Section 13
Complaints
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The VEC received 167 written complaints relating to the 2010 State election between October 2010 and April 2011. Many of these complaints related to issues beyond the VEC’s control such as fundraising at voting centre venues, candidates’ campaign material being distributed or displayed on public and private property or the weather on Election Day.

A significant number of correspondents registered complaints related to a misunderstanding of the electoral process, or to the content of candidates’ campaign material. These generally related to legislated processes or definitions and were resolved by explanation or the provision of information. The VEC will consider ways of including relevant explanations and information in its communication and electoral education materials.

The VEC aimed to respond to complainants within one business day of receiving the complaint and in the majority of cases this was achieved. In some cases where a complaint required investigation or follow up with third parties, the complainant was notified of the receipt of the complaint as soon as possible and a response was sent.

A small number of correspondents sent multiple and ongoing correspondence to the VEC relating to the same or similar issues, requesting clarification or expressing dissatisfaction with responses to the original complaint.

Complaints about services to voters

The VEC received 103 written complaints about its services to voters. This is an increase on the number received in this category in 2006. However, as noted above, a large proportion of these complaints involved enquiries or the elector seeking assistance. Although registered as complaints, these were resolved by the provision of further information or clarification of terminology.

Early voting centres

Sixteen complaints were received in relation to early voting centres, including difficulty locating particular centres, the lack of an early voting centre in a particular area, the hours and suitability of the location.

Voting centres

Five complaints were received in relation to the accessibility of voting centres. One of these was lodged through the Victorian Equal Opportunity and Humans Rights Commission and one through the Australian Equal Opportunity and Humans Rights Commission. Both of these complaints were resolved to the satisfaction of the complainants.

As previously reported, finding accessible venues for voting centres is extremely difficult, and the VEC makes every effort to make voting accessible to all electors. The VEC strives to find solutions to the lack of accessible voting centre venues and has been able to negotiate outcomes that are satisfactory to all parties in both cases, and may assist with this aim.

Twenty-eight complaints were received in relation to processes at voting centres. This included complaints about delays (6), and the appropriateness of certain locations as voting centres including access considerations. All complaints were investigated.

Election officials

Twelve complaints were received in relation to staff attitude or conduct. All complaints were investigated, and rectified if necessary. One person had an offer of employment incorrectly withdrawn and was offered, and took up, alternative employment with the VEC. Another official was provided with additional training to ensure correct procedures were followed.

Information and advertising campaign

Three complaints were received about the EasyVote Guide, which was mailed to every elector. These complaints related to the content and the issuing date.

Overseas voting

Two complaints were received from electors situated overseas at the time of the election, one in relation to not being able to register as a general postal voter. The other complaint related to the VEC not providing a voting venue in a specific country.

Other complaints

Other complaints received related to the fold on the Legislative Council ballot paper (6), fund-raising activities at voting centre locations (2) and the distribution, authorisation, format and lack of how-to-vote-cards (7).
Complaints about candidates or political parties

Twenty complaints received were about political parties and a further eighteen about candidates. Four of these formal complaints related to the distribution of postal voting applications by political parties.

Under the Electoral Act 2002 (s.101), organisations and individuals other than the VEC are able to reproduce postal voting application forms and include them with campaign materials. The complaints primarily related to the legislative authority for parties to distribute postal vote applications, and the use of electors’ details for this purpose.

The VEC will put forward for noting the subject of the distribution of postal vote applications by parties.

One of the complaints concerned the distribution of postal voting application forms prior to the issue of the writ. Under the Act, a postal vote application received prior to the issue of the writ cannot be processed, and the VEC must send another application to the elector. This causes the elector confusion and frustration. To alleviate this in 2010, the VEC requested that parties waited until after the issue of the writ to distribute postal voting applications, if they were planning to do so. One party did not fully comply with this request, thus affecting a small number of locations, and causing concern among other parties.

The majority of the remaining complaints regarding political parties or candidates related to candidates failing to authorise or incorrectly authorising electoral material, or alleging that electoral material was deceptive or misleading. A further eleven complaints related to material distributed by private citizens in support of particular candidates or parties. These complaints related to lack of authorisation (8) and misleading or deceptive election material (3).

Where a complaint regarding the authorisation of material founded, the relevant candidate or party was asked to appropriately amend the material and undertake to observe correct authorisation procedures in future.

Other complaints related to electoral material located on public property or distributed on private property, and the manner of campaigning at public places such as railway stations and voting centres.

Complaints about the media

The VEC received two complaints about the media. One related to overall coverage, the other to the labelling of electoral advertising. A further complaint was received in relation to the airing of electoral advertising during the ‘blackout period’. This is not covered by electoral legislation and the complainant was referred to the appropriate authority.

Publication of Electoral Advertisements online

Sections 83 and 84 of the Electoral Act 2002 (the Act) relate to publication of electoral advertisements and misleading or deceptive matter. The Act provides that ‘publish’ includes publication on the internet, but there are practical limits on the VEC’s ability to enforce these provisions in the online environment.

The VEC received a complaint during the election regarding unauthorised electoral advertising published as Google Adwords. The AdWords purported to be advertisements for the Greens and contained a link to the Greens’ website (vic.greens.org.au). The advertisements were short-lived, and had ceased to run before Google Australia Pty Ltd had received any complaint about them. Subsequently, the VEC sought the assistance of Google Australia to provide information regarding those responsible for the placement of the advertisements.

After investigation, Google Australia advised that although it held the information requested in accordance with ‘commercial confidentiality practices’, since Google Adwords was not conducted by Google Australia, the VEC should direct its request to Google Inc., of California, through an email to its Legal Investigations Support Team. This process appears largely automated. The Victorian Government Solicitor’s Office (VGSO), acting for the VEC, received a response advising that ‘valid legal process’ was required for Google Inc. to make such disclosure, and indicating that it may accept ‘an order signed by a judge or magistrate’ served by registered mail.

The VEC was not in a position, under the legislation as it currently stands, to obtain an order in this form.

The VEC will therefore refer the matter for consideration by the Parliament to consider legislative amendment empowering the VEC to require that certain information be provided in relation to the publication of electoral material. A recommendation in relation to this matter is included in the concluding section of this report.

Figure 75: Complaints received at 2010 Victorian State election