

(Independent Electoral Review, 2023a)

He Arotake Pōtitanga Motuhake
Independent Electoral Review

Interim report

Our draft recommendations for a fairer,
clearer, and more accessible electoral system

June 2023

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This report may be cited as: Independent Electoral Review, 2023. *Interim Report: Our Draft Recommendations for a Fairer, Clearer, and More Accessible Electoral System*. Wellington: New Zealand.

ISBN 978-0-473-67965-1 (Print)

ISBN 978-0-473-67966-8 (Online)



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The voting age

- 7.10 A minimum voting age is used as a proxy for whether voters are mature enough to understand and exercise the right to vote responsibly. Setting the voting age will always be somewhat arbitrary. There are a range of voting ages around the world – for example, the voting age is 16 in Scotland and Austria, while it is 21 in Singapore and 25 in the United Arab Emirates.
- 7.11 Our law sets different minimum ages for different purposes. In Aotearoa New Zealand, the voting age was originally set at 21. It was lowered to 20 in 1969 and to 18 in 1974, which it remains today. The voting age is no longer linked to the legal age of majority, which is currently 20 years old.

Is there a case for change?

- 7.12 The age at which people should be allowed to vote has been the subject of recent debate in many countries, including in Aotearoa New Zealand. The topic attracted a lot of attention from submitters to this review. More people commented on the voting age than on any other topic.

Arguments against change

- 7.13 Almost half of submitters thought that 18 was still the appropriate age for people to gain the right to vote. Submitters in support of the current voting age generally argued that 18 aligns with when a person becomes an adult and takes on other legal responsibilities. Some submitters noted that many people leave home at 18 to begin full-time work and paying taxes.
- 7.14 Some supporters of the current voting age think that people younger than 18 do not have the ability, education, or life experience to make such an important decision. They think young people may not have enough knowledge or interest in politics to make an informed choice and could be more easily influenced by their parents, teachers or the media.
- 7.15 A few submitters also doubted whether lowering the voting age would improve participation outcomes if young people were not motivated to vote.

Arguments for change

- 7.16 Forty per cent of submitters wanted to lower the voting age to 16. Very few submitters proposed a voting age lower than 16 or higher than 18.
- 7.17 Supporters of lowering the voting age noted that young people have already begun to take on a range of responsibilities and to participate in society by 16. Supporters of a lower voting age noted that, like all voters, 16- and 17-year-olds

may have different levels of political knowledge and interest but are still capable of voting.

- 7.18 Many submitters who supported a lower voting age considered that it might improve democratic participation. They thought allowing people to vote from 16 could help to build life-long voting habits and pointed to positive participation outcomes in other countries that have lowered the voting age. Some submitters referenced overseas evidence that young people may be more likely to vote when they are still at home and at school. Young people who are still at home and at school may have better opportunities to learn first-hand from the voting habits of their parents, families and schoolmates than when they are navigating the big life changes that come with leaving home.
- 7.19 Those submitters who supported a lower voting age also thought it supports intergenerational fairness. This was because young people will have to deal with the consequences of the long-term challenges facing our society and our planet. Giving them a voice means they can help shape our response to these challenges.
- 7.20 Some submitters noted that the current voting age may negatively impact the representation of communities with proportionately younger populations, such as Māori. For example, we note that with a voting age of 18, about 78 per cent of Aotearoa New Zealand's Pākehā population is eligible to vote, compared to 63 per cent of Māori. Therefore, some argued that lowering the voting age would help to enable Māori participation, upholding te Tiriti o Waitangi / the Treaty of Waitangi (**te Tiriti / the Treaty**). During engagement with Māori communities, we also heard about the importance of instilling voting habits in rangatahi Māori when many are still at home, at school and within their community, given their high rates of mobility.
- 7.21 Other submitters pointed out that similar arguments hold for Pasifika populations, who are also proportionately younger than other populations, with 61 per cent being able to vote with a voting age of 18. We heard that in some communities there can be flow-on benefits when young people get involved with voting, as they can encourage and motivate older generations to participate too.
- 7.22 After our first round of consultation closed, the Supreme Court found the current voting age to be unjustified discrimination under the New Zealand Bill of Rights Act 1990 (discussed below). This unjustified discrimination has a disproportionate impact on Māori (as the Māori population is significantly younger than the non-Māori population).

Our view

- 7.23 As we have noted, the right to vote is a fundamental right, recognised and protected by law. Universal suffrage, which means that every citizen should have the right to vote without unreasonable restrictions, is affirmed in international law through the International Covenant on Civil and Political Rights. The United

Nations Convention on the Rights of the Child also affirms that children who are capable of forming their own views have the right to express those views freely in all matters affecting them.

