



Electoral Commissioner

Our Ref: 16/469

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Joint Standing Committee on Electoral Matters
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CANBERRA ACT 2600

Dear Ms Agostino

Joint Standing Committee on Electoral Matters: Review of the AEC's Annual Report 2016-17

Thank you for the invitation to provide a submission to the Committee's review of the AEC's Annual Report 2016-17. The submission is attached.

Yours sincerely

Tom Rogers

20 November 2017

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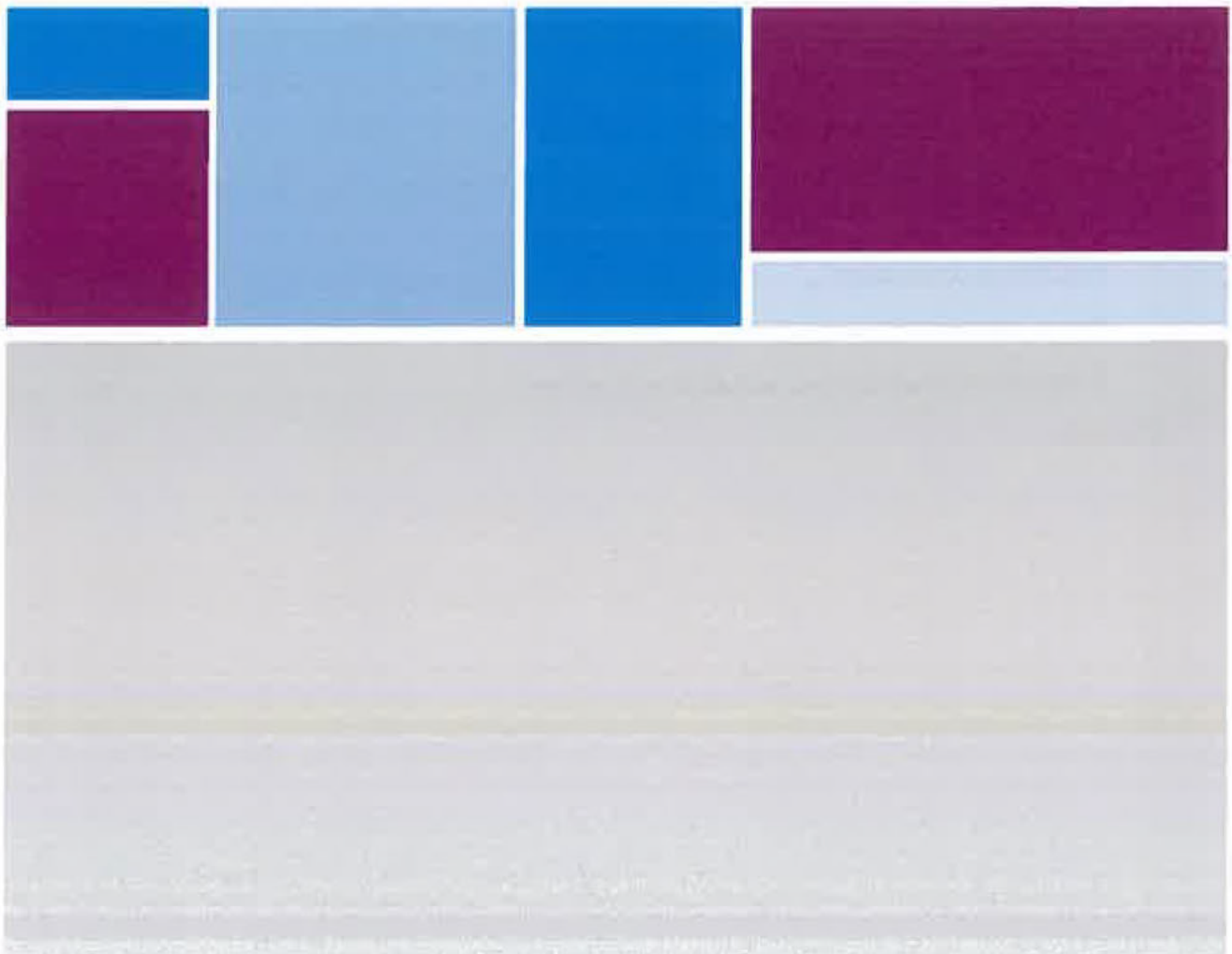
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Submission to the Joint Standing Committee on Electoral Matters

