

ELECTORAL MATTERS COMMITTEE

Inquiry into the Conduct of the 2022 Victorian State Election

Melbourne – Monday 28 August 2023

MEMBERS

Luba Grigorovitch – Chair

Evan Mulholland – Deputy Chair

Brad Battin

David Ettershank

Sam Hibbins

Emma Kealy

Nathan Lambert

Lee Tarlamis

Emma Vulin

WITNESSES (*via videoconference*)

Nathan Despott, Head of Policy, Research and Advocacy,

Professor Keith McVilly, Professor of Disability and Inclusion, University of Melbourne, and

Dr Paul Ramcharan, Scope-UoM Senior Research Fellow, University of Melbourne, Inclusion Melbourne; and

Cam Bloomfield, Peer Leader, Rainbow Rights and Advocacy, Team Member, I Can Vote, and Consultant, Inclusion Melbourne.

The CHAIR: I declare open the public hearings for the Electoral Matters Committee Inquiry into the Conduct of the 2022 Victorian State Election. All mobile telephones should now be turned to silent.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us is gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings.

I am Luba Grigorovitch, the Chair of the committee and the Member for Kororoit. The other members of the committee here today are Evan Mulholland, Member for Northern Metropolitan; Brad Battin, Member for Berwick; David Ettershank, Member for Western Metropolitan; Sam Hibbins, Member for Prahran; Emma Kealy, Member for Lowan, who I believe is logging on or will be with us shortly; Nathan Lambert, Member for Preston; Lee Tarlamis, Member for South-Eastern Metropolitan; and Emma Vulin, Member for Pakenham.

I welcome our witnesses here today making this submission. We have got on the screen with us Keith McVilly, Paul Ramcharan, Cameron Bloomfield and Nathan Despott, so welcome to each of you.

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, including on social media, those comments may not be protected by this privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded by Hansard and is also being broadcast live on the Parliament's website. You will be provided with a proof version of the transcript for you to check as soon as it is available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible. I do not believe there is any media present.

On that note, I invite you to proceed with a brief 5-minute opening statement to the committee, which will be followed by questions. So I will hand it over to one of you. Thank you.

Visual presentation.

Nathan DESPOTT: Thank you. This is Nathan Despott here from Inclusion Melbourne. Our team here today represents a range of partners who have worked on a project relating to the political inclusion of people with cognitive disability in Victoria and also across Australia for about 10 years. Some of you here will be aware of the I Can Vote project and the work that it has done. I can see Sam there, who was also involved in making a video with us some years ago.

On the screen there is just a simple map of the work that has happened over the last 10 years. Our work began with an investigation of sites of best practice globally – work, projects, campaigns, anything related to the inclusion of people with cognitive disability, particularly intellectual disability and acquired brain injury, in voting – and the first work we did was in 2013 to 2017. We began with a campaign in 2018 in terms of a formal project, and that involved many self-advocates with intellectual disability. And one of our leading partners, Cam Bloomfield, is here today. Cam has been an amazing force of change and a voice for inclusion. And that project involved creating easy-language, captioned videos with a careful, risk-checked, impartial, easy-language translation process and a website with a whole range of videos that were standardised and roughly 2 to 3 minutes long. We had quite an impressive reach, I guess – about 100,000 views of those videos back in

2018 at the Victorian state election. We then held some round tables in Victoria in 2021, which Paul Ramcharan, who is with us today, can mention a bit later.

We then ran the video project again in 2022. I am able to answer questions about how that functioned, but it was a very interesting experience with a lot of positive engagement from the leaders of most of the large parties. We were able to make videos that were capturing quite an expensive – a lot of sort of free gifts and offerings from translators and video production organisations, and really generous engagement of the leaders of the Nationals, the Greens, the Victorian Socialists, the Labor Party and some others. The Liberal Party went almost all the way with producing a video with us and sending us content to be translated into easy language into a script, but then at the last minute did not record their video for some reason. You can see the content at icanvote.org.au. Around that time the project won an international award for its work for bringing together some of the world's best forms and techniques and tools of political inclusion into one project, which we are very proud of, and proud of Victoria as a leader in this space.

We recently held our political inclusion national summit, which was taking this work, I guess, to a national level. You can see the welcome slide from the summit on the screen at the moment. It was held 14–15 August this year, so a couple of weeks ago, with the partners that you can see there on screen. We had about 80 people from across the country: advocates, human rights lawyers, the Victorian human rights commissioner, the disability royal commissioner, and about 40 per cent of the speakers in attendance were people with cognitive disability – extremely impressive content, and I am happy to share that with you at a later point.

