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Committee Secretary
Joint Standing Committee on Electoral Matters
Department of the House of Representatives
PO Box 6021
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CANBERRA ACT 2600

Submission to the Joint Standing Committee on Electoral Matters

Inquiry into and report on all aspects of the conduct of the 2019 Federal Election and matters related thereto

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Dear Secretary,

Thank you for the opportunity to make a submission to the Joint Standing Committee on Electoral Matters Inquiry into the 2019 Federal Election.

People with intellectual disability have the same right to participate in democratic processes as any other citizen, yet they continue to experience significant legal, social and logistical barriers preventing them from building political awareness, partaking in political debate, and ultimately

having their say on election day. As a result, people with intellectual disability have low rates of voting participation in Australia and internationally[1].

Inclusion Designlab is Inclusion Melbourne's independent centre for policy, research & development, and quality. Its vision is to bring together people with a disability, community organisations, government, and the world's leading disability researchers to develop cutting-edge models of practice, choice, and citizenship. Inclusion Designlab has worked in the area of electoral inclusion for people with intellectual disability since 2013. In such time, we have partnered on research projects, conducted an exhaustive review of electoral inclusion literature, and observed best practice during Victorian Government supported study tours of electoral inclusion campaigns across Ireland, the UK, Sweden and Canada.

Our findings from such work have culminated in the development of a world-class inclusive electoral campaign to support and empower Australians with intellectual disabilities to become active citizens, contribute to political debate, and play an active role in their democracy by voting in elections. Our program moves beyond basic conceptualisations of what it means to support someone to vote, and instead explores the nuance within issues of citizenship, political awareness, informed voting and election preparation for people with intellectual disability. We piloted our *I Can Vote* campaign during the Victorian State Election in 2018 and received extensive positive feedback for its utility in improving the accessibility of politics, political citizenship and voting for people with intellectual disabilities.

Our team's mission is to improve access to voting *and* politics for all Australians with intellectual disability. A national *I Can Vote* campaign will provide Australia with the opportunity to be at the forefront of global change in the area of electoral inclusion.

This submission will:

- ▸ Provide an overview of barriers to electoral inclusion for people with intellectual disabilities in Australia;
- ▸ Discuss the underlying societal misconceptions about voting and intellectual disability which perpetuate such barriers;
- ▸ Outline our recommendations, provided on the basis of extensive research and experience, to remove barriers to electoral participation for people with intellectual disabilities; and
- ▸ Review the 2018 *I Can Vote* campaign and propose how the campaign may be operationalised at a national level to improve electoral access for all Australians with intellectual disabilities.

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[1] Bigby, C., Tipping, S., Bould, E., Thiele, R. (2019). *Final report: Strategies to support people with intellectual disabilities to participate in voting*. Living with Disability Research Centre, La Trobe University: Bundoora, VIC.

Table of Contents

Political Content Barriers

Electoral commissions around Australia should be commended for the work that they do to facilitate greater access to voting for people with intellectual disabilities. However, the support that they offer is limited in some areas of the voting process as a result of their incapacity to produce partisan information. Much of the material for people with intellectual disabilities produced by electoral commissions focuses on accessible guides to the technical aspects of voting, such as understanding how to enrol and how to fill out a ballot paper, with limited, impartial, generic content about civic issues occasionally included in presentations at special schools, disability support organisations, and similar locations. This leaves a significant gap in support surrounding processes such as building awareness of political agency, developing an understanding of local politics and political issues, and determining voting preferences.[2] These processes are acknowledged as essential stages within the political citizenship and voting pathway, as outlined below:[3]

> "It is no use teaching people how to vote if they are not allowed to access what we are voting about. The very politics have to be made accessible."
>
> Kjell Stjernholm
> Mitt Val (My Choice) Program
> Coordinator, Sweden

Figure 1. Despott, 2017

The inaccessibility of publications, videos, political advertisements and other political materials is an important barrier for persons with intellectual disabilities when voting. La Trobe University Living with Disability Research Centre in partnership with Inclusion Melbourne and the Victorian Electoral Commission identified that Victorians with intellectual disabilities had difficulties understanding the ideas and policies of different political parties as a result of the inaccessibility of campaign materials. This research identified the development of accessible information about campaign platforms and political issues as a key strategy for improving access to political engagement and promoting greater voter participation among people with intellectual disabilities in Australia.[4]