Review of the AEC's Annual Report 2016-17

November 2017



AEC

Australian Electoral Commission

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Overview

Over the course of the Joint Standing Committee on Electoral Matters (JSCEM) inquiry into the conduct of the 2016 federal election, the AEC has provided detailed information about key challenges to the ongoing sustainability of Australia's electoral system. These risks are outlined in the AEC's submission to JSCEM '*Electoral Management and delivery: AEC key risks and critical steps*' (submission 66.15 see **Attachment A**) and the discussion paper '*Federal elections: critical steps to sustain the electoral system*' (submission 66.18 see **Attachment B**).

In summary, since the AEC was established in 1984, the scale of federal elections has expanded dramatically. In line with that increase in scale, elector expectations have also evolved - particularly this century. Electors and stakeholders increasingly demand that the voting process be accompanied by the contemporary use of digital technology; that polling place queues are mostly non-existent; that early voting is widely available; that election results will be available instantaneously; and that there are zero errors at any point in the electoral cycle. Given the intricacies involved in the conduct of elections (including the use of a large and very lightly trained temporary workforce at short notice), these expectations create a challenging and complex logistical and operational environment for the AEC.

Further modernisation of electoral processes will require the provision of additional resources to the AEC (and in some cases legislative reform). The AEC has been funded to conduct each federal election based on a largely manual election delivery model. The funding received for AEC ongoing operations – in effect the money received between elections – is insufficient to provide for the long-term sustainability of the systems the AEC uses to conduct the federal election, and does not allow for long-term, meaningful innovation. In essence, the AEC has reached the limit of its capacity to innovate within its current budgetary constraints. Further modernisation is only possible with additional funding and support from government.

AEC information technology systems

The AEC's Election Management Systems are outdated

Summary

The AEC's current election and enrolment management systems are outdated and have become a strategic limitation on agency capability. Specifically, AEC information technology systems do not enable the agency to provide an agile response to changes in the legislative, regulatory, demographic or technology environments. The maintenance of these systems and efforts to keep them operating within the modern environment are becoming increasingly costly and present an increasing risk to the integrity and security of the electoral process and sensitive elector information.¹

¹ AEC Submission (66.18) JSCEM inquiry into the conduct of the 2016 federal election, p.6

The AEC has previously outlined to JSCem the key risks of not modernising ageing IT infrastructure, these include:

- Current election and enrolment management systems are not able to be easily integrated with contemporary mobile platforms, creating an additional ongoing risk that the AEC will not be able to meet modern community expectations.²
- Outmoded election systems do not enable national visibility of election operations providing no ability to source real-time data during the election to monitor, for example, the flow of voters, ballot paper supply, progress of the count and the progress of critical issues that arise in polling places.³
- Cyber security across the electoral environment is a key risk of relevance to the AEC. The AEC works closely with relevant government agencies to ensure its processes and systems operate within a controlled and monitored environment.⁴
- Processes and significant people time are required to 'fill the gaps' between various business systems that cannot talk to each other and cannot be modernised.⁵

In a changing external environment, continuing investment in outdated systems that are now past their useful life is inefficient, and investment in systems built for the current and future environments must now be considered. If left in their current state, these ageing systems pose a serious risk to the ongoing sustainability and integrity of the electoral system.⁶

Expanded use of Electronic Certified Lists (ECLs)

Summary

ECLs offer significant benefits in supporting the conduct of a federal election, but the process and technology need to be scalable to a broader deployment. The AEC has previously expressed the view that, without further resourcing and development, the AEC's ECL system would not be scalable to a national rollout.⁷