The problems that have emerged in our work, if I could summarise them – this is years and years of work summarised into two slides here – is that essentially in Australia, but particularly in Victoria, people with cognitive disability do not have enough support to learn about politics. We have had this amazing interaction with the Victorian Equal Opportunity and Human Rights Commission and their legal team, as well as engagement with various other commissioners and disability academic researchers, to really outline the fact that the right to vote for people with cognitive disability is actually grounded in a deeper right, and that is a right that is not realised properly or really much at all in Victoria, which is the right to have consistent support to learn about politics in a way that any other person in the general population would have, even at a basic level.

The second problem I guess that we have come against is that there is not enough support to help people learn to make decisions, so the embedding of supported decision-making in everyday support practice for people with cognitive disability in a consistent way does not extend to political learning. There is a lot of risk perception there. I can imagine that a lot of risks come to mind immediately when we talk about people with intellectual disability voting. A lot of our work has been to painstakingly document, assess, analyse and interrogate that risk perception. Obviously we do not have time today to run through that detail, but we have considerable sort of world-leading content to share with you about that.

Too many people think that people with intellectual disability cannot learn about politics and voting. Government and politicians do not make politics inclusive for people with cognitive disability and use jargon. We have seen that in terms of some of the responses we had to our I Can Vote campaigns from political candidates and incumbents who I guess were not really aware of what it meant to use inclusive language. Although I am sure you would agree that for the general population this is an issue as well sometimes. There also is not enough standardised information about politics and parties in elections that people with disability can access and understand.

In Victoria the Electoral Matters Committee is so important. We have identified it as being a powerful committee that has a number of components in it that do not exist in any other group or body in Victoria. This is because the human rights commission does not have as part of its purview the ability or role to create inclusive, accessible language information of a partisan nature. The electoral commission itself is not able to engage with this and in fact has kept a very wide berth around our work over the years, and sometimes that has even been a little bit difficult to deal with. However, your committee has a range of members of Parliament from across the political spectrum and insight and purview into a range of matters that come close to the work that we do.

What you can see on the screen at the moment are some of the resources from the I Can Vote project materials, and we are looking to expand the range of materials in the near future. Up there you can see some screenshots of some of the videos that were created for this campaign. The videos were 2 to 3 minutes long with

standardised scripts in easy language. The rules about how we created these materials are on the website, and I am happy to send them to you. The rules document is in plain language and explains the fine details of how we put the project together, right down to whether or not translators were allowed to be members of political parties themselves – all that kind of thing.

I will not go through these following slides, but I will go through the last slide, which is one of the concluding slides from our political summit that we ran two weeks ago. We sort of boiled the areas of [Zoom dropout] and consensus down to five rough areas, which we will further work on. But essentially, moving forward in this work we want to see a shared understanding and acknowledgement that at the moment there is a gap in the sense of government and parliamentary responsibility around the enactment and realisation of the [Zoom dropout] disability grounded in the fact that there is a profound gap in regard to the right to be supported to learn about politics; that there are several ways to learn about politics that need to be implemented, and some of these require a bit of money, but because what we do is considered so sensitive, we often have to run on the smell of an oily rag at considerable cost to many of the people involved in this work; and that support for everyday political inclusion needs to be better, and there are some reasons there on the screen.

The fourth point is that people with cognitive disability have a voice – a collective voice and an individual voice – and that they want to speak to politicians and to government about more than just issues about disability rights or disability services but also a whole range of other things. And last is that political information needs to be easy to understand and access and in some kind of consistent form. We see this has been connected to the *Disability Discrimination Act* as well, but as I have mentioned several times, it is not at the moment seen in the sort of official way of being connected to the right to vote; however, we feel that it very much should be seen as part of what is required for the state to support the realisation of the right to vote for people with cognitive disability.

I will leave the introductory comments there and introduce Professor Keith McVilly, who is our fabulous partner and support at the University of Melbourne; Dr Paul Ramcharan, who has been an absolutely stalwart supporter of our work for about four or five years now and without whom we could not do this incredible work; and Cam Bloomfield, who is surely one of the most incredibly impressive self-advocates I have ever worked with. I will open it up in case they want to say a few words of hello, and then it is over to you for questions.

The CHAIR: Thanks, Mr Despott. That is fine. I am mindful of time but more than happy if any of you want to say a few words.