One potential reason for the lack of accessible political content for people with intellectual disabilities is the presence of an unsubstantiated fear within society surrounding the risk that easy language translation of political content may produce biased outcomes. It is important to remember that political influence is a normal part of everyday life for all Australians. Our political ideas and

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[2] Despott, N (2017). *Electoral Inclusion: Rights, Barriers and Global Campaign Strategies for Voters with Intellectual Disability.* Inclusion Melbourne: Melbourne. February 2017, pp. 2
[3] Despott, N & Leighton, D (2017). 'It's in the practice: commentary on "The Value of Citizenship" (Duffy 2017)', *Research and Practice in Intellectual and Developmental Disabilities,* vol. 4, no. 1, pp. 35-41.
[4] Bigby, C., Tipping, S., Bould, E., Thiele, R. (2019). *Final report: Strategies to support people with intellectual disabilities to participate in voting.* Living with Disability Research Centre, La Trobe University: Bundoora, VIC.

persuasions are influenced by the media we consume, the advertising we encounter and the conversations we have with friends and family. The creation of political material in cognitively accessible formats will merely offer people with intellectual disabilities access to the same socio-cultural environment to develop political opinions and ideas as the general population.

In our extensive review of successful inclusive electoral campaigns across the world, we found that there were a number of ways to fill the gap in support surrounding access to political content in a way that was fair and unbiased. In particular, we drew findings from Mitt Val (My Choice) run by Studieförbundet Vuxenskolan, an award-winning Swedish campaign which utilises study circles to foster political citizenship among people with learning disabilities, and UK campaigns such as the United Response *Easy News* magazine and *Every Vote Counts* pre-election materials, which deliver news, politics and current affairs material in easy language formats to promote political participation among people with intellectual disabilities. Such case studies offered Inclusion Melbourne invaluable insight into the effectiveness and legitimacy of various models for promoting access to politics for people with intellectual disabilities. Canadian and UK electoral commissions have been more inclined to support projects such as *I Can Vote* due to extensive preparatory research that has occurred in those countries and their progressive interpretation of their role, despite such projects necessarily including partial political content.

Following our review, our team found that we were able to combine a number of methods for improving access to political ideas. In particular, we found that political content barriers could be significantly reduced through the creation of a neutral platform for the translation and dissemination of political content submitted to us by political parties and candidates themselves. We did this by:

- ▸ Developing a formula for political parties to develop a short policy script
- ▸ Engaging with political parties to explain the project and communicate the script formula;
- ▸ With support from a range of easy language translation partners, translating policy scripts into easy language and returning these to the candidates for review and approval;
- ▸ Filming and editing videos of candidates delivering easy language political content;
- ▸ Publishing videos and other easy language resources on the website (www.icanvote.org.au)
- ▸ Creating an interactive portal within which users can locate their electorate and watch easy language videos from candidates in their electorate.
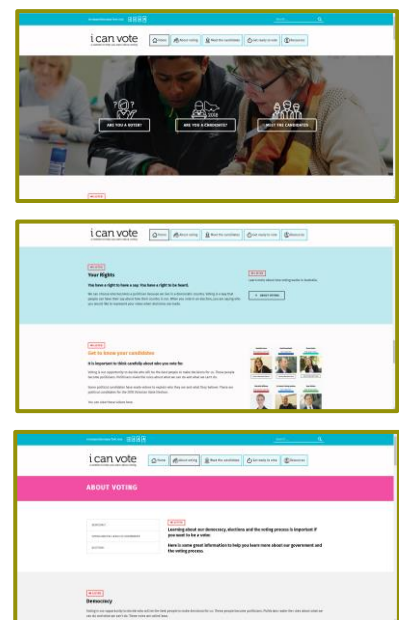
Examples of webpages from
www.icanvote.org.au

By translating content into easy language formats and seeking approval from political parties/candidates at every step of the process, we found that we could provide a neutral and unbiased platform where people with intellectual disability could consume cognitively accessible content straight from the mouths of the candidates and parties themselves.

I Can Vote has the support of all areas of politics, with candidates and party representatives expressing their wish for people with disability to receive the support required to make an informed political decision. This cross-party support is demonstrated with the wide breadth of political views in the *I Can Vote* videos. Each candidate was encouraged to represent their own views and/or their party's policy platform, rather than speaking about disability policy, as the aim of the project was to support political participation of people with intellectual disability regarding the full breadth of political policies and issues.