An extension of the current use of ECLs at federal electoral events would improve the voter experience. More widespread ECL use could potentially reduce wait and queuing times, and allow ballot paper stocks to be monitored in real time. As noted at the 2015 by-elections, where the AEC used the ECLs widely, the initial number of apparent multiple voters was greatly reduced. More widespread use of ECLs offers greater integrity of the process.⁸

² *ibid.*

³ *ibid.*

⁴ AEC Submission (66.15) JSCem inquiry into the conduct of the 2016 federal election, p.6

⁵ *ibid.*, p.8

⁶ Submission (66.18) JSCem inquiry into the conduct of the 2016 federal election, p.6,7

⁷ *ibid.*, p.13

⁸ Submission (66.0) JSCem inquiry into the conduct of the 2016 federal election, p.36

A full national (or large scale) deployment of ECLs would require a further evolution of the current ECL solution. Amongst other aspects, this evolution would need to include:

- the logistics and management of a much larger deployment
- a higher level of integration with internal systems
- improvements to the management portal component
- larger volume tracking and security requirements, and
- a means to overcome tight time frames in deployment.

Alternative models could be investigated for the ECL to either support a larger rollout or provide for different types of devices for different purposes, for example a simple look-up device for declaration issuing points that may be smaller and cheaper than a fully functioning ECL.

However, even deployment of simple look-up devices for all declaration issuing points would still involve substantial upfront and election investment in terms of resources and budget. The AEC is not currently funded for this level of investment.

AEC temporary workforce challenges

Summary

- The AEC has previously expounded, at length, on the increasing difficulty and extreme risk involved in using a large, lightly trained temporary workforce as the main staffing component in the delivery of a highly complex federal election.⁹
- The AEC's workforce, including permanent APS and temporary staff, is a key determinant for the successful delivery of electoral events. The agency is investing significantly in building its human resource capability, to better support the delivery of complex electoral operations and meet the business challenges of the future.
- The AEC has also recently made improvements to its learning and development function for APS staff. These include stronger governance arrangements, a new learning management system 'AEC learning', the rollout of a new training curriculum for our Australian Public Service and temporary election workforce, and the successful delivery of our election readiness program. Further workforce planning improvements will be rolled out as the agency's strategy for continuous improvement progresses ahead of the next federal election.¹⁰

As outlined in the AEC's main submission to JSCEM (submission 66) the AEC continues to face an enormous challenge every federal electoral event to recruit an 80,000 strong temporary election workforce (TEW) and effectively train many of them to perform critical roles during the election period. This includes before and on polling day and managing counting processes post polling day. Many of these workers, in particular those who perform the critical role of Officers-in-Charge (OICs) of polling places, pre-poll voting centres and mobile polling teams require a level of knowledge and capability to give

⁹ AEC Submission (66.15) JSCEM inquiry into the conduct of the 2016 federal election, p.12

¹⁰ AEC Corporate Plan 2017-21, p.19,20

assurance and confidence that they will execute their legislative and policy requirements effectively, accurately and lawfully.

The AEC has highlighted to JSCEM (submission 66.18) the ongoing difficulties involved with the use of a very large, lightly trained workforce for critical election tasks, even with a continued focus on better training and quality control. In acknowledging the immense challenges involved in this situation, the AEC notes that there is unlikely to be one, single, solution, but proposes a possible way forward involving more permanent engagement with, and better training for, a core group of that workforce.¹¹

Proposed new Temporary Election Workforce (TEW) model

Summary

There is a large turnover of temporary staff at each federal election, with around 50 per cent of the temporary election workforce being new at each federal election. However, there is significantly lower turnover of what could be considered 'senior' temporary staff - OICs, Polling Place Liaison Officers and others. Given the retention rate of those positions is approximately 80 per cent, the AEC believes there may be a solution, at least in part, by focusing on that group.

