



He Arotake Pōtitanga Motuhake

Independent Electoral Review

Key themes

An overview of the key themes and draft recommendations in our interim report

June 2023

A fairer, clearer, and more accessible electoral system

Kia ora koutou katoa

The electoral system is an essential part of Aotearoa New Zealand's democracy.

Over the past year, the Independent Electoral Review has been reviewing the electoral system to find out what is working, and what could be improved now and for future generations. We've heard from a range of New Zealanders from diverse backgrounds and viewpoints. We've also looked back and drawn on ideas that have emerged from previous work.

It is now clear to us that while many parts of Aotearoa New Zealand's electoral system work well, we think it can be improved. This document sets out the changes we're proposing, with a view to receiving your input before we make our final recommendations.

One of the main ideas underpinning our draft recommendations is fairness. Getting a 'fair go' is an idea that resonates with New Zealanders. But we've found several areas where our current laws are not as fair as they could be.

We also want to make sure that as many people as possible can take part in our electoral system, whether as voters, candidates, or members or supporters of political parties. We think that making our electoral laws fairer, clearer, and more accessible in the ways that we recommend will encourage this kind of participation and help ensure the success of our democracy in the future.

We hope that our vision for the future of Aotearoa New Zealand's electoral system will resonate with you.

We're due to send our final report to the government in November 2023. Prior to 17 July 2023 we want to hear from you so we can take your views into account when finalising our recommendations. Please tell us what you think. I look forward to hearing from you.

Ngā mihi nui



Deborah Hart

Chair, Independent Electoral Review Panel

What are we consulting on?

We are inviting feedback on our **draft recommendations** for ways to improve Aotearoa New Zealand's electoral system.

In September to November 2022, we asked for feedback on our [consultation document](#) and met with community groups, political parties, Māori, academics, and the public. Our focus was on forming a clear picture of the issues and opportunities people feel strongly about.

Over the last few months, we have taken the time to consider [the feedback we received](#) on our current electoral system, as well as your ideas for how it should look in the future. We also looked at reports from experts such as the Electoral Commission, modelled different options, and considered what's working well in other countries.

We have formed our initial view on what should change and what could be improved. We now want to hear your views, so that we can test our thinking and refine our proposals before we provide our final report to the Minister of Justice in November.

This document sets out **six themes** from our proposals that we think are most important for New Zealanders to know about. These themes underpin most of our draft recommendations and are critical to the success of our electoral system. If you have more time or want to know more, our [interim report](#) provides more detail on how we reached our initial views and sets out the full list of our recommendations.

Consultation closes on 17 July 2023

What is the independent electoral review?

We've been asked to look at ways to improve how elections in Aotearoa New Zealand work – such as who can vote, how they can vote, and how our votes determine who ends up in parliament.

We're drafting this report for the Minister of Justice but doing so independently from government. Our chair is Deborah Hart, and our members are Professor Maria Bargh (deputy chair), Professor Andrew Geddis, Associate Professor Lara Greaves, Alice Mander, and Robert Peden.

You can find out more about this review, including our full terms of reference and how to provide feedback on our draft recommendations, on our website: electoralreview.govt.nz.

Making our electoral law fit for the future



Key findings

We think the Electoral Act needs a complete rewrite. A lot of it is the same as it was 60 years ago, and some of it even dates to nineteenth century English law. It doesn't mention or recognise the importance of Te Tiriti o Waitangi/the Treaty of Waitangi, even though this is an important part of Aotearoa New Zealand's constitution.

Our electoral law has been patched up many times but is now clunky and confusing for people to understand. Some parts are too detailed, while others are not detailed enough. It specifies how things are to be done (like using post) rather than what is to be done. This makes it difficult to make improvements when rules go out of date (such as when technology evolves) and respond to new challenges (like holding an election in a pandemic). It uses outdated language about things like mental health and disabilities. It isn't clear or consistent about what should happen when people break the rules.

A key feature of our electoral law is that important rules can only be changed by a 75 per cent majority vote in parliament or a referendum (known as entrenchment), but there are some important rules that do not have this protection and should.

What are we recommending?

Our view is that the Electoral Act should be re-written to bring it into the 21st century, by:

- modernising its language, structure, and content to make it easier to understand, implement, and keep updated
- ensuring it gives effect to te Tiriti o Waitangi / the Treaty of Waitangi and its principles
- overhauling the offences and penalties to be consistent, effective, and practical
- expanding the rules that have special protection to include the right to vote, the right to stand as a candidate, and the Māori electorates
- providing clear rules for how an election can be managed if a national emergency arises.