Summary:

Barrier:
▸ Many people with intellectual disabilities have difficulties with important steps in the voting journey such as determining candidate preferences as a result of a lack of (a) participation in political conversations or activities and/or (b) political material in cognitively accessible formats.

Misconceptions:
▸ Voting support which focuses solely on how to enrol and how to fill out a ballot paper is sufficient to remove barriers to voting for people with intellectual disabilities.
▸ The development of cognitively-accessible political content will lead to biased outcomes.

Our Findings:
▸ It is possible to provide cognitively accessible political content in a way that is unbiased and does not risk the integrity of the electoral system.

Recommendation:
▸ Support the development and distribution of political/campaign materials in cognitively accessible formats.

Disability Support Practice Barriers

International and local research has suggested that some support staff refrain from providing voting support to people with intellectual disabilities out of a desire to protect their clients from perceived risks associated with voting or out of fear of unduly influencing the people they support.[5] [6] [7] It has also become clear that at times, support staff make discretionary judgements about whether a person with an intellectual disability is capable of voting.[8] Findings from a study developed in partnership with the Living with Disability Research Centre identified that some support workers in the disability sector are concerned about the legitimacy of supporting people with intellectual disabilities to build political awareness and vote .[9] The research also indicated that few disability support staff in Victoria have had any experience in supporting people with intellectual disability to participate in voting.

> "It is really hard to understand what politicians are saying a lot of the time. But the *I Can Vote* website shows me a video of the various candidates, so I can work out for who I want to work for."
>
> Cameron Bloomfield
> Self Advocate

Research has shown that even support staff who strongly affirm the *right* of people with intellectual disability to vote and exercise political citizenship are hesitant to translate this into *practice* if not resourced with clear guidelines around how to support people with intellectual disabilities through every step of the voting journey, including navigating risk.[10] [11] In our experience, we have found that without connection to practice, information about the right to vote alone will not assist supporters, carers and family members to reliably address the risks and barriers faced by voters with disability. We have found a number of evidence-based support practices to be instrumental in reducing barriers to political participation for people with intellectual disabilities[12].

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[5] Keely, H, Redley, M, Holland, A & Clare, I (2008), 'Participation in the 2005 general election by adults with intellectual disabilities', *Journal of Intellectual Disability Research,* vol. 57, no. 3, pp. 175-181.
[6] Bell, D, McKay, C & Phillips, K (2001), 'Overcoming the barriers to voting experienced by people with learning disabilities', *British Journal of Learning Disabilities*, vol. 29, no. 1, pp 122 – 7.
[7] Bigby et al., 2019
[8] Despott, 2017, pp. 14.
[9] Ibid.
[10] Redly, M 2008, 'Citizens with learning disabilities and the right to vote', *Disability and Society,* vol. 23, no. 4, pp. 375-84.
[11] Hawkins, R., Redley, M., & Holland, A.J. (2011). Duty of Care and Autonomy: How support workers managed the tension between protecting service users from risk and promoting their independence in a specialist group home. *Journal of Intellectual Disability Research*, 55(9), 873–884.
[12] Despott & Leighton, 2017.

Supported Decision Making

Supported decision-making is a process of assisting people to make their own decisions so that they have can have control and ownership over their actions, goals and the things that are important to them.

In the context of political participation, this includes supporting a person with intellectual disability to develop an awareness of their political agency, an understanding of politics, and build capacity to make voting decisions.

Supported Decision Making has recently been codified in the NDIS Practice Standard and in Guardianship/Powers of Attorney legislation in most states and territories in Australia.

Person Centred Active Support

Person Centred Active Support places the person at the centre of organisational planning, processes, staff training, scheduling and interpersonal relationships.

This support practice is built on the premise that people with intellectual disabilities should be supported to experience genuine engagement and capacity building in all activities and to build stronger relationships.

Learning Circles

A Circle of Support is a group of people that comes together, on a regular basis, to assist a person with a disability to develop, support and action their goals and aspirations. More information can be found at www.cosam.org.au, and NDIA ILC-funded national resource centre for Circles of Support and Microboards.

A variation of the Circle of Support model was used in Sweden to build political awareness and develop election readiness. These learning circles created opportunities for people to learn about politics and citizenship from diverse sources and voices in a safe environment.

