



Submission to the Inquiry into and report on
all aspects of the conduct of the 2019 Federal Election
and matters related thereto

To the Committee Secretary
Joint Standing Committee on Electoral Matters
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Contributors

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Confidentiality

This submission does not need to be kept confidential and may be made public.

Summary & Recommendations

Thank you for the opportunity to comment on the conduct of the 2019 Federal Election. We do so in our capacity as representatives of the Science Party where our aim is to improve quality of life and drive society towards the pursuit of knowledge for the benefit of all of humanity. Our recommendations are motivated by a desire to bring about the fairest possible process for electing representatives.

In addition to the recommendations below, we would like to express our concerns about the adequacy of resourcing of the Australian Electoral Commission (AEC), given that some candidates' personal details were wrongly published on the internet for a short period before being taken down.

In this submission, we address our concerns with recent changes to the nomination process for federal candidates, specifically the doubling of the deposit and the introduction of an intrusive and ineffective checklist regarding eligibility under section 44 of the constitution. We also make suggestions regarding electoral advertising, political donations, electoral mechanics and early voting to improve transparency, accountability and formal voting.

Our recommendations are as follows (and we reiterate recommendations 4A, 4B and 5A from our submission to the inquiry into the conduct of the 2016 election):

- **Recommendation 1A:** Reverse the most recent increase to the nomination deposit amount for the House of Representatives (reduce the amount from \$2,000 to \$1,000).
- **Recommendation 1B:** Set the nomination deposit amounts to change by indexation to avoid the need for parliamentary debate on this detail.
- **Recommendation 1C:** Abolish the 4% threshold for public funding and instead fund all primary votes equally.
- **Recommendation 1D:** Do not refund the nomination deposit.
- **Recommendation 2A:** Abolish the Section 44 Checklist for parliamentary candidates, as it represents a perverse invasion of privacy for no gain.
- **Recommendation 3A:** Require authorisations for written material to appear in a font size that can be read by a person with 20/20 vision without the use of any visual aid, and no smaller than 10% of the size of the largest text in the design.
- **Recommendation 4A:** Require political parties and candidates to report donations in real time.
- **Recommendation 4B:** Require the name of any donor who donates more than \$1,000 to a political party or candidate in the space of one financial year to be published.
- **Recommendation 4C:** That the AEC develop a technical solution to facilitate real-time donation reporting.
- **Recommendation 5A:** Trial hybrid electronic voting, with votes completed on-screen, and ballot papers printed to be counted by humans.
- **Recommendation 6A:** Restrict early voting to a period of two weeks.

1. Candidate nomination deposits

Recommendation 1A: Reverse the most recent increase to the nomination deposit amount for the House of Representatives (reduce the amount from \$2,000 to \$1,000).

The increase in the nomination deposit from \$1,000 to \$2,000 was anti-democratic and is an admitted attempt by incumbent parliamentarians to prevent some candidates from contesting the election. It is a perversion of the parliamentary power to decide how the election is run and is counter to improving the representation of the people in the electorate, especially in the context of voter-determined full-preference voting.

The increase was not recommended by the Joint Standing Committee on Electoral Matters (JSCEM). The stated justification was that: *“there is now parity in the cost for nominees for the Senate and the House of Representatives. The increase strikes a balance between allowing all citizens the opportunity to participate in elections while also establishing reasonable thresholds to reflect the seriousness of pursuing an elected office¹.”*

Parity alone is not a sound justification for the increase; the Senate deposit was double the House of Representatives deposit from 1965 through 2016. The JSCEM in 2011 recommended doubling the deposit for the Senate to deter “frivolous” candidates, and doubling the deposit for the House of Representatives with no reason given². Both increases were implemented.

The ability to raise ever-increasing funds is not an indicator of credibility as a candidate. A candidate who gains the support of many voters who can’t afford to donate cash should not be barred from a democratic process that is open to a candidate who has no community support but has \$2,000 (or \$302,000, to cover the deposit for all seats) on hand.