- In essence, the AEC believes that the future model of temporary staffing for electoral events must revolve around a core group of better trained, assessed, and quality controlled electoral staff with whom the AEC is in permanent contact. Given there are around 7,000 polling places, the model would involve establishing a pool of around 10,000 people to participate in the regular training and assessments for a few days each year to ensure they are capable of fulfilling key roles at election time. The AEC would also mandate that all senior polling officials must come from that group.
- This model would provide the AEC with a continuously trained workforce able to cope with the complexities of Australia's electoral system, including non-fixed term elections, and the ability to more easily adapt to any legislative changes in each electoral cycle. It would be possible to reduce the costs of this proposed approach by, for example, sharing this pool of trained temporary staff with the state and territory electoral commissions, and relying on technology for at least part of the training. However, there will be a cost involved, and the AEC will need to be financially supported in implementing such a change.¹²

¹¹ Note: AEC Electoral Commissioner, opening statement to JSCEM (March 2017), p.3

¹² AEC submission (66.15) JSCEM inquiry into the conduct of the 2016 federal election, p.12

Standards for Australian internet voting, electoral cyber security and physical security and voting points

Standards for Australian internet voting

Summary

The AEC is currently not able to provide an internet voting service at federal elections. At the 2007 federal election the AEC successfully trialled electronic voting for overseas Australian Defence Force members through the Department of Defence ICT network. However, following a recommendation by JSCEM, the trial was discontinued due to the high average cost per vote. The AEC is aware that a number of state and territory electoral commissioners have trialled and utilised various forms of electronic and internet voting services.

As a member of the Electoral Council of Australia and New Zealand (ECANZ), the AEC has contributed towards the development of 11 essential principles for an Australian internet voting service which were endorsed by the ECANZ on 4 July 2017. The principles, which cover the three key areas of Enfranchisement, Integrity and Privacy, are intended to guide the design and implementation of an internet voting service in Australia for use by all member Electoral Commissions. The ECANZ 11 essential principles are at **Attachment C**.

Electoral cyber security and physical security and voting points

Summary

Security is a business priority for the AEC that is managed through an integrated security program covering the agency's physical, information management and digital assets. The program adheres to the requirements of the Australian Government's Protective Security Policy Framework, and mitigates risk through a series of policies specifically designed to safeguard the integrity of electoral operations. As part of this program, the AEC liaises with a range of national law enforcement and intelligence agencies to identify and manage emerging risks in both its physical and online operating environments.

The AEC IT Security Team works closely with the Australian Signals Directorate (ASD) to mitigate cyber security threats and to ensure the agency complies with international best practice online security measures.

In the physical environment, the AEC works to provide a safe voting experience for all in our community, by liaising with government, security and policing agencies on an ongoing basis, to better plan and prepare for safe polling events.¹³

¹³ AEC Corporate Plan 2017-21, p.19

Electoral cyber security

- Cyber security across the electoral environment is a key risk for the AEC. The AEC works closely with relevant government agencies to ensure its processes and systems operate within a controlled and monitored environment. However, recent cyber security incidents, for example, the incident affecting the 2016 census conducted by the Australian Bureau of Statistics, and ongoing speculation about the recent US Presidential Election, demonstrate the potential catastrophic risk of a failure in this domain.¹⁴

Physical security and voting points

- AEC measures to prevent and respond to physical security incidents at elections include policies, training and communication protocols to ensure the safety of the public, AEC officials and election materials at election time. Escalation and response processes are communicated to staff so they understand how to respond in a wide spectrum of potential physical security incident scenarios. These include disturbances within the polling place (e.g. fights amongst electors, persons at the polling place with a weapon) and major external disturbances (e.g. major protests).
- The AEC is aware of the government's strategy for Protecting Crowded Places from Terrorism and is considering the responsibilities for Commonwealth Government agencies outlined in the strategy as part of election planning.
- The AEC participates in Australia's Strategy for Protecting Crowded Places from Terrorism which is based on strong, trusted partnerships between all levels of government and those responsible for crowded places. It aims to make crowded places as resilient as possible to terrorist attacks while preserving our use and enjoyment of these places.

Addressing overly prescriptive parts of the Electoral Act and resolving other technical issues

Legislative constraints

Summary

Modernisation is required to enable the AEC to continue to deliver best practice electoral services that can adapt to changes in technology and voter behavior. Therefore it is essential that innovation is not prevented because of the prescriptive nature of electoral legislation.¹⁵ The following examples demonstrate the extent of the prescriptive nature of the Electoral Act.

