



PSA submission on the interim report of the Independent Electoral Review

Prepared for the Independent Electoral Review Panel

July 2023

For a better working life

New Zealand Public Service Association
Te Pūkenga Here Tikanga Mahi



Submission on the interim report of the Independent Electoral Review

About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 89,000 members. We are a democratic and bicultural organisation representing people working in the Public Service including for departments, crown agents and other crown entities, and state-owned enterprises; local government; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors. Te Rūnanga o Ngā Toa Āwhina is the Māori arm of the PSA membership.

The PSA is affiliated to Te Kauae Kaimahi the New Zealand Council of Trade Unions, Public Services International and UniGlobal.

Why the electoral review matters to our members

As a democratic union, democracy is one of our core values. As the union for people working in public and community services, the governance of our society and how the state provides for the people within it is of significant importance to us.

Many of our members in the public service and state sector are affected by the electoral system in their work: from members working in the Electoral Commission and Parliamentary Service, for whom elections and the make-up of Parliament have direct implications for their employment status and the work they do, through to those working on the development and implementation of government policy and the delivery of publicly delivered and publicly funded services.

About this submission

We have chosen to focus on specific chapters and recommendations of particular relevance to the PSA and its members instead of attempting to respond all 89 of the panel's recommendations.

Our submission draws on the views of our democratically elected governance structure, and a survey of around 680 PSA members.

Appendix 1 provides a list of which of the panel’s recommendations the PSA has expressed a view on (ie, to support, support with proposed variation, or oppose). These statements are also repeated in the relevant sections of our submission.

General comments

Our comments are based on some general principles:

- Voting should be as accessible as possible to all voters, and particular effort needs to be given to making voting more accessible to those with the greatest barriers.
- People’s right to participate in democracy should be widely enabled, and constraints on this right should be minimal.
- We have an obligation to ensure that the way our nation is governed is consistent with Te Tiriti o Waitangi.
- People should be able to have trust and confidence in our democratic institutions.

Feedback on specific sections

The following sections of our submission focus on specific chapters and recommendations of particular relevance to the PSA and its members.

Foundations

The overall design of electoral laws

PSA members we surveyed generally supported the panel’s recommendations of entrenching key aspects of electoral legislation including the Māori electorates, the method for allocating seats in Parliament, and the right to vote and stand as a candidate.

The PSA supports the entrenchment of Māori seats. As Te Rūnanga o Ngā Toa Āwhina (the Māori arm of the PSA’s membership) said in its submission on a private member’s bill on the matter in 2018, the current state leaves an implicit threat hanging over the Māori seats as they can be more easily changed or abolished. Entrenching these seats, in the same way that the process for setting general electorates is entrenched, would give more equal standing to both types of electorate seat.

Panel recommendations	PSA view
R1. Redrafting the Electoral Act 1993 to incorporate the changes set out in this report	Support
R2. Reassessing the appropriate use of primary and secondary legislation as part of the redrafting process.	Support
R3. Entrenching the Māori seats, the method for allocating seats in parliament and the party vote threshold, the right to vote and stand as a candidate, and the process for removing members of the Electoral Commission	Support

Upholding Te Tiriti o Waitangi

We are pleased to see that the report includes recommendations throughout its chapters aimed at better upholding Te Tiriti and making voting more accessible to Māori.

We support the panel's recommendation to require decision-makers to give effect to te Tiriti o Waitangi / the Treaty of Waitangi and its principles when exercising functions and powers under the Electoral Act.

Panel recommendations	PSA view
R4. Requiring decision-makers to give effect to te Tiriti o Waitangi / the Treaty of Waitangi and its principles when exercising functions and powers under the Electoral Act. This obligation should apply generally across the Act and be explicitly included in the Electoral Commission's statutory objectives.	Support
R5. The Electoral Commission prioritises establishing Māori governance over data collected about Māori in the administration of the electoral system.	Support

The voting system

Representation under MMP

Members we surveyed were generally supportive of removing the one electoral seat threshold – a view that the PSA has had for over a decade since the 2012 electoral review. The rule undermines the primacy of the party vote under MMP, undermines the party vote threshold, and can mean particular electorates have an outsized influence on the formation of government. It is also open to manipulation when major parties effectively offer up electorate seats to potential coalition partners as a way of securing more seats than the parties' combined party vote would otherwise give them.

Our members were less united in their views about the party vote threshold. In the 2012 electoral review the PSA supported lowering the threshold to 4%, based on the views of members. When asked this time around about lowering the threshold to 3.5%, around 43% of members opposed the idea, 37% supported, and the remainder were undecided. Some members believed the 5% threshold was already high enough, while others thought it could be lowered further (eg, to a single seat).

