

Submission to inquiry into the accessibility of voting centres for people with disability

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Submission to inquiry into the accessibility of voting centres for people with disability

**Victorian Equal Opportunity and
Human Rights Commission**

February 2026

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1 Introduction

The Victorian Equal Opportunity and Human Rights Commission (**VEOHRC**) is Victoria's independent human rights statutory body with responsibilities under four laws, including the *Charter of Human Rights and Responsibilities 2006 (Vic)* (**Charter**) and the *Equal Opportunity Act 2010 (Vic)* (**EOA**).

Our role is to protect and promote human rights and to eliminate discrimination, sexual harassment and victimisation, to the greatest extent possible.

We thank the Victorian Parliament's Electoral Matters Committee for the opportunity to make a submission to this inquiry into the accessibility of voting centres for people with disability (**Inquiry**).

As part of its inquiry into the conduct of the 2022 Victorian state election, the Joint Standing Committee on Electoral Matters partnered with disability service provider Scope to survey Victorian voters with a disability.¹

Respondents reported a number of issues, including:

- a lack of accessible infrastructure and processes, including being forced to wait in long queues
- poor signage, including signs directing people for assistance if they have a disability and/or are Deaf
- a lack of assistance from electoral staff
- the intense environment exacerbating anxiety or sensory sensitivity
- a lack of privacy from electoral staff
- inaccessible website for low-vision voters
- an overall need for staff training and more easy-to-understand information.²

These issues are reflected in the terms of reference for this Inquiry, which cover choosing voting centres, assistance from staff and other related matters.

1.1 International human rights responsibilities

The right to participate in public life, including the right to vote, lies 'at the core of democratic government based on the consent of the people and in conformity with the principles of the (International Covenant on Civil and Political Rights)'.³

The Convention on the Rights of Persons with Disabilities (**CRPD**) protects the right of people with disabilities to vote in three ways:

¹ Electoral Matters Committee, Parliament of Victoria, *The conduct of the 2022 Victorian state election* (Final Report, Vol 2, July 2024) 118.

² *Ibid*, 346.

³ Human Rights Committee, *General Comment No 25: The right to participate in public affairs, voting rights and the right of equal access to public service*, 57th sess, UN Doc CCPR/C/21/Rev 1/Add 7 (12 July 1996), para 1.

- i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use
- ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, including facilitating the use of assistive and new technologies where appropriate
- iii. Guaranteeing the free expression of the will of people with disabilities as electors and at their request, allowing assistance in voting by a person of their own choice.⁴

We note that any improvements to voting accessibility should be implemented through close consultation with persons with disabilities and representative organisations, in line with the participation duty in the CRPD.⁵

1.2 Victorian human rights laws

Victoria has a strong history of making voting more accessible for people with disability. However, there is always room for improvement.

The Charter implements some responsibilities required by the CRPD, which Australia ratified in July 2008. This includes protections that are central to Victoria's democratic system.

The Victorian Electoral Commission (**VEC**) has responsibilities to uphold human rights and prevent discrimination under both the Charter and the EOA. This submission will address the terms of reference in the context of VEC's responsibilities under these two laws.

⁴ *Convention on the Rights of Persons with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) 29(a).

⁵ *Convention on the Rights of Persons with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) 4.3.

2 The Victorian Charter

The Charter requires that public authorities give proper consideration to and act compatibly with relevant Charter rights when making a decision.⁶

As a public authority, the VEC must act compatibly with the Charter rights, including when making decision about voting centres.

2.1 The rights to participate in public affairs, vote and access public services

The Charter provides 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 freely chosen representatives.⁷

This right applies to a wide range of activities, such as state and local politics and public administration. It might include being involved in politics or voting in an election or referendum.

This right allows people to participate directly in public affairs or to choose a representative to participate on their behalf.

The Charter also outlines that every eligible person has the right, and is to have the opportunity, without discrimination to:

- a) vote and be elected at periodic State and municipal elections that guarantee the free expression of the will of the electors; and
- b) have access, on general terms of equality, to the Victorian public service and public office.⁸

It is important to note that this applies to every 'eligible person', rather than the broader application of 'every person' that applies to the right to participate in public affairs.