In the previous WA election, Microboards Australia worked with 5 individual Microboards to support informed voting. They worked with each Microboard to identify and discuss the key concepts of voting, map the issues important to the person with disability, and consider the parties that best aligned with those issues. The groups also used the ABC Vote Compass, a tool that helps a person discover how their views compare with those of the major parties.

4 of the 5 adults who participated voted for the first time following this program. One chose to vote via postal vote, while the others successfully voted at a voting centre with well-designed planning and supports, including being prepared with scripts if challenged by any electoral staff or volunteers.

Following this program, all 5 people have voted with support in both state and federal elections.

Risk Management and Enablement

Risk management and enablement in disability support is premised on the notion that taking risks is an essential part of growth. Effective risk management in disability support involves distinguishing perceived risks from actual risks, then devising strategies to mitigate such risks.

In the case of political participation, this involves acknowledging that many of the perceived 'risks' associated with voting are unfounded or premised on outdated assumptions about mental capacity.

The *actual* risk associated with *not* being able to exercise political agency (i.e. disenfranchisement and social exclusion) is far more serious than any perceived risks associated with the electoral participation of people with intellectual disability. I Can Vote is an example of a project grounded in this approach.

Inclusion Designlab found that it was essential that these practices were incorporated within the 2018 *I Can Vote* campaign in order to resource families, support staff and advocates with the tools to support political citizenship and electoral inclusion. As such, the *I Can Vote* campaign consisted of an evidence-based practice toolkit designed to assist carers, friends and family members to support people with intellectual disabilities through the pathway to political awareness and voting.

By providing a dual-read guide (a publication called *I Can Vote* to accompany the website of the same name) and a *Plan to Vote* form for supporters of people with intellectual disabilities, it was

found that the *I Can Vote* campaign was able to build capacity among disability staff, carers, families and advocates to have conversations, make plans, and provide guidance to people with intellectual disabilities throughout the voting journey. It also served to dispel myths about the illegitimacy of voter support to ensure that people with intellectual disabilities were not barred from voting as a result of discretionary judgements about a person's (in)capacity or the perceived risks of voting.

Summary:

Barrier:
▸ A use of discretionary capacity judgements and a lack of understanding surrounding the legitimacy of voting support among carers and support staff are key barriers to electoral inclusion for people with intellectual disabilities;

Misconception:
▸ The act of supporting a person with an intellectual disability to vote may be illegitimate and risk the integrity of the electoral system.

Our findings:
▸ If provided with adequate training and resources, carers are able to provide legitimate support through all steps of the pathway from building political awareness to becoming an informed voter.

Recommendation:
▸ Provide guidelines, tools and education for carers on how they can offer legitimate voting support using evidence-based disability support practice.

Legal Barriers

A key barrier to electoral inclusion for persons with intellectual disabilities is the presence of negative societal attitudes surrounding the perceived risk that participation of people with intellectual disabilities in voting and elections may in some way damage the integrity of the electoral system by providing the opportunity for voter fraud or manipulation or by allowing people who do not understand voting to participate.[13]

These societal attitudes are entrenched within the *Commonwealth Electoral Act 1918* through the 'unsound mind' clause. This clause, under S 93.8a of the Act, dictates that persons of 'unsound mind' who are considered 'incapable of understanding the nature and significance of enrolment and voting' are not entitled to be included on the electoral roll or vote in elections. This restriction is also facilitated through S 118.4 which dictates that a person with an intellectual disability may be removed from the electoral roll if a written objection is made by another enrolled voter and the objection is supported by a medical form. This process can lead to persons with intellectual disability, who may otherwise be supported to vote, being forcibly removed from the electoral roll against their will. The clause is designed to protect the integrity of the electoral system from perceived risks associated with voters with intellectual disability.

> **Cognitive ability does not negate a person's capacity to have a well-defined value system in the same way that a powerful intellect does not ensure a person will have superior ethical or moral opinions.**
>
> Despott and Hirsch, 2013

There is limited, if not insufficient, evidence to suggest that people with intellectual disabilities are particularly vulnerable to electoral fraud or manipulation.[14] Political influencing and advertising are part of the culture of politics in Australia. There are no such restrictions on voters of 'sound mind' who may be, for various reasons, more susceptible to these influences. Restrictions on the right of people with intellectual disabilities to vote as a result of a fear that they may be unduly influenced are therefore discriminatory.