Further, increasing the deposit is not associated with fewer candidates (Table 1). Australians have shown that they will find the cash required to stand for election, perhaps when they feel that representation in parliament is inadequate. It has to be considered that the parliament has an interest in raising the nomination fee when more nominations are predicted, as a way of gaining more funding for the AEC.

Year	Nomination deposit amount		Number of candidates	
	Senate	House of Representatives	Senate	House of Representatives
2019	\$2,000	\$2,000	458	1,056*
2016	\$2,000	\$1,000	631**	994
2013	\$2,000	\$1,000	529	1,188
2010	\$1,000	\$500	349	849

Table 1. Nomination deposit amounts (current dollars) and number of candidates in recent elections.
*The number of seats increased from 150 to 151 in 2019. **The 2016 election was a double dissolution.

¹ Explanatory Memorandum, *Electoral Legislation Amendment (Modernisation and Other Measures) Bill 2018*. (<https://www.legislation.gov.au/Details/C2018B00231/Explanatory%20Memorandum/Text>)

² *Inquiry into the conduct of the 2010 Federal Election and matters related thereto - Report*, Joint Standing Committee on Electoral Matters (2011).

(https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/elect10/report.htm)

Recommendation 1B: Set the nomination deposit amounts to change by indexation to avoid the need for parliamentary debate on this detail.

There is no reason to think that parliamentarians have any special information that allows them to set the ideal candidate nomination deposit amounts. These amounts should be indexed (just as per-vote funding is indexed) to avoid perverse incentives to increase the deposit.

Recommendation 1C: Abolish the 4% threshold for public funding and instead fund all primary votes equally.

Recommendation 1D: Do not refund the nomination deposit.

It is also clear that the requirement to gain a primary vote of 4% to have the deposit refunded and gain per-vote funding is intended to discourage newer candidates. All primary votes should be funded equally. This is unlikely to cause a cost blowout, as most primary votes are won by candidates who gain over 4% (and are therefore already funded), but we are not opposed to reducing per-vote funding to keep the overall cost similar to previous elections.

2. Section 44 Checklist for candidates

Recommendation 2A: Abolish the Section 44 Checklist for parliamentary candidates, as it represents a perverse invasion of privacy for no gain.

A Science Party representative asked an AEC staff member over the phone if there was a way to keep the checklists (or parts thereof) confidential, i.e. not published on the internet. The AEC staff member advised that there was not, and recommended including on the form only those details that the respondent was comfortable making public. This is despite the advice that, *"The AEC may omit, redact or delete, from a document published or to be published any information that the Electoral Commissioner is satisfied on reasonable grounds is unreasonable, unacceptable, inappropriate or offensive³."*

It is strange that a candidate requesting that their own information be redacted is not grounds enough for the Electoral Commissioner to do so.

In some cases, there was no way of being reasonably certain of one's answers, e.g. the birthplace of a deceased grandparent who was not open with that information during their lives. The AEC also advised that, *"The provisions of the Electoral Act do not give the AEC or any AEC officer the power to reject a fully completed candidate nomination for the Senate or the House of Representatives, regardless of whether any answer to a question of the qualification checklist is incorrect, false or inadequate⁴."*

In collecting this information when it had no power to act on it, the AEC was in breach of the principle of data minimisation, which is widely encouraged in the public service.

³ 'Candidate Information', Australian Electoral Commission. (<https://www.aec.gov.au/Elections/candidates/overview.htm>)

⁴ 'Statement from the Australian Electoral Commission', Australian Electoral Commission, 24 April 2019. (<https://www.aec.gov.au/media/media-releases/2019/04-24a.htm>)

Publishing the checklists on the internet suggested a desire to outsource the task of finding possible dual citizens to the public. This invited witch-hunt behaviour towards nominees with familial ties to other countries, which could discourage political participation by newer Australians in future elections. For context, about 10% of Australian parliamentarians were born overseas, compared to 28.5% of the Australian population⁵.