The right to participate in public affairs has been found to include alternative voting methods where appropriate,⁹ such as an electronic voting system or braille ballot papers for blind voters.¹⁰

In addition to the right to take part in public life under s 18 of the Charter, the right to vote in Victoria is established and regulated by the *Constitution Act 1975 (Vic)*¹¹ and the *Electoral Act 2002 (Vic)*.¹² Australian constitutional law also recognises an implied freedom of political communication which supports meaningful participation in elections.¹³

⁶ *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, s 38(1).

⁷ *Ibid*, s 18(1).

⁸ *Ibid*, s 18(2).

⁹ *Given v Australia*, UN Doc CRPD/C/19/D/19/2014 (16 February 2018), 8.10.

¹⁰ *Fittler v NSW Electoral Commission and anor (No 2)* [2008] NSWADT.

¹¹ *Constitution Act 1975 (Vic)*, s 48.

¹² *Electoral Act 2002 (Vic)*, s 22.

¹³ *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, 559.

**Case study:
complaints to
VEOHRC**

VEOHRC has a dispute resolution function in relation to complaints under the EOA and has received several complaints against the VEC in the past.

One such matter involved a complainant who requested a braille ballot paper by postal vote. The complainant alleged that the postal vote did not arrive, they did not vote, and they were subsequently issued with a fine.

The matter was settled through dispute resolution.

While the complainant did not attend a voting centre physically, this case highlights that when people do not receive adjustments appropriate to their disabilities, their right to vote may be breached and they can subsequently be disadvantaged by the infringements system used to enforce compulsory voting.

2.2 The right to equality and non-discrimination

The Charter provides that every person has the right to enjoy their human rights without discrimination.¹⁴ Discrimination in this sense means discrimination on the basis of an attribute protected by the EOA, including disability.¹⁵

Examples of how accessibility in relation to voting centres engages this right is discussed in Chapter 3.

2.3 Other relevant rights

The rights in the Charter relating to taking part in public affairs, to vote and to equality are complementary to and further supported by the Charter rights to freedom of expression,¹⁶ and the right to peaceful assembly and freedom of association.¹⁷

The Charter also protects a person's right not to have that their privacy, family, home or correspondence unlawfully or arbitrarily interfered with.¹⁸

For instance, where a voter is unable to vote without assistance, it may be appropriate for trained electoral staff or another person chosen by the voter to assist them with voting.¹⁹

Electoral staff should recognise that some people will prefer support from a person known to them and others will prefer assistance from electoral staff in line with the right to privacy. This should be facilitated based on the preference of the person with disability.²⁰

¹⁴ *Charter of Human Rights and Responsibilities Act 2006* (Vic), s 8(2).

¹⁵ *Ibid*, s 3(1).

¹⁶ *Ibid*, s 15.

¹⁷ *Ibid*, s 16.

¹⁸ *Ibid*, s 13.

¹⁹ *Given v Australia*, UN Doc CRPD/C/19/D/19/2014 (16 February 2018).

²⁰ *Ibid*.

Case study: Given v Australia, UN Doc CRPD/C/19/D/19/2014 (16 February 2018)

Fiona Given is a Sydney woman who was unable to mark a ballot paper and deposit it in a ballot box without live assistance. She made a request to the Australian Electoral Commission for access to electronically assisted voting or, in its absence, for the polling booth's presiding officer to assist her in filling out her ballot paper.

As Ms Given was not provided with access to electronically assisted voting, she attended the polling booth on election day.

The election official refused Ms Given's request for assistance on the grounds that they were "too busy" and directed Ms Given to obtain assistance from her support worker. Ms Given argued that this breached her rights, particularly her right to privacy, as she was required to have a close, ongoing relationship with her support worker and did not want to disclose her voting intention.

The UN Human Rights Committee found that Australia had failed to provide Ms Given with access to an electronic voting platform that was already available to other voters because of her disability. The Committee also found that the electoral staff should have provided Ms Given with assistance in line with the right to privacy.

This case demonstrates the importance of proper training for election officials, the need to be flexible in providing adjustments to ensure votes are secret, independent and verifiable.

In some circumstances, one person's right may come into conflict with the right of another person or group. The Charter provides that a right may only be limited in a way that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors.²¹

²¹ *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, s 7(2).

3 Equal Opportunity Act

In addition to Charter obligations, the VEC also has responsibilities under the EOA, which provides protections from discrimination in certain areas of life, including the provision of services.