Furthermore, claims that people with intellectual disability could damage the integrity of the electoral system as a result of a perceived lack of understanding are unfounded and rely on outdated diagnosis centric understandings of disability and capacity.[15] Moreover, there is no test of voting capacity for persons without cognitive impairments. Restrictions on electoral participation based on a person's understanding of politics or voting would have to be applied to all voters, and not just those with intellectual disabilities, in order to avoid being discriminatory.

Laws and practices that exclude people with intellectual disabilities from participating in politics and voting infringe upon rights protected within the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), to which Australia is a signatory. In particular, the 'unsound mind' clause infringes upon Article 29 of the UNCRPD which instructs signatories to 'ensure that persons with

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[13] Savery, J 2015, 'Voting rights and intellectual disability in Australia: an illegal and unjustified denial of rights', *Sydney Law Review,* vol. 37, no. 2, pp. 295
[14] Ibid, 297
[15] Ibid, 297

disabilities can effectively and fully participate in political and public life on an equal basis with others.' Article 29 should not, however, be viewed in isolation. The foundations for political citizenship are also protected under several additional articles, including articles 5, 8, 9, 12,21, 24 and 30.[16] Our application of these articles to the voting context is outlined in the diagram below.

Article 5 Equality and anti-discrimination policies embraced by electoral commissions, disability support organisations and advocacy groups, particularly in relation to political citizenship. Article 12 Equality before the law and the separation of legal and mental capacity.	Article 8 Raising awareness of the right to vote through targeted communications campaigns in media and advertising, with voting and political citizenship included in the practice frameworks of disability support organisations.	Article 9 Accessible polling arrangements, with all polling attendants, volunteers and staff fully trained in the communication practices and rights of voters with intellectual disability and communication barriers. Article 21 Accessible information about politics, candidates and elections available from a range of sources, produced by diverse organisations and readily available via media.	Article 24 Accessible education that increases knowledge about politics, citizenship, current affairs, political issues, and informed voting.

It is worth noting that similar jurisdictions have successfully removed unsound mind exclusions from their legislative frameworks. In particular, the United Kingdom's Mental Capacity Act (2005) prevents abolished restrictions of a person's legal capacity based on assumptions of their mental capacity. This has led to greater recognition of *supported decision-making* (see p. 7) as a method to build voting capacity among people with intellectual disability.[17]

Inclusion Melbourne has found that the 'unsound mind' clause is typically 'used' by family members of persons with intellectual disabilities who are motivated by a wish to protect the person from the burden of receiving a penalty for failing to vote on election day. Given that the central concern of family members is the fear of a fine, rather than a fear that the person with an intellectual disability will make an uneducated voting decision or damage the integrity of the electoral system, the ultimate outcomes – disenfranchisement – is alarming.

The Australian Law Reform Commission has proposed that a more proportionate and pragmatic response to this fear would be to waive compulsory voting for people who lack voting decision-making capacity. Specifically, the ALRC has recommended the repeal of the unsound mind clause in favour of an exemption from compulsory voting for people who lack decision-making capacity.[18] The *I Can Vote* project team is not convinced that this is the most appropriate response as there are a range of strategies that must be investigated first.

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[16] Despott, 2017, pp. 28
[17] Despott, 2017, pp. 12
[18] Australian Law Reform Commission 2014, 'Repeal of the 'unsound mind' provision', *Australian Government,* accessed 18 April 2020, <https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-alrc-report-124/9-electoral-matters-2/repeal-of-the-unsound-mind-provisions/
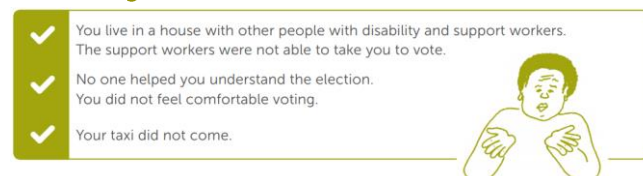
As noted above, the full potential of evidence-based support practices (such as Supported Decision Making, group learning, and Person-Centred Active Support) and political citizenship campaigns (*I Can Vote* and various electoral commission-driven campaigns) to drive outcomes has not yet been fully realised in Australia. In addition, we note existing mechanisms within, for example, the Victorian Electoral Commission that allow for the waiving of fines on a case by case basis for people with intellectual disability. Such mechanisms should be standardised and (accessibly) communicated by all electoral commissions.