Paul RAMCHARAN: Thanks very much for the floor. Just a few words, firstly, to observe that there is a democratic deficit for people with cognitive disability, that it is a very big democratic deficit and that it does not serve Victoria well not to hear those voices through the voting process. There is academic evidence which shows across the world that this is mirrored, so studies have found that whilst up to 90 per cent of people with physical impairment have voted, only 46 per cent of those with intellectual or learning impairments have voted. There are several other studies with similar sorts of statistics, although we are not aware of the accurate statistics in Australia or Victoria as a whole. So the first thing is that many people who can vote do not vote. The second is that there is now growing evidence and there are projects and initiatives around the world which show that, given the right support, many more people can vote. There are a group of people who are able to vote but who need the additional support to actually do so. Thirdly, we have evidence which is increasingly suggesting that in a longer term and scope approach, people with cognitive disability are able to make and take decisions. We saw some fantastic stuff at our recent summit.

There is not enough supported decision-making. Even people who do not communicate verbally can nevertheless make decisions, but they need connections to their community over time. They need to be supported and not have negative or discriminatory attitudes from families, carers or others. And having been able to make the decisions, there is evidence now that innovative training approaches are already being very successful in some countries in which there is not a mandatory voting system and that they have actually achieved a higher voting percentage than the general population as a whole. So those are really interesting innovations from which we can learn, and often those learning networks involve other people, community organisations, advocacy groups and others, not just the Victorian Electoral Commission. They are also things that must be treated locally, anticipating the lead times to each election or referendum, which is necessary in order to get things in place in time. Evidence now suggests that there are resources such as I Can Vote, but they have been few and far between. There needs to be more of these.

So all of the things that we have been doing point to ways in which we have actually helped to address the democratic deficit. We also need, finally, to work with politicians and parties in Australia, not just to use accessible language but also to recognise that there is a large group of people who they do not engage with, and it is a calculus of contact, really, in those instances. We have many of the tools, but we need more support to make sure there are reasonable adjustments to ensure that the maximum number of people with cognitive disability do go on to vote, who can vote.

The CHAIR: All right. Well, look, thank you very much for your contribution. We have obviously received the submission and we have all looked through it. I know that there are some committee members who have got some burning questions, so I might open it up. I will hand it over to Mr Hibbins to start off with.

Sam HIBBINS: Sure. Thanks, Chair. Thank you for appearing today. I just wanted to ask, for the committee's benefit, how would you rate the current VEC approach for people with cognitive disabilities?

The CHAIR: Yes, Mr Bloomfield?

Cam BLOOMFIELD: Sorry, yes. I have an intellectual disability, so what you just said, I did not understand a word that you just said. Could you please explain it easier for me?

Sam HIBBINS: My apologies, sure. I wanted you to give an assessment of how the Victorian Electoral Commission currently undertakes activities and outreach towards people with a cognitive disability.

Cam BLOOMFIELD: Thank you for that. With my personal view on it, they do not do things in simple and easy English for people with cognitive disabilities to understand. It is always in jargon and long words, you know?

Sam HIBBINS: Okay, thank you. I want to just go to one of the recommendations now within your report, and that was around the permitting of pre-completed ballots and even online submission. I am just wondering if you could provide us a bit more detail for the committee as to why that is important.

Nathan DESPOTT: I just want to quickly go back to one of the comments that you made as well in terms of the VEC. The electoral commission at the moment obviously is not able to engage with partisan political content. I know you know this, but I think it is important to note, because the way that this area of work and support has been conflated is considerable and is extremely problematic. The electoral commission produces a range of materials that are sometimes in easy language for people with cognitive disability. It is not about the political parties, the political issues. It is not about the policy, it is about what each leader is doing. It is about the act of voting and enrolling. The concern there is that when you do see people who are in power and you do learn about politics and have support from support workers, a circle of support or self-advocacy groups out there that may actually bother to do some work looking at the different parties' views and looking at the how-to-vote cards from different parties and that kind of thing, and from independents, then you see that desire to vote often emerge and you see that will to vote. But when that happens what we do find is that a lot of people do want to go to the voting centre on the day in person and vote there. It may be that with a circle of support and using a supported decision-making process they have listed their preferences on a piece of paper, and it is about being supported to transfer what is on that bit of page onto the ballot paper. That is one of several permutations, I guess. What we are referring to more is the range of permutations that we realise do work as part of a good, supported decision-making process. So I guess that point you are making there is part of a bigger conversation around adjustments and that kind of thing. In the past we have heard of people having that kind of support at the voting centre at the ballot box itself and being deterred from doing that kind of thing. Obviously the VEC has educated voting centre staff to not do that kind of thing anymore, but I guess what I am saying is there is a bigger picture here as well in terms of preparation.

Sam HIBBINS: Finally, back to the first question just in terms of the VEC not being able to provide party-political information or what have you, did you note in your submission that in other jurisdictions that is actually permitted and perhaps that could be something that the VEC could be permitted to do?