Will our recommendations make electoral law fit for the future?

Please [let us know](#) your views on our findings and proposals.

If you'd like to know more, see [Part 1](#) of our interim report.

Improving MMP

Key findings

Under our Mixed Member Proportional (MMP) voting system, parties must win at least five per cent of the nationwide party vote or one electorate seat to get into parliament. A party that wins an electorate seat will receive additional seats based on their party vote even when they do not reach the 5 per cent party vote threshold.

These thresholds try to balance fairness, by ensuring seats in parliament reflects the number of party votes a party receives, with the need for an effective parliament and government. If there were a lot of very small parties, it could make it difficult to form stable governments or reach agreement on legislation. However, we found that the 5 per cent threshold is higher than it needs to be. It could be lowered without too many very small parties being elected to parliament. This would make our system of MMP fairer for supporters of small parties.

We also heard from people that the one electorate seat threshold is unfair and should go. We agree. It gives voters in some electorates more say than voters in other electorates about which parties get represented in parliament. We think that these changes can be made without impacting how well our parliament and government can function.

A further problem is that the number of electorate seats has been steadily increasing because of changes in population, at the expense of the number of list seats. If this change continues, we may reach a point where there are not enough list seats to give all parties their share of seats and this could affect the diversity of Parliament.

What are we recommending?

Our view is that the way seats in parliament are won in elections could be fairer and should more closely reflect the number of votes each party gets. We recommend:

- the percentage of total party votes that a party must receive should be lowered from 5 per cent to 3.5 per cent and the one electorate seat threshold should be removed
- the number of seats in parliament should increase in line with changes to our total population, to make sure we are all fairly represented by both a local MP and a party.



Will our recommendations improve our MMP voting system?

Please [let us know](#) your views on our findings and proposals.

If you'd like to know more, see [Chapter 4](#) of our interim report.

A referendum on the parliamentary term

Key findings

In Aotearoa New Zealand, we hold an election every three years. This gives people the opportunity to have their say on who should form a government and lead national decision-making for the next three years.

Some people think three years is too short for a government to develop and deliver good policy or for parliaments to properly consider and pass good legislation. Other people think that three years remains appropriate because, in the absence of greater checks on how governments exercise power, frequent elections help voters hold governments to account.

The term of parliament can only be changed by legislation passed by 75 per cent of all MPs or by a referendum. We think this is a question that should be decided by voters and not MPs. The last referendum was 32 years ago. It is time voters considered the question again.

What are we recommending?

Our view is that a referendum should be held on whether the term of parliament should be longer, so that New Zealanders can decide, and that this must be supported by a comprehensive and well-funded independent public information campaign.



What do you think of our findings and proposal?

Please [let us know](#) your views. If you'd like to know more about the arguments for and against a longer term of parliament, see [Chapter 5](#) of our interim report.

Supporting more New Zealanders to vote



Key findings

Voting is a fundamental right and an important way that people participate in our democracy. Our view is that some of the rules that limit who can vote (such as New Zealanders living overseas for a long time, prisoners, and younger people) are not justified. We think there should be a very high bar for limiting fundamental democratic rights.

We also found that some of the rules do not support people's diverse needs when enrolling and voting, nor reflect the ways many New Zealanders want to enrol and vote today, such as the increase in advance voting.

We support the work the Electoral Commission does to improve participation. We think this can be complemented by community-led education and outreach, as well as broader civics and citizenship education in schools.

What are we recommending?

Our view is that more New Zealanders should be eligible to vote and that all voters should have equitable opportunities to have their voice heard at an election. We recommend:

- lowering the voting age to 16
- giving all prisoners the right to vote
- allowing citizens to spend longer overseas without losing their right to vote but requiring permanent residents to be in the country longer before they can vote
- requiring there to be an advance voting period of at least twelve days
- setting standards for polling places to ensure they are widely available and accessible
- funding community and Māori-led programmes to encourage more people to get out and vote.



Will our recommendations support more New Zealanders to vote?

Please [let us know](#) your views on our findings and proposals. If you'd like to know more, see [Part 3](#) of our interim report.

Fairer rules for political financing and campaigning

Key findings

We think it is important that people have the opportunity to hear a range of views when considering who to vote for. The rules for political financing (how parties and candidates are funded) and election campaigns (how much can be spent and how they are run) should support a fair contest of ideas.