Figure 2. Despott, 2018

Valid reasons for people with intellectual disability not voting in an election

- ✓ You live in a house with other people with disability and support workers. The support workers were not able to take you to vote.
- ✓ No one helped you understand the election. You did not feel comfortable voting.
- ✓ Your taxi did not come.

Not valid reasons for people with intellectual disability not voting in an election

- ✗ You did not feel like voting on the day.
- ✗ You don't like politics.
- ✗ You forgot to vote.
- ✗ You have a disability.

We do not agree that there is a strong enough basis for truly assessing if a person has decision making capacity for informed voting without first implementing evidence-based solutions that utilise supported decision-making techniques.
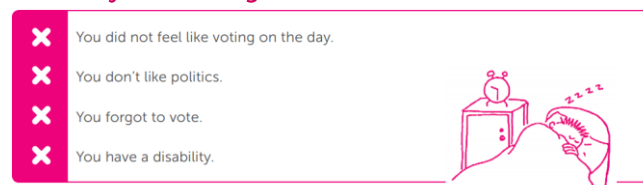
While we fully support the removal of the 'unsound mind' clause in electoral legislation, it is clear from our research into experiences in other jurisdictions that the removal of legislation disqualifying persons of 'unsound mind' from voting is only the beginning of the journey to the full democratic empowerment of people with intellectual disabilities. As such, in addition to removing legislated barriers to the inclusion of people with intellectual disabilities in Australian elections, it is essential that our society also address the social, attitudinal and logistical barriers to voting participation for people with intellectual disability in Australia.

Summary:

Barrier:
- People with intellectual disabilities may be prohibited from voting by a parent or carer as a result of the 'unsound mind' clause within the Commonwealth Electoral Act 1918 which facilitates the removal of people deemed to be of 'unsound mind' from the electoral roll.

Misconception:
- Votes cast by people with intellectual disabilities can damage the integrity of the electoral system through voter fraud or undue influence.

Our Findings:
- Laws which disqualify people with intellectual disability from voting on the basis of assumptions about mental (in)capacity are discriminatory.

▸ The perceived risks associated with the participation of people with intellectual disabilities in voting can be mitigated through current voter fraud protections and legitimate disability support practice.

Recommendations:
▸ Remove S 93.8a and S 118.4 of the *Commonwealth Electoral Act 1918* which disqualify persons of 'unsound mind' from voting and outline the method for such disqualification.
▸ Remove both S 93.8a, which disqualifies persons of 'unsound mind' from voting, and S 118.4 of the *Commonwealth Electoral Act 1918* which outlines the method for disqualification in order to remove legal barriers to voting for people with intellectual disability.
▸ Provide evidence-based voter support and guidelines to remove informational, logistical and social barriers to voting for people with intellectual disability.
▸ Standardise and systematise current electoral commission arrangements that allow people with disability to have fines waived through discretionary case by case engagement with electoral commissions. However, this should be a stop gap to be used in addition to improved support and community attitudes.

Attitudinal Barriers

People with intellectual disability also face significant barriers to voting as a result of societal assumptions about mental capacity. Researchers in the United States[19] and Australia[20] have identified

> 'I wanted to vote but Mum said… "You wouldn't understand what they're talking about so we're not going to be here"
> … I haven't voted since.
>
> Bigby et al., 2019

that apathy or negative attitudes toward voting among parents and family members significantly impact electoral participation for people with intellectual disabilities. In particular, this research has suggested that some people with intellectual disability are denied voting education and support as a result of assumptions among family members and carers that voting is too difficult or not important to the person that they support.[21,22]. The effects of these attitudes are further compounded by unfounded societal assumptions about a lack of interest in voting among people with intellectual disability. Rather, there is evidence that many people with intellectual disabilities are interested in participating in voting and have a desire to have a say in how their society operates.[23] In addition, disinterest in voting is not an exemption afforded to the general population.

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[19] Agran, A, Maclean, W & Arden Kitchen, K (2016). "My voice counts too": Voting participation among individuals with intellectual disability. *Intellectual and Developmental Disabilities,* vol. 54, no. 4, pp. 285-94.
[20] Bigby et al., 2019.
[21] Ibid.
[22] Agran, M & Hughes, C. (2013). "You can't vote - you're mentally incompetent": Denying democracy to people with severe disabilities. Research and Practice for Persons with Severe Disabilities, 38(1), 58-62.
[23] Agran, Maclean, & Arden Kitchen, 2016

In our experience, negative attitudes toward voting among family members and carers can be overcome through the provision of resources for supporters of people with intellectual disability which highlight the importance of voting and provide a simple step-by-step guide through the voting process. We found that parents or other family members often removed people from the electoral roll because they believed that it was too difficult to assist a person with intellectual disability to vote. We have found that providing resources and advice to families and supporters that underscores the importance of voting and offers a pathway through the voting process significantly reduces attitudinal barriers experienced by people with intellectual disability.