Nathan DESPOTT: Paul, I might hand that to you.

Paul RAMCHARAN: I just want to preface that by a number of comments which lead to the answer. The first thing is that the Victorian Electoral Commission does do as much work as it can in relation to the

development and delivery of training and has opportunities to do so in a number of educational settings and schools, which they have chosen to do, but it is limited to some extent. The first question has to be whether the resources that they have are sufficient to actually cover off on the requirements of what produces an adjustment that is sufficient for getting more people to vote. That is the first thing.

The second thing is to observe that in other countries some of the electoral commissions are actually working with community organisations to deliver training and resources and get the best from the available evidence about what can be used by those commissions. Intrinsically some of that is party political, but there is a separation that is made between the electoral commission and the organisations. The organisations may provide what is best evidence, but the delivery of the training takes place within those organisations themselves. So the way in which they manufacture that distinction between political and non-political is highly important when you get collaborations. At the moment the VEC does not necessarily collaborate with external community, except for organisations, in the ways that it possibly could to gain a much greater latitude and leverage on this problem as it currently exists.

Those are key issues in relation to the training aspect, and they have also got other things, websites and so forth, as well. The other issue is in relation to a primary area relating to access to both being enrolled and polling, and they do some of that. More is on the I Can Vote website, but more can be done. There is a tranche of international literature from which we can choose best options, and a literature review would soon put across which ones might be best for different groups who come with different needs. At the moment it is a scattergun approach rather than one that is thought through in terms of the diverse needs of the population of people with cognitive disabilities of different types. So I think we need some nuance in the system as well as simply having blanket approaches which are assumed to do the job for everybody.

Sam HIBBINS: Okay. Thank you. Thanks, Chair.

Nathan DESPOTT: I might just add, sorry – my statement would be that the UK Electoral Commission does fund quite a range of undertakings similar to what I Can Vote has done in Victoria, whereas our initial engagement with the electoral commission in 2018 and 2017 was very much that our work was viewed, I guess, as embodying an unacceptable amount of risk, to put it mildly.

Sam HIBBINS: Thanks.

The CHAIR: Thank you for that follow-up. I am mindful of time, but I will just hand over to Mr Lambert.

Nathan LAMBERT: Thank you, Chair. Thank you, all of you, for your advocacy on behalf of Victorians or Australians with a disability. I was just interested – you have just been speaking about the UK model. Am I right that there is no – certainly no soundness of mind, but no capability clause, if you like, in their electoral legislation? Instead it is managed through a clause that essentially says someone cannot vote on behalf of someone else, and that becomes the limiting factor from a regulatory point of view. Is that the right way of understanding the UK set-up?

Nathan DESPOTT: In the UK, mostly yes. You have also got the UK having a range of mental capacity separate legislation and commitments. Keith, I am wondering if you have got any more thoughts about the UK's legislative approach – and I can definitely say something about some other legislative and regulatory considerations for Victoria that in some ways put us ahead of the UK but we are currently not implementing in relation to this issue. But Keith, did you want to contribute something about the UK's approach?

Keith McVILLY: Well, maybe more with respect to where we are in Australia and our seeming over-reliance on the concept of soundness of mind in the context of voting: for a person to go before the court, all are presumed to be competent persons to have their day in court and we go through incredible lengths sometimes to establish whether a person is capable of taking their matter to court, yet with voting it seems very simple for someone to be removed from the electoral roll.

I think on these matters one of the issues before the committee, indeed the Parliament and the people of Victoria, is to grapple with how we might meet section 18 of the Victorian *Charter of Human Rights and Responsibilities Act*. This section of the Act guarantees that every person in Victoria has the right and is to have the opportunity without discrimination to participate in the conduct of public affairs directly or through their freely chosen representatives. So I think we need through these proceedings to grapple with how we might

make sure that that right is upheld. At the same time, I think we also need to grapple with the underlying ableism within the Act, which then reduces the opportunity, where people need to be eligible persons in order to exercise that right.

When it comes to issues of soundness of mind, I think we are endeavouring for all the right reasons to maintain the integrity of the voting process and the electoral process – but at what cost? In maintaining the purity of the process we are in fact excluding so many people from that process, and I think an issue before the committee is how we might navigate a way through that, maintaining the integrity of our electoral process and at the same time ensuring the inclusion of all Victorians.

Nathan LAMBERT: I am conscious of time, but just a quick follow-up question, Keith, on exactly that. You talk about the number of Victorians excluded. Do you have a sense of the number of Victorians with a cognitive disability who are being excluded – you know, some round figures for us, to give us a sense of the scale of the problem?