The threshold must strike a balance between enabling the broad representation of political interests and viewpoints and the ability to form effective and stable government. Exactly where the threshold should be set is difficult to determine, but based on the feedback of our members we would suggest that 4% may be a more appropriate threshold than 3.5%.

The PSA supports the principle of proportionality, where the share of votes a party receives is translated into seats in Parliament. We are in favour of a ratio that prevents the proportionality of Parliament from being distorted.

Panel recommendations	PSA view
R6. Lowering the party vote threshold for list seat eligibility from five per cent of the nationwide party vote to 3.5 per cent.	Further discussion needed about the appropriate threshold
R7. Abolishing the one-electorate seat threshold, provided the party vote threshold is lowered.	Support

R9. Fixing the ratio of electorate seats to list seats at 60:40, requiring parliament to be an uneven number, and allowing the size of parliament to grow in line with the population.	Support
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Parliamentary term and election timing

There was widespread support among our members for holding a referendum on whether to increase the Parliamentary term to four years. Several members commented unprompted that they supported extending the term. Changing the term to 4 years would be a significant constitutional change. Given this, the panel’s recommendation to hold a referendum – thereby allowing voters at large to decide – makes sense.

Panel recommendations	PSA view
R10. Holding a referendum on the parliamentary term, supported by a well-resourced information campaign (including dedicated engagement with Māori communities and leaders).	Support

Vacancies in Parliament

The majority of members we surveyed opposed repealing the electoral integrity (party-hopping) rules. Several members suggested that there should be different rules depending on whether the member was an electorate or list MP, given that electorate MPs are elected directly as individuals.

We note that this is an issue where two important principles – the principle that dissent is an important part of the political

Panel recommendations	PSA view
R15. Repealing the restriction on Members of Parliament remaining in parliament if they cease to be a member of the party from which they were elected.	Oppose

Voters

Voting age

The PSA supports lowering the voting age to 16. We acknowledge this is an area where people have strong opposing views; even among PSA members we surveyed there was a fairly even split of people for and against lower the voting age to 16. On balance though, we strongly believe in access to democracy and the full exercise of human rights.

We note the findings of the Supreme Court that the Government has not provided justification for limiting the right to vote for 16 and 17 year olds, and while there are various reasons for or against lowering the voting age, we do not consider the reasons against to be compelling enough to warrant the right to vote being withheld from 16 and 17 year olds. We also note the body of evidence indicating that lowering age has several positive effects in terms of young people’s engagement with democracy.¹

¹ D K Nelkin: [What Should the Voting Age Be?](#), Journal of Practical Ethics, Oxford University

Civics education was a common theme that emerged in conversations with our members about the voting age. Several members commented that if any change to the voting age is made it needs to be accompanied by more comprehensive civics education in schools.

Panel recommendations	PSA view
R17. Lowering the voting age to 16.	Support

Prisoners' right to vote

Members we surveyed had mixed views on the rights of prisoners' right to vote, with some members expressing strong feelings about it. Overall, more people supported than opposed the panel's recommendation to grant all prisoners the right to vote (around 47% supported the right to vote, around 41% opposed, and the remainder were undecided). The PSA believes that the right to vote is a basic human right and should only be constrained in very limited circumstances where those constraints are justified. In the case of prisoners, the Supreme Court and advice of officials has indicated that the existing prohibition on voting is not justified from a human rights perspective, and the Waitangi Tribunal has ruled that the existing prohibition on voting is in breach of Te Tiriti.

There are, however, potential issues associated with extending the right to vote to prisoners serving longer sentences (eg, the impact on the size of an electorate if prisoners were registered to vote in the same electorate in which they are imprisoned), which would need to be considered as part of any decisions on legislative change to enable prisoners with longer sentences to vote.

Panel recommendations	PSA view
R22. Granting all prisoners the right to vote.	Support the intent of this recommendation, but further discussion and debate is required.

Enrolling to vote

We support provisions that make voting as accessible as possible to all people, and in particular those who may have the greatest barriers to having their voice heard.

We support the panel's recommendations that would make it easier for Māori to exercise the right to be on the electoral roll (Māori or general) they feel is most appropriate for them, with minimal barriers. This includes enabling people to choose to move onto the Māori roll at any time, and to choose which electoral roll they want to be included on for local versus general elections.