- 7.24 In Aotearoa New Zealand, the New Zealand Bill of Rights Act 1990 guarantees the right to vote for citizens aged 18 and older. We do not see any reason to consider raising the voting age, which would be a clear breach of this right. The New Zealand Bill of Rights Act 1990 also protects the right to freedom from discrimination, including discrimination against those aged 16 and over on the basis of age. Under the New Zealand Bill of Rights Act 1990, any limit on these rights must be reasonable and justified in a free and democratic society.
- 7.25 In 2022, Make It 16 Incorporated took a case to the Supreme Court arguing that the current voting age breaches this right to be free from age-based discrimination. The Supreme Court determined that the current voting age is inconsistent with the right of 16- and 17-year-olds to be free from discrimination based on age. It found that this inconsistency had not been justified, based on the evidence submitted to the court, but left open the possibility that it could be justified in the future.
- 7.26 Having reviewed the evidence available to us, we recommend that the voting age should be lowered to 16. We are convinced by the evidence that 16-year-olds are just as capable of making informed decisions about how to vote as 18-year-olds. As such, there is no justification for denying them the right to vote. In our assessment, the risks (which we consider to be small) of giving the vote to some young people who may not be ready to exercise that right are outweighed by the potential benefits of enfranchising those who are.
- 7.27 Lowering the voting age supports our objectives of an electoral system that is fair and encourages participation. It would mean that more people could participate in elections. If 16- and 17-year-olds were given the right to vote, they would make up about 3 per cent of the eligible voting population.
- 7.28 Lowering the voting age could have wider benefits on increasing participation. Studies overseas have shown that voting when newly eligible is an important factor in becoming a life-long voter. We note there is some evidence from Austria and Scotland's independence referendum that shows higher turnout rates among 16- and 17-year-olds compared to people in their late teens and early twenties.¹¹ While this limited evidence is from countries with different populations and histories to ours, it is still encouraging.
- 7.29 Keeping the voting age at 18 could be viewed as a proportionately greater unjustified age discrimination against Māori making it an inequity under te Tiriti /

¹¹ Aichholzer, J. & Kritzing, S. (2020). Voting at 16 in Practice: A Review of the Austrian Case. In: Eichhorn, J., Bergh, J, eds. *Lowering the Voting Age to 16*. Palgrave MacMillan.; Electoral Commission (UK), 2014. *Scottish Independence Referendum: Report on the referendum held on 18 September 2014*.

the Treaty. The eligible voters of a given population – and those who turn out to vote – get to choose who represents them. A greater proportion of the Māori population is aged 16 or 17, relative to non-Māori. These young people are currently represented through the votes of those who are eligible to vote. This means there are proportionately fewer votes to represent the entire Māori population.

- 7.30 Letting 16- and 17-year-olds vote also means that the perspectives of young people on issues that affect them – now and into the future – are more likely to be reflected and represented in parliament.

Other considerations

- 7.31 Some young people in Aotearoa New Zealand have shown strong civic engagement and participation through campaigns such as the School Strike 4 Climate and Make It 16. But we are aware that many of our young people face barriers to voting and more work is needed to support them to participate.
- 7.32 Voting is an inherent right, so the decision to lower the voting age should not be conditional on other changes. We do, however, see the benefits in lowering the voting age in parallel with other changes to the electoral system that increase equity in the participation rates across groups. As discussed below in **Chapter 11**, these changes include strengthening civics education, improving community engagement, and reducing other barriers to participation, particularly in communities with relatively lower turnout rates. Together, these changes give the best chance of empowering young people to exercise the right to vote fully and meaningfully.
- 7.33 The Crown's responsibility to uphold te Tiriti / the Treaty makes this essential for rangatahi Māori. If they are not supported and encouraged to participate, then there is a risk that current inequities could continue.
- 7.34 The voting age is an entrenched provision of the Electoral Act, meaning it can only be changed by public referendum or by 75 per cent of parliament. Previous changes to the voting age have been made with the unanimous support of parliament.
- 7.35 We do not think that a public referendum should be held on this issue. While the voting age is a matter of public interest and broad debate should be encouraged, changes to the voting age have not been subject to a referendum previously. We consider it appropriate and consistent with historical precedent for the voting age to be determined by parliament.

Interaction with our other recommendations

- 7.36 In **Chapter 5**, we recommend a referendum is held on the term of parliament. If the term of parliament were extended to four years and the voting age were to stay at

Māori may hold a stronger connection to their tūrangawaewae and may want to have a say in who represents that community. Likewise, some Māori may leave their rohe and want to remain on the Māori roll but may feel that doing so infringes on the rights of mana whenua in the area where they reside.

- 8.41 We think this option is an interesting proposal to give effect to te Tiriti / the Treaty, but our view is that there are complex matters of tikanga as well as practical administration that would need to be worked through. We see this as an area that could benefit from further exploration by people with expertise in tikanga and electoral administration in the future.
- 8.42 We also heard from people who thought that Māori should be automatically enrolled on the Māori roll if they have not stated which roll they want to be on. These submissions were premised on the idea that Māori would be enrolled on the general roll by default unless they 'opt out' in favour of the Māori roll.
- 8.43 People of Māori descent are given the option to choose between rolls when they first enrol. The enrolment form has been updated so that it is not possible for a person to identify as Māori when enrolling and then not choose a roll. We therefore think this issue has been addressed at an operational level. We also discuss automatic enrolment more generally below and our view that it is important that people of Māori descent get to make a choice about which roll they want to be on.

Interaction with our other recommendations

- 8.44 In **Chapter 11**, we recommend funding for community-led initiatives to support voter engagement and participation. These initiatives could include enrolment outreach efforts and education about the Māori electoral option.
- 8.45 We have also recommended lowering the voting age to 16. This would mean 16- and 17-year-olds of Māori descent would get to choose whether to go on the Māori roll or the general roll when enrolling. Their roll choice could affect the calculation of the Māori electoral population, which is used to determine the number of Māori electorates.

What do you think about our recommendations on the Māori electoral option and why?