Keith McVILLY: Look, we have never collected these data, and I think that that is maybe something that the committee could explore: how these data might be gathered so we can measure the extent of the problem. I think it would be safe to say that there are many thousands of Victorians who have been excluded on the basis of unsound mind, but I would certainly like to see some evidence gathered and the circumstances of those individuals not simply reduced to numbers but for their stories to be told. I think that this would be a really important piece of work that the committee could possibly commission.

Nathan LAMBERT: Thank you.

The CHAIR: Thank you. I am mindful of time. We need to wrap this up at 3, but I will just hand over to my Deputy Chair, Mr Mulholland.

Evan MULHOLLAND: Thank you. The VEC at the Warrandyte by-election trialled an entrance for people with sensory impairments. Last week at our hearing, upon questioning, the VEC described this experience as a failure. What are your thoughts on that, and how can the VEC better go about this experience?

Nathan DESPOTT: I am just going to contribute to that. There are two ways to look at that. The first way is that that is indeed an issue of access, which in this case I am going to say is a little bit different to this area of broader political inclusion or perhaps cognitive access, we might say, in terms of access to information and the support to be able to be enfranchised to even have that ability to become an informed voter, at least informed enough to then go and actually vote on the day. So it is a matter of access. We do feel the VEC is quite impressive in its emphasis on access and physical access at voting centres. I think in some ways what we are looking at then in terms of some of the ways that various other actors and agents on the day did not respect the environment that the VEC was wanting to facilitate and create is perhaps an indication of some of those broader political culture issues we are talking about.

But on another level I think it is important to note as well that in Victoria we have the *Guardianship and Administration Act*, which incorporates supported decision-making, and more and more we have supported decision-making as a concept that is being embedded in a range of statutory instruments. A lot of what we are talking about in our approach to supporting people with cognitive disability, intellectual disability, complex mental health issues, acquired brain injury et cetera is about applying this model, or models if you like, of supported decision-making more consistently in this area of political learning in the same way that we as a state and you as members of Parliament have seen fit to include in other areas of how we do things in Victoria. So I feel like really what we are talking about is a lag in the way that these models and approaches and understandings are being implemented, the way that perhaps Parliament – maybe the VEC, but certainly Parliament – has a responsibility to more carefully scrutinise and place boundaries around political culture if it is wholesale excluding groups of people. That was a slightly wordy answer, but I do not think it is a simple answer to your question. But I do feel like what happened at that by-election certainly could be analysed for days and days and days.

The CHAIR: Thank you. I appreciate that. I am mindful of time, but I believe Ms Kealy has got a question, so I will hand it over to Ms Kealy.

Emma KEALY: Thank you, Chair. Cam, my name is Emma. I have got a question for you. Where do you go to learn more about who you should vote for?

Cam BLOOMFIELD: To be honest I do not go anywhere to learn about who I should vote for because it has never been brought to my attention. I started working on the I Can Vote campaign back in 2018, I think it was, trying to explain that when I first started voting it was hard, and even when the people hand out the papers to know who you are voting for it is still hard to read and understand those, you know? I just go by – I choose the party I vote for, but I just go by the numbers. I do not know exactly, because every time the parties bring out information it is always in hard and jargon words. It is not easy. I have got a particular party that I vote for, but there is nowhere to – even with the council elections, they make it hard as well.

Emma KEALY: Cam, I am a politician. We should be listening to you always, so what can we do better to listen to what you think about how we should run this state?

Cam BLOOMFIELD: Well, things in easy and plain English always help, you know, especially for people with intellectual disabilities, like me. I will be able to sit down and read something if it is in easy English with pictures next to it and simple, easy words and know what you mean for the party, what you are standing up for, instead of having all these long words and jargon that – no offence to politicians – all the politicians use. It is sometimes hard to know. I want to watch TV because I like following the political parties a bit, and even watching TV and trying to understand what the politicians are saying on TV – no offence again – they go onto a longwinded thing. It is only just the key points, what you stand for.

Emma KEALY: Cam, I agree that sometimes we talk too much. We should do two ears for listening, one mouth for talking; we should do it in order. Thank you, Cam.

Cam BLOOMFIELD: You are welcome.

The CHAIR: Thank you, Mr Bloomfield and Ms Kealy. That brings us to the end of our hearing, but thank you all so much for your continuous advocacy and all the work that you do. It is very much appreciated. I would now like to conclude the meeting and just remind you once again that you will be sent a final briefing once it is published. Thank you.

Witnesses withdrew.