

Chair and Members
Joint Standing Committee on Electoral Matters
Parliament House
Canberra

17 November 2021

Dear Chair and Members of JSCEM,

I am making the following submission in relation to your inquiry into the Candidate Qualification Checklist.

I should state at the outset that I am not an expert in constitutional law, nor am I a lawyer. My expertise is in public policy, politics and parliamentary studies, particularly in the area of public sector accountability.

S44 saga

Like many Australians, I followed the S44 saga and was shocked to learn that so many members of parliament (MPs), and especially those belonging to the more major political parties, did not know of (or perhaps discounted) the requirements that determined their eligibility to stand for parliament. I say shocked, as it is a basic requisite for anyone applying for a position to undertake the necessary due diligence in order to ascertain if they are even eligible to apply for a position. All candidates for a seat in parliament are, in effect, applying for the job of parliamentarian (the people's representative in parliament).

Australian citizens have a right to expect that all political parties would ensure that every candidate meets the requirements laid out in the Australian Constitution before they can put their name forward to be a candidate. Clearly, this did not happen. If it had the S44 saga would not have occurred.

With a desire to help ensure that another S44 saga does not happen again, I read the Exposure Draft with a particularly critical eye, and as if I was an independent candidate who did not have the resources and electoral expertise of a political party behind them. I make this comment in the expectation that political parties will now ensure that all of their candidates, those recontesting a seat and new candidates, are indeed eligible to stand for office in an election.

As I read the Exposure Draft, I noted areas that that I thought could be made clearer and did so in an effort to assist the Committee. You may think that some of my comments are unnecessary as a meaning is self-evident. However, I understand from experience, that if you are putting together a document based on your area of expertise, what is obvious to you may not be to others whose expertise is in a different area.

The following comments are not intended to be critical of the Australian Electoral Commission, an organisation for which I have the greatest respect. All Australians are very fortunate to have such an organisation overseeing Australia's electoral system and its

processes, and we must ensure that it is at all times appropriately funded so it can continue its vital role in an effective manner.

Comments on the Qualification Checklist Relating to your Eligibility Under Section 44 of the Australian Constitution: Exposure Draft

My comments are in italics and follow directly on from identified sections in the Exposure Draft document.

Checklist

Paragraph 7

Please provide supporting documentation as appropriate.

Would it be worth adding what it is appropriate to?

Paragraph 12, Item 1

1. Provide the following details about yourself. Provide as many details as you know and "DON'T KNOW" for any details you do not know.

Perhaps inserting the word 'state' before DON'T KNOW would be useful?

Item 2

I think there are words missing. Should the first sentence read Provide the following details about each of your parents and grandparents (whether biological or adoptive and whether or not they are still living).

I have inserted the words 'they are' before "still living".

Table 7: 2.1

This person's relationship to you (e.g., mother, adoptive father)

The examples might be confusing. Would it be better to state clearly all the relevant relationships – mother, father, adoptive mother, adoptive father, grandmother, grandfather etc. etc.

Item 3

The heading **Current spouse or similar partner**

Is similar partner open to an individual's interpretation of the word similar. Would it not be better to state what exactly is a similar partner?

I apply the same comment to 3a.1 and to the heading directly above 3a.3

Table 3a.3

If "YES" to item 3a.2 and you are married to this person – was this person a citizen of a country other than Australia at the time of marriage.

What happens in the case of a similar partner? Does the question not apply to similar partners and if not, why are similar partners identified in the heading? Will this be confusing?

Item 4

The heading: Former spouse or similar partner.

See above comment re similar partner

Table 4b. 1

See previous comments about similar partner

Table 4b.2

If you were married to this person was this person a citizen of a country other than Australia at the time of marriage?

What if the person was in a 20-year similar partnership relationship but never married to the person? The similar partner reference is confusing to me. The headings indicate spouse or similar partner and the other questions simply refer to being married.

Table 4b.3

Only refers to marriage – see above comment.

Table 4b.4

Refers to a relationship. Is this the same as a similar partner?

Table 4b.5

Refers to a relationship. Refer to the comment directly above.

Section in brackets and italics after 5a.7

Would the message be even stronger if it was not in brackets and if the word ‘completely’ was placed between “are” and “satisfied” so that it reads ...that you are completely satisfied supports your contention.

I hope the above comments are of some use to the JSCEM. Should the Committee have any queries about issues raised in my submission, I would be happy to address them. `

Best wishes

Dr Collen Lewis

Honorary Professor, Australian Studies Institute, ANU