Panel recommendations	PSA view
R25. Allowing the Māori electoral option to be exercised at any time up to and including election day for general and local elections, while retaining the current prohibition ahead of by-elections.	Support
R26. Allowing anyone of Māori descent to be registered simultaneously on one roll for general elections and a different roll for local elections.	Support
R27. Improving education and engagement about the Māori electoral option.	Support

We support the panel’s recommendation for an all-of-government approach to encourage and support people to enrol, including when accessing other government services (eg, by providing enrolment forms at government offices or having a tick-box option on other government forms to share a person’s details with the Electoral Commission to receive more information about how to enrol).

We agree that the use of digital enrolment is something that requires more consideration and debate, to balance the need to make enrolment easy and accessible against the need to make sure electoral rolls are accurate. We suggest that the current postal method does not sufficiently achieve this.

Voting in elections

We support recommendations that would make voting more accessible to a wider range of people, particularly those with the greatest barriers to voting in the current system. Ensuring a minimum number of days for advance voting, and introducing standards for the accessibility of polling places, would support this aim.

Panel recommendations	PSA view
R28. Requiring advance voting to be provided for a minimum period of 12 days.	Support
R29. Including standards in electoral law for polling places to ensure they are widely available and accessible, including during advance voting.	Support

Paid time off work to vote

We disagree with the panel’s suggestion that the provision allowing workers to have paid time off on election day could be removed.

Although the advance voting period gives people more opportunities to cast a vote outside of their working hours, we believe there is value in retaining the current provision.

The advance voting period gives people a more convenient opportunity to vote if they’ve made up their mind and feel ready to make a decision. However, the days leading up to an election are often times at which information about the parties, candidates and their policies continues to emerge. People who are undecided about their vote should have the right to take all the time available to absorb the information presented to them during this time, without being pressured to make a vote earlier than they are ready to because of their work obligations.

Even with the panel’s recommendations around a minimum advance voting period and standards around accessibility, voting locations are unlikely to be as numerous during the advance voting period as on election day. That means for some people, it is likely that voting on election day is more accessible and convenient than doing so in the advance voting period. Additionally, Aotearoa still has a strong civic tradition around voting day, one that many people may wish to participate in alongside their families and the wider community.

Election day is the last day a person can vote. If an employer refuses time off earlier in the advance voting period the person will have another chance, but if an employer refuses on election day the person will lose their only remaining opportunity to vote.

Ultimately, we believe that every aspect of our electoral system should be working towards the goal of promoting voting by making it accessible and convenient. If advance voting perversely created additional barriers to voting, due to people being required to travel to less convenient locations at

less convenient times due to no longer being unable to take time off work, it would be a negative outcome for democracy.

If there is a need for greater consistency, we would recommend changing the provisions in the law so that any person can take paid time out from work to vote, at any time during the voting period, if they have not had, or are unlikely to have, reasonable opportunities to vote outside of their working hours. This should account for the principle that a ‘reasonable opportunity’ to vote:

- **shouldn’t require a person to go further out of their way than they would have to on election day, and**
- **should account for undecided voters to be able to take until election day to make a decision about their vote.**

Failing that, the provision in the Electoral Act should be left as is.

Improving voter participation

We are in favour of measures that will help improve voter participation, including funding for community-led participation initiatives.

Civics education has repeatedly come up in conversations with our members, in relation to this review, the review into the future for local government, and more generally. Several members we consulted regarding this review talked in particular about the need to ensure any change to the voting age is accompanied by comprehensive civics education, both for children and adults.

Panel recommendations	PSA view
R43. Developing a funding model to support community-led education and participation initiatives, with this model also providing for ‘by Māori for Māori’ activities.	Support
R44. Allowing people to include preferred names in addition to their legal name for enrolment and voting purposes.	Support

We note that the review considered the possibility of free or discounted transport on election day but chose not to make a recommendation. We disagree and think that free or discounted public transport on election day would be of benefit. Even if the overall numbers of people served by this initiative were low, it would be of the greatest benefit to those with the highest barriers to participation. For this to work as well as possible, transport should be free to ensure it captures not only those who have difficulty affording the fare, but also those who lack the practical means to access public transport (ie, those who don’t have Snapper or Hop cards).

We recommend the Government fund free public transport on election day.

Parties and candidates

Political finance

The current political finance system in New Zealand enables some New Zealanders to use their wealth to exercise a disproportionate degree of political influence over governments. This issue is particularly important in the context of the well-documented widening of income and wealth inequality in Aotearoa New Zealand over the past three decades and the steady decline of party membership, which has made New Zealand political parties more reliant on wealthy donors for funding.