Under the current political financing rules, we found that some people and groups may be able to get much more access to parties and candidates than others. We heard that New Zealanders are concerned that it can be difficult to know who is giving money to parties and candidates, as well as what (if any) influence that money might buy.

We also concluded that many of our campaign rules are outdated. The rules and state funding for TV and radio advertising do not reflect modern campaigning, and the separate rules for election day are inconsistent with the increase in advance voting.

What are we recommending?

Our view is that political financing and election campaigns could be fairer and more transparent to improve public confidence in elections and support a fair contest of ideas. We recommend:

- establishing one set of advertising rules for the whole voting period and setting the same spending cap for registered parties
- only enrolled voters should be able to make donations to politicians (not companies, unions, and other groups that can't vote), the amount that a person can donate to each party and its candidates should be capped at \$30,000 per election cycle, and the amount that can be donated anonymously should be lowered
- reallocating the state funding provided to registered parties primarily for TV and radio advertising, and modestly increasing it, to instead provide funding based on the number of party votes each registered party got in the last election, funding to help cover basic compliance costs like audits, and funding to facilitate outreach with certain communities, such as disabled and Māori voters.



Will our recommendations create fairer rules for political financing and campaigning?

Please [let us know](#) your views on our findings and proposals. If you'd like to know more, see [Part 4](#) of our interim report.

Upholding te Tiriti o Waitangi / the Treaty of Waitangi

Key findings

Te Tiriti o Waitangi / the Treaty of Waitangi promised that Māori would gain the same rights as non-Māori. However, we found electoral laws (past and present) have made it more difficult for Māori to vote or be represented in parliament. For example:

- The secret ballot (a fundamental electoral right) was introduced in European seats in 1870 but was not extended to Māori until almost 70 years later.
- Until 1967, Māori could only stand for election in the four Māori electorate seats.
- The number of Māori electorate seats was fixed at four for over 125 years, increasing for the first time in 1996. By contrast, between 1868 and 1993, the number of general seats rose from 72 to 95.
- Until 2023, Māori could only choose whether to enrol in Māori electorates or general electorates once every five years (known as the Māori electoral option).

These differences in the treatment of Māori compared to non-Māori have undermined Māori political representation and voter participation rates, which remain lower than for non-Māori to this day.

The Crown has an obligation arising from te Tiriti o Waitangi / the Treaty of Waitangi to do better: it must redress past breaches, actively protect Māori electoral rights, and provide equitable opportunities for Māori participation. We want to make sure that the Electoral Commission continues to improve its services for Māori voters and remove barriers to participation (such as the location of or languages spoken at voting places).

What are we recommending?

Our view is that changes are needed to better uphold te Tiriti / the Treaty. We recommend:

- requiring in the Electoral Act that the Electoral Commission give effect to te Tiriti / the Treaty and its principles, including by prioritising establishing Māori governance over data collected about Māori in the administration of the electoral system
- removing most restrictions on when Māori can choose to enrol in Māori electorates or general electorates (the Māori electoral option)
- giving support to iwi, hapū, and other Māori organisations to lead voter participation and engagement activities
- establishing a fund to facilitate party and candidate engagement with Māori communities, in ways appropriate for Māori.



Will our recommendations uphold te Tiriti / the Treaty?

Please let us know your views on our findings and proposals.
If you'd like to know more, see Part 1 of our interim report.

Have your say on the future of our electoral system

We welcome your feedback on our draft recommendations, which are summarised in this document and set out in full in our interim report.

Consultation starts on 6 June and **closes on 17 July 2023**. During this time, we will also be meeting with stakeholders and holding public webinars.

Please share your thoughts with us by participating in our **online consultation**. You can fill in the survey or upload your own written submission.



To begin, scan the **QR code** or go to electoralreview.govt.nz/submit/.

More information on how to have your say, such as making a submission offline or in an alternative format, is available on our website: electoralreview.govt.nz/have-your-say/.

What happens next?

After engagement closes, we will take the time to consider what we have heard and refine our recommendations. Our final report is due with the Minister of Justice in November 2023, which will be after the general election. It will then be up to the Government to determine next steps, including publication of the report.

If the Government accepts some or all our recommendations, it will need to introduce legislation to Parliament to make these

changes. The public will have the opportunity to have their say on any proposed changes and, in some cases, a referendum may be held.

Stay in touch

Please visit our website at electoralreview.govt.nz to hear more about the review, find out about upcoming public webinars, and sign up to our newsletter.

