to realistically pamphlet them at all.
- f) It’s simply inefficient and irritating for Canberrans, as volunteers end up engaging with voters who may not have been heading to the polling place (particularly during pre-poll), while missing other voters who may have wanted to receive electoral information.

In the event that the Assembly does not remove the exclusion zone outright, it should also consider removing the exclusion zone just for pre-poll locations, with regard to my point (f) above, that pre-poll exclusion zones result in pamphleters bothering passers-by who were not on their way to vote. Early voters are (generally) engaged voters who will (generally) be grateful to receive how-to-vote information.

5) Electoral funding, donations and expenditure

We should abolish public electoral funding. The prize for winning should be winning. Electoral funding retroactively privileges large parties against smaller ones.

The alleged purpose of electoral funding is to reduce the costs of candidates who undisputedly represented a meaningful segment of the Canberra population (by reference to their primary vote).

However, the amount of money provided in this manner is not enough to allow even a very popular independent candidate with a strong existing following to successfully run for office without expending an extremely significant amount of further money – and it still wouldn’t be even if we were to double it - so it’s not meaningfully reducing the financial barrier to campaigning.

So what is it doing?

In practice it's just a kickback to entrenched parties and candidates to keep them entrenched. It serves no valid purpose in our political system and it should be abolished.

(The money could, perhaps, be better spent on further staffing the Office of the Legislative Assembly, to provide better support to candidates who are elected in performing their duties, or further funding Elections ACT to provide more comprehensive support to new candidates, parties and independents who hope to run for office in understanding their obligations.)

6) Any other matter (Electoral complaints, electoral signage authorisations, use of AFP uniforms in campaigning)

During the course of the election, I made two election-related complaints.

One was to Elections ACT, and it related to a series of roadside signs that were, generally speaking, opposed to the current government, but which to my mind did not clearly disclose what party or candidate had authorised them (out of the many options who were advocating a change of government of some sort). There was authorisation text but it was, in my view, far too small to be read from the intended viewing distance – e.g. a car driving past.

The other was to the Australian Federal Police in relation to a candidate who appeared in AFP uniform in his electoral material and used photographs of himself posing outside of AFP buildings with AFP signage, in a manner that I felt may have indicated his campaign was endorsed by the AFP.

In relation to the first complaint, it took more than two weeks for the Electoral Commission to adjudicate my complaint. (It was made on 4 October and a decision was communicated to me on 18 October.) I make no complaint about the Commissioner and his staff, who I have no doubt were working hard and doing the best job they could in a very busy environment with the resources they had available to them.

However, in the context of an election, two weeks to resolve complaints simply isn't good enough. If the electoral material **had** been inappropriate, the people authorising it would have had the benefit of two weeks displaying that inappropriate signage to motorists before they had to even **begin** removing it – and by that point many Canberrans had already voted.

Elections ACT clearly needs more funding and resources to be able to resolve electoral complaints in a timely manner during elections. Ideally, Elections ACT needs to be able to make preliminary decisions about such matters within a 24-hour timeframe and immediately order the removal of non-compliant material.

In addition, the Commissioner's decision in my matter was based on a finding that the authorisation text was large enough because anyone curious could "approach the sign and

review". I have no doubt the Commissioner made a correct decision under the current legislation and acted to the highest standard in this matter.

However, I think the legislation in this regard should be amended to recognise the reality that few motorists who consume the message on a roadside corflute will take that further step of stopping their car to read the authorisation. I believe that, for roadside political signage, where the authorisation is not otherwise clear from the branding of the sign, the authorisation text should be large enough to be read from a passing car.

That is to say, a sign that clearly features Greens or Liberal or Labor branding or the prominent name of a candidate is not a concern, but a sign that reads, e.g. "23 YEARS IS LONG ENOUGH" with no further party or candidate information should require a larger and more prominent authorisation. Canberrans should be informed as to who is making these statements.

In regards to my complaint to the AFP, I note that the AFP has no particular requirements in relation to election-related complaints. In the end result, they did not respond to my complaint until well after the election was over, and their response was simply that the candidate in question was no longer a serving member of the AFP so they had no control over his actions.

The candidate in question was not, in the end result, elected, so it's not a matter of urgency, but I do think it was misleading and inappropriate for this candidate to campaign on the basis of their police service using actual police uniforms and photos of police buildings and signage.

It conveys the (hopefully) false message that their candidacy is endorsed by the police, and it risks politicising our police force.

Electoral rules should be amended to prevent the usage of police uniforms and police premises in political campaign materials in any way that might be mistaken as police endorsement of the candidate. (And similar rules should also exist, to the extent they do not already, in relation to other uniformed public servants, including ACT Corrections, the Emergency Services Authority, and the military.)

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In the event that the committee would be assisted by asking me questions or having me address any matter in this submission in greater detail, I would be very happy to submit further documentation or appear in person before the committee at a hearing.

With thanks,

Greg Tannahill