



Electoral Commissioner

REF: IS21-000001

Ms Rebeka Mills
Inquiry Secretary
Standing Committee on Petitions
PO Box 6021
Parliament House
Canberra ACT 2600

Email: petitions.committee.reps@aph.gov.au

Dear Ms Mills

Inquiry into aspects of the House of Representatives petitioning system relating to security and accessibility

Thank you for the opportunity to provide a submission to the Standing Committee on Petitions inquiry into the House of Representatives petitioning system.

The Australian Electoral Commission (AEC) has considered the terms of reference as they relate to our functions and is able to make comment on:

- the use of official records for verification purposes
- the introduction of an age limit.

The use of official records for verification purposes

Access to the electoral Roll is legislatively managed through the *Commonwealth Electoral Act 1918* (the Electoral Act). The Electoral Act includes provisions that allow the Electoral Commission to provide a copy of the electoral Roll under certain circumstances.

For the purpose of this Inquiry there are three possible options under section 90B(4) that could be considered to support verification purposes in the House or Representatives petitioning process.

Section 90B(4) Table Item 1

This item allows the provision of a copy of the electoral Roll to persons or organisations that the Electoral Commission determines are appropriate as soon as practicable after a general election and without charge.

If this provision is used, no change is required to the [Electoral and Referendum Regulation 2016](#) (the Regulation).

However, in order to provide Roll information under this provision, the Department of the House of Representatives would need to nominate a person to receive the Roll information, as the department is not an 'organisation' within the definition of section 4 of the Electoral Act.

Further, this provision is a one-time only, point in time provision. The copy of the electoral Roll will only contain names and addresses and will be provided as soon as practicable after a general election. The information that can be provided under this provision is limited to that set out in sections 83 of the Electoral Act which provides that only surname, given names and place of living can be provided.

Section 90B(4) item 3

Item 3 of section 90B(4) allows the Electoral Commission to provide a copy of the Roll, or an extract of the Roll to persons or organisations on request. The AEC may charge a fee for provision of Roll information under this item on a cost recovery basis in accordance with section 90B(9) of Electoral Act.

Roll information provided under Item 3 is limited to the surname, given names and place of living of each elector, and must be provided to a 'person' rather than the relevant Department. Further, provision of Roll information under this item would not require amendment to the Regulation.

Section 90B(4) Table Item 4

This item allows a 'prescribed authority' access to the electoral Roll in an ongoing arrangement governed by a Memorandum of Understanding (MoU) between the AEC and the agency head of the Commonwealth agency seeking Roll information.

For the department overseeing the House of Representatives petitioning system to gain access to the Roll in this situation, an amendment to the Regulation would be required.

For the purposes of the Electoral Act, a prescribed authority is defined as the Agency Head of an Agency (within the meaning of the *Public Service Act 1999*) that is specified in regulations made for the purposes of this definition or the chief executive officer of an authority of the Commonwealth that is specified in regulations made for the purposes of this definition.

Should access be approved there are ongoing obligations that a prescribed authority must maintain to retain access and ensure the security of Roll information.

Once approved as a 'prescribed authority' a copy of the Roll (and if agreed, information about date of birth, sex and occupation) is provided as agreed between the parties in MOU.

The inclusion of date of birth and sex information would ensure greater accuracy in assessing whether petitioners are enrolled than reliance solely on name and address

However, I note that if approved, this provision requires a change to the Regulation which details the provision of information on the Roll to particular people and organisations and to prescribed authorities. The Regulation also details the permitted purposes under which that provision of the electoral Roll will be provided. Once entered into the Regulation, a prescribed authority has certain ongoing compliance and assurance activities to complete as part of the MoU.

Suitability of electoral Roll information for verification of petitioners

It is important to note that not all people that satisfy the requirements for signing a petition may appear on the Roll. I note that the Committee has requested specifically that we provide Members with advice regarding a petitioner's citizenship or residency status.

Only Australian citizens will appear on the Roll. Broadly, to be eligible for enrolment a person must be an Australian citizen, or [eligible British subject](#), and be aged 18 years and over.

The electoral Roll does not have information regarding non-citizens' residency status except where they are Eligible British Subjects. British Subjects are eligible to enrol, if they were 18 years or older on 25 January 1984 and were listed on the Commonwealth of Australia electoral roll on that day.

While there is a current enrolment rate of over 96 per cent of estimated eligible electors, at the time of writing the AEC estimates that around 588,000 Australian citizens eligible for enrolment are not enrolled.

In addition there are other reasons that a potential petitioner may not appear on the Roll as disclosed under s 90B of the Electoral Act. For example under s 104 of the Electoral Act, details (including names) of silent electors will be withheld. Eligible Australian citizens living overseas may also not be on the Roll.

Introduction of an age limit

With regard to any age provisions under consideration, the Committee may wish to note that those eligible electors turning 18 may have not yet enrolled. Evidence indicates that this cohort is more likely to enrol for the first time in proximity to a state of federal electoral event.

However, in some instances, persons who are under the age of 18 will appear on the Roll. This is because section 100 of the Electoral Act allows persons over the age of 16, but under the age of 18, to submit a claim for enrolment as if they were 18 years of age. As these enrolment claims are required to be taken to be a claim for enrolment per section 100(3) of the Electoral Act, these electors appear on the electoral Roll (but are not entitled to vote in elections). Persons in this category may be provided under Item 4 only.

Use of information from electoral Roll

Finally I would like to be clear that there are legislative constraints regarding the use of electoral Roll information. Section 91A of the Electoral Act limits the use of information from the Roll to the purpose under which it has been granted and section 91B prohibits the use of Roll information for commercial purposes. There are criminal penalties that may be applied if this occurred.

I trust this information will assist the Committee in the conduct of its Inquiry.

Yours sincerely



Tom Rogers

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