3. Electoral Advertising

Recommendation 3A: Require authorisations for written material to appear in a font size that can be read by a person with 20/20 vision without the use of any visual aid, and no smaller than 10% of the size of the largest text in the design.

There is popular support for restrictions on misleading advertising. However, this area is fraught, as determining whether a statement is “truthful” is not always straightforward. Further, a political player could produce clearly misleading advertising material and falsely attribute it to a rival to have them fall afoul of such rules.

Accountability could be improved without compromising freedom of political speech by requiring clearer authorisation messages on campaign material. Currently, authorisations on printed materials must appear “*in a font size that can be read by a person with 20/20 vision without the use of any visual aid*”⁶. This doesn’t account for the fact that different materials are seen from different distances (e.g. flyers versus outdoor banners).

4. Political donations

Recommendation 4A: Require political parties and candidates to report donations in real time.

Recommendation 4B: Require the name of any donor who donates more than \$1,000 to a political party or candidate in the space of one financial year to be published.

Recommendation 4C: That the AEC develop a technical solution to facilitate real-time donation reporting.

Currently, the public must wait until months after the election to see who donated to political parties and candidates. We believe the most urgent reforms with regard to political donations are real-time reporting of all donations, and no anonymous donations over \$1,000. This would be most easily achieved if all political donations were made through a portal on the AEC website whereby each party or candidate running for election can either manually or programmatically submit new donation details.

⁵ ‘Australia’s new parliament is no more multicultural than the last one’, SBS.

(<https://www.sbs.com.au/news/australia-s-new-parliament-is-no-more-multicultural-than-the-last-one>)

⁶ ‘Electoral Backgrounder: Electoral communications and authorisation requirements’, Australian Electoral Commission. (https://www.aec.gov.au/About_AEC/Publications/Backgrounders/authorisation.htm)

5. Ballot papers and vote counting

Recommendation 5A: Trial hybrid electronic voting, with votes completed on-screen, and ballot papers printed to be counted by humans.

Hybrid electronic voting should be considered as a way to make the voting process easier and reduce accidental informal voting. We propose a system in which a voter completes their ballot on-screen, prints the ballot out in a human readable format with the system adding a verification code, and places it in the ballot box. While full electronic voting carries the risk of fraud in ways that paper-based voting does not, a hybrid system combines accurately communicating voters' intent (by ensuring both legibility and formality of votes) with the security of having votes counted by humans who may be observed by scrutineers.

Importantly, such a system should warn a voter if their on-screen vote would be invalid if printed, but should also allow voters to proceed to print an invalid vote after displaying a warning. While voting is compulsory, voters are currently able to cast a blank ballot in protest, and we do not wish to remove this avenue of protest. The Science Party supports compulsory voting and this recommendation should not be read as encouragement to vote informally.

As much as Science Party candidates participate in and even enjoy the spectacle of the ballot paper draw, we should consider the use of the Robson Rotation, as currently used in Tasmanian state elections, to remove the 'donkey vote' effect in our federal elections.

6. Early voting

Recommendation 6A: Restrict early voting to a period of two weeks.

At the 2019 federal election as well as recent by-elections, early voting ran for a period of nearly three weeks at many polling places, beginning less than a week after the close of nominations. We do not see it as a problem that voters choose to vote at a time most convenient for them, even if they could manage to vote on polling day, but we do see drawbacks to an overly-long polling period.

A long timeframe for voting causes parties' and candidates' strategies to change in response to voter sentiment over the course of those few weeks. A shorter timeframe could discourage this cynical and exhausting circus which distracts from the policies that each candidate is offering. Longer polling periods also increase the requirements for AEC staff, as well as security requirements for ballot papers that have been cast.

Given the legislated minimum of 23 days between the close of nominations and polling day⁷, an early voting period of two weeks would mean a full week between the finalisation of the ballot and the opening of voting. This extra time would reduce pressure on candidates and, more importantly, the AEC to prepare printed electoral materials for voters.

⁷ Commonwealth Electoral Act 1918, Section 157. (<https://www.legislation.gov.au/Details/C2019C00047>)