The definition of what is a service has been interpreted broadly,²² and has been found to include access to council buildings to attend meetings.²³ Although there has yet to be Australian case law on whether the VEC provides a service to voters, it is arguable that such a service is being provided because of the benefit to a person by enabling them to participate in democracy. We note that the Canadian Human Rights Tribunal has found that the administration of elections, including the operation of accessible voting centres, constitutes a service under the *Canadian Human Rights Act*.²⁴

As a service provider, the VEC also has a positive duty to take reasonable and proportionate measures to eliminate discrimination as far as possible.²⁵ Taking proactive measures to provide reasonable adjustments (discussed below) would be a large consideration in determining whether the positive duty has been successfully implemented.

1.3 Discrimination

Under the EOA, disability discrimination may occur:

- **Directly** - where a person is treated unfavourably, or it is proposed that they be treated unfavourably, on the basis of disability or another attribute.²⁶
- **Indirectly** - where a person imposes, or proposes to impose, an unreasonable requirement, condition or practice that has or is likely to have a disadvantageous effect on people with a disability or another attribute.²⁷

Direct discrimination could occur, for example, if a person with a disability is denied access to a polling station because they have a particular disability, or if electoral staff say something detrimental about a person because they have a disability.

Indirect discrimination could occur, for example, if there are physical barriers like steps to get into a polling centre that mean some people with disability cannot enter, or if there are requirements to mark a ballot paper without appropriate adjustments for people whose disability means they cannot write with a pencil.

²² *Bayside Health v Hilton* [2007] VCAT 1483, 17.

²³ *Slattery v Manningham City Council* [2013] VCAT 1869, 29.

²⁴ *Hughes v. Elections Canada* [2010] CHRT 4, 53.

²⁵ *Ibid*, 15(2).

²⁶ *Equal Opportunity Act 2010* (Vic), s 8.

²⁷ *Ibid*, s 9.

1.4 Reasonable adjustments

The EOA also requires duty holders to provide reasonable adjustments to people with disability.²⁸ These reasonable adjustments are key to making voting accessible, and may include physical, assistive technology, administrative and support.

In determining reasonableness, one consideration will be maintaining the integrity of the voting process. However, many adjustments can achieve this while also improving accessibility.

It is also important to recognise that every disability is different, and that many disabilities are not visible. The adjustments that are required often differ from person to person and will not be clear without engaging directly with the person with disability.

Physical adjustments could mean accessible parking, ramps, wide doors, a lack of immovable objects, access to technical facilities, accessible bathrooms and sensory rooms.

On polling day, other adjustments may include:

- disability friendly signage at appropriate heights that directs voters with disability where they can receive assistance, including badges for staff who have been trained in accessibility²⁹
- sufficient seating to minimise standing³⁰
- adjusted heights of voting booths so they can be reached by people of short stature and people who use wheelchairs³¹
- priority lines for people with disability to reduce impacts of long waits.

This starts with detailed training for staff on the provision of adjustments for voters with disability.³²

Ensuring the VEC is fulfilling its obligations under the EOA works hand in hand with upholding the right to equality and non-discrimination in the Charter.

²⁸ Ibid, s 45.

²⁹ Despott, *Electoral Inclusion: rights, barriers and global campaign strategies for voters with intellectual disability*, Inclusion Melbourne (2017) 35.

³⁰ Schur, Ameri & Adya, *Disability, Voter Turnout, and Polling Place Accessibility*, Social Science Quarterly (2017) 1388.

³¹ 'Equal access in elections: 5 ways to ensure people with disabilities can vote', *Light for the World International* (web page, 24 July 2024) <<https://www.light-for-the-world.org/news/equal-access-in-elections-5-ways-to-ensure-people-with-disabilities-can-vote/>>.

³² Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* (Report No 124, 18 September 2014) 270.

4 Conclusion

The Victorian Electoral Commission's vision is for all Victorians to actively participate in their democracy.

Victoria's human rights framework provides clear tools to achieve this, particularly around reasonable adjustments that will help ensure people with disability have equal access to their right to vote.

Through the measures outlined in this submission, along with close, ongoing collaboration with people with disability, the VEC can help ensure that our voting system is independent, secret, verifiable, and ultimately accessible.



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