- The extremely prescriptive nature of the Electoral Act in relation to formality, scrutiny and recounts compels the AEC to conduct a complex initial count, then

¹⁴ AEC submission (66.15) JSCEM inquiry into the conduct of the 2016 federal election, p.6

¹⁵ AEC submission (66.18) JSCEM inquiry into the conduct of the 2016 federal election, p.11

fresh scrutiny and an additional recount process where there are close seats. The results of any decision on the admission of challenged ballot papers into the count is required to be written on the back of each ballot paper and there is no restriction placed on the number of times that individual ballot papers can be challenged during this process. This prescriptive process can impact on the timely delivery of the result of the election and the eventual formation of government.

- Legislative complexity also challenges a cornerstone of electoral integrity: the accuracy of the roll. Legislative restrictions on the AEC's power to remove electors from the roll, where it has been determined they are not eligible, in a timely and efficient manner, have the potential to impact on the integrity of the electoral roll and therefore the results of an election. The processes for enrolment and the lodging of objections to enrolment are largely paper based and involve significant manual interventions.
- As long as a paper-based or a paper-supported election model is used, complex logistics arrangements will be necessary. This complexity is added to by the requirements contained in the Electoral Act that ballot papers must be moved to the elector's home Division so that decisions on the formality of ballot papers can be made by that Divisional Returning Officer. In addition, the Electoral Act currently only enables the AEC to have one Divisional Returning Officer in each Division who is then required to make numerous decisions on the admission of declaration envelopes and the formality of votes marked on the ballot papers.¹⁶

Proposed technical amendments

Summary

In December 2016 the AEC submitted to JSCEM 34 recommendations for legislative amendments to the Electoral Act (submission 66.8) that essentially remedy errors, out-dated provisions and anomalies in the legislation and do not involve any change in policy. In June 2017, JSCEM endorsed the AEC's technical amendments in its Third Interim Report into the conduct of the 2016 federal election, stating that the "Committee believes that making technical amendments to legislation may assist the efficacy of the AEC conducting federal elections and counting votes".¹⁷

The AEC considers that the amendments would help address a number of the issues that arose at the 2016 federal election such as queuing, ballot paper supplies and delays to counting ballots. Other amendments relate to those identified following the implementation of the *Commonwealth Electoral Amendment Act 2016*, as well as recurring issues that the AEC has wanted to address for some years. Broadly, the amendments fall into the following areas:

- improving consistency between the electoral and referendum legislation;

¹⁶ AEC submission (66.15) JSCEM inquiry into the conduct of the 2016 federal election, p.9

¹⁷ JSCEM Third Interim Report into the conduct of the 2016 federal election, p.16,17

- enabling the AEC to undertake electoral processes more efficiently without compromising integrity;
- aligning legislation with current AEC administrative arrangements; and
- correcting minor errors and omissions in the electoral legislation.

Progress on implementing technical amendments

Summary

The AEC is progressing the technical amendments recommended by JSCEM in the Third Interim Report (along with some other minor technical amendments) and is working with the Department of Finance to seek their assistance in presenting a legislative proposal to the Special Minister of State for consideration.

To achieve the full benefit of the changes to the legislation, the AEC will require additional funding to modernise its systems, processes and procedures. While the AEC has embarked on a modernisation journey involving changes to the organisation's design and learning and training, modernising the AEC's ageing IT systems remains a significant challenge.

End note

To successfully implement the initiatives outlined in this, and previous submissions to JSCEM, the AEC will need appropriate funding, and time to adequately develop, test and implement new electoral management systems, staffing models and legislative changes ahead of an electoral event taking place.

However, the AEC is committed to working with the relevant stakeholders (including JSCEM, the Department of Finance, the government and other EMBs) to develop realistic, appropriate solutions for the future within our current resource constraints. The AEC will only be able to embark on a realistic modernisation journey with JSCEM's continued support for legislative change and funding solutions and looks forward to its further advocacy on the AEC's behalf in the future.