We support the intent of the panel’s provisions to limit the influence of wealthy individuals and families on politics and to improve the transparency and legitimacy of elections and government. The recommendations provided by the panel do a good job of tipping the balance away from large donations from high-wealth individuals, organisations and companies, and towards a system of state funding supplemented by small donations from a wide group of voters.

Members we surveyed were overwhelmingly supportive of the panel’s recommendations on:

- Permitting only registered electors (ie, not businesses, unions or other organisations) to make donations and loans to political parties and individual candidates.
- Limiting the total someone can give in donations and loans to each political party to \$30,000 per electoral cycle
- Reducing the amount that can be donated anonymously to \$500.

Some individual members commented that the proposed limit of \$30,000 for donations is too high and would prefer to see a lower limit. In any case, the cap should certainly not be higher than \$30,000 as this is well beyond the means of most New Zealanders.

Panel recommendations	PSA view
R53. Permitting only registered electors to make donations and loans to political parties and individual candidates.	Support
R55. Limiting the total amount a registered elector may give by way of donations and loans to each political party and its candidates to \$30,000 per electoral cycle.	Support, but limit could be lowered further
R56. Reducing the amount that can be donated anonymously to \$500.	Support

Members we surveyed were generally supportive of the idea of base funding for political parties, as it provides a more equitable playing field and helps to limit the influence of wealthy individuals on elections.

Members we surveyed generally opposed the panel’s recommendation of providing tax credits for people who make donations of up to \$1,000. We are supportive of the intent behind this proposal to encourage small-scale donations so the landscape of political donations can better represent the popular support of working people rather than the influence of a few high-wealth individuals. The feedback from our members, however, suggests that they see tax credits for political donations as an undesirable use of public funds. If this recommendation proceeds it may be more appropriate to consider a lower scale that more closely reflects the financial means of the average household.

Panel recommendations	PSA view
R62a. Providing registered political parties with per vote funding on a sliding scale	Support
R62b. Base funding for registered political parties	Support
R62c. Providing tax credits for people who make donations of up to \$1,000	Oppose
R62d. A new fund – Te Pūtea Whakangāwari Kōrero ā-Tiriti / Treaty Facilitation Fund – to facilitate party and candidate engagement with Māori communities	Support
R62e. Expanding the purpose of the Election Access Fund to include applications by parties to meet accessibility needs in their campaigns, such as providing accessible communications and New Zealand Sign Language interpretation at events.	Support

Election campaigning and advertising

Members we surveyed generally opposed the panel's recommendation on permitting election advertising on election day anywhere except inside or within 10 metres of polling places (around 63% opposed).

The current rules are inconsistent between what's allowed during the advance voting period versus election day. However, some of the comments from members indicated that people appreciate the break from political messaging they get on election day itself.

We support the intention of providing consistency but believe further work may be needed to come to a solution that people are comfortable with.

As a democratic union we strongly value the ability of our members – and all New Zealanders – to be politically active and to express their political views. We note that each election a small number of voters fall foul of the law through actions such as stating on social media who they are voting for and why on election day – or in the case of local government elections, sharing photos of themselves in the act of voting. If the rules around election advertising don't become more permissive, it may make sense to look at the rules around what constitutes advertising in the context of social media.

We support measures to more adequately fund the work of the Advertising Standards Authority to consider complaints in a timely way.

Panel recommendations	PSA view
R63. Permitting election advertising on election day anywhere except inside or within 10 metres of polling places (where voters and scrutineers may only display lapel badges, rosettes, and party colours on their person).	Recommend further consideration
R68. Providing the Advertising Standards Authority with funding during election periods to support its ability to respond to complaints in a timely way.	Support

Electoral administration

Electoral Commission

We believe it is important that the Electoral Commission is empowered to support equitable participation in elections.

Panel recommendations	PSA view
R70. Amending the objective of the Electoral Commission to facilitate equitable participation.	Support
R72. Requiring the board of the Electoral Commission to have a balance of skills, knowledge, attributes, experience and expertise in te Tiriti o Waitangi / the Treaty of Waitangi, te ao Māori and tikanga Māori.	Support

Accessing electoral rolls

The majority of members we surveyed were supportive of the panel's recommendations to more tightly limit access to electoral rolls.

However, we question whether the recommendations go too far in terms of limiting access to electoral roll information for MPs and political parties. Limiting the ability of political parties to

campaign, effectively share information about their election platforms, and encourage people to vote may have negative outcomes in terms of voter engagement and participation in electoral process, especially for those for whom the barriers to participation are already greatest.

One submitter also pointed out that this change would have ramifications for those pursuing family history and genealogy, as the physical rolls (from 1984 to current day) are a valuable resource for tracking ancestors. Similar implications would exist for other historical research.

We support the intent of limiting the extent to which people can buy electoral rolls for marketing purposes, while retaining access to electoral rolls for purposes of research (including historical research), and practices that encourage participation in the electoral process.

Conclusion

We appreciate the opportunity to comment on the panel's interim report. The report provides a useful basis for public debate on issues that are important for improving how our democracy functions. We look forward to seeing and participating in further public debate as the Government responds to the recommendations the panel has made.

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Appendix 1: List of recommendations

The following is a list of recommendations from the panel’s interim report on which the PSA has expressed a view.

Panel recommendations	PSA view
R1. Redrafting the Electoral Act 1993 to incorporate the changes set out in this report	Support
R2. Reassessing the appropriate use of primary and secondary legislation as part of the redrafting process.	Support
R3. Entrenching the Māori seats, the method for allocating seats in parliament and the party vote threshold, the right to vote and stand as a candidate, and the process for removing members of the Electoral Commission	Support
R4. Requiring decision-makers to give effect to te Tiriti o Waitangi / the Treaty of Waitangi and its principles when exercising functions and powers under the Electoral Act. This obligation should apply generally across the Act and be explicitly included in the Electoral Commission’s statutory objectives.	Support
R5. The Electoral Commission prioritises establishing Māori governance over data collected about Māori in the administration of the electoral system.	Support
R6. Lowering the party vote threshold for list seat eligibility from five per cent of the nationwide party vote to 3.5 per cent.	Further discussion needed about the appropriate threshold
R7. Abolishing the one-electorate seat threshold, provided the party vote threshold is lowered.	Support
R9. Fixing the ratio of electorate seats to list seats at 60:40, requiring parliament to be an uneven number, and allowing the size of parliament to grow in line with the population.	Support
R10. Holding a referendum on the parliamentary term, supported by a well-resourced information campaign (including dedicated engagement with Māori communities and leaders).	Support
R15. Repealing the restriction on Members of Parliament remaining in parliament if they cease to be a member of the party from which they were elected.	Oppose
R17. Lowering the voting age to 16.	Support
R22. Granting all prisoners the right to vote.	Support the intent of this recommendation, but further discussion and debate is required.
R25. Allowing the Māori electoral option to be exercised at any time up to and including election day for general and local elections, while retaining the current prohibition ahead of by-elections.	Support
R26. Allowing anyone of Māori descent to be registered simultaneously on one roll for general elections and a different roll for local elections.	Support
R27. Improving education and engagement about the Māori electoral option.	Support
R28. Requiring advance voting to be provided for a minimum period of 12 days.	Support

R29. Including standards in electoral law for polling places to ensure they are widely available and accessible, including during advance voting.	Support
R28. Requiring advance voting to be provided for a minimum period of 12 days.	Support
R29. Including standards in electoral law for polling places to ensure they are widely available and accessible, including during advance voting.	Support
R43. Developing a funding model to support community-led education and participation initiatives, with this model also providing for 'by Māori for Māori' activities.	Support
R44. Allowing people to include preferred names in addition to their legal name for enrolment and voting purposes.	Support
R53. Permitting only registered electors to make donations and loans to political parties and individual candidates.	Support
R55. Limiting the total amount a registered elector may give by way of donations and loans to each political party and its candidates to \$30,000 per electoral cycle.	Support, but limit could be lowered further
R56. Reducing the amount that can be donated anonymously to \$500.	Support
R62a. Providing registered political parties with per vote funding on a sliding scale	Support
R62b. Base funding for registered political parties	Support
R62c. Providing tax credits for people who make donations of up to \$1,000	Oppose
R62d. A new fund – Te Pūtea Whakangāwari Kōrero ā-Tiriti / Treaty Facilitation Fund – to facilitate party and candidate engagement with Māori communities	Support
R62e. Expanding the purpose of the Election Access Fund to include applications by parties to meet accessibility needs in their campaigns, such as providing accessible communications and New Zealand Sign Language interpretation at events.	Support
R63. Permitting election advertising on election day anywhere except inside or within 10 metres of polling places (where voters and scrutineers may only display lapel badges, rosettes, and party colours on their person).	Recommend further consideration
R68. Providing the Advertising Standards Authority with funding during election periods to support its ability to respond to complaints in a timely way.	Support
R70. Amending the objective of the Electoral Commission to facilitate equitable participation.	Support
R72. Requiring the board of the Electoral Commission to have a balance of skills, knowledge, attributes, experience and expertise in te Tiriti o Waitangi / the Treaty of Waitangi, te ao Māori and tikanga Māori.	Support