Figure 3. Despott, 2017

ASK: What are the barriers that prevent you from understanding, preparing for, enrolling in and make decisions throughout the voting process? How can we mitigate these?

Negative attitudes or misconceptions about mental capacity among voting centre staff are noted to be a tangible barrier to electoral participation for people with intellectual disability. [24] La Trobe University's research – conducted in partnership with Inclusion Melbourne – identified that people with intellectual disabilities experienced inconsistent levels of support from voting centre staff when

DON'T ASK: Do you have a sound mind? Do you understand the nature and significance of voting?

voting. While some indicated that they were adequately supported by voting centre staff, others indicated that voting centre staff had not accommodated their support needs. While our findings relate to Victorian elections, it is likely that this inconsistency of access experienced by persons with intellectual disabilities by voting centre staff is reflected at a national level.

While our *I Can Vote* campaign in 2018 did not seek to address training shortages for electoral and voting centre staff surrounding support accommodations for people with intellectual disabilities, it is our view that this gap is more appropriately filled through the application of disability awareness training to this cohort by electoral commissions as this work is apolitical. It should be noted however, that this gap is not the primary cause for low voting participation of people with disability. Rather, our team has sought to raise awareness among people with intellectual disabilities and their supporters regarding (a) the right to vote, regardless of assumptions of mental capacity, and (b) the right to be supported throughout the voting journey. Further work should, however, be carried out to review training of electoral and voting centre staff to ensure that people with intellectual disability are consistently able to use the supports to which they are entitled at voting centres.

"… I've never gone down to one of the schools… because the guards there won't let no one – won't let my mum or my dad come help me."

Bigby et al., 2019.

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[24] Bigby et al., 2019.

Summary:

Barrier:

▸ People with intellectual disabilities are restricted in their access to voting as a result of negative assumptions about mental and legal capacity among family members, carers and occasionally voting centre staff.

Misconceptions:

▸ People with intellectual disabilities are not interested or do not have the capacity to vote in elections.

▸ Electoral commissions consistently accommodate support needs for people with intellectual disabilities.

Our findings:

▸ Many people with intellectual disabilities have the capacity to understand politics and are eager to have a say in their democracy.

▸ Attitudinal barriers created by carers and families can be reduced through the provision of support materials, particularly when accompanied by peer support and positive stories. These include stories of voting and improved political awareness.

▸ The effects of negative attitudes of electoral staff may be tempered by ensuring that carers, families and people with intellectual disabilities are aware of their right to support at the voting centre.

▸ Further work must be done to ensure that voting support needs are consistently accommodated at the voting centre.

Recommendations:

▸ Create and promote tools to raise awareness among support professionals, carers, advocates, and families of people with intellectual disabilities about the importance of voting, the right to vote regardless of assumptions of mental capacity, and the right to be supported.

▸ Ensure that all electoral and voting centre staff consistently accommodate all types of evidence-based disability support at the voting centre, including formal recognition of supported decision-making supports.

Logistical Barriers

Many people with intellectual disability rely on the support of others in many aspects of their day-to-day lives. However, Inclusion Designlab has found that few people with intellectual disability have a fail-safe support system to guide them through the entire voting journey, including throughout the processes of enrolling, learning how to vote, getting to and from the voting place, and determining

who to vote for.[25] Furthermore, many people with intellectual disability do not have ongoing support to ensure that the voting pathway is repeated at successive elections. This is acknowledged as a key contributor to low voter turnout among people with intellectual disabilities.[26]

Figure 4. Despott 2018

Our work in the disability space recognises planning as one of the most important aspects of best practice. Through our experience in the *I Can Vote* campaign in 2018, Inclusion Melbourne found that the process of building the capacity of individual political citizenship and voting cannot begin and end on election day, but must be embedded within planning and support practice to build capacity and understanding over time. Planning for voting over a significant period of time is essential so that a person is able to develop political awareness, learn about voting, consider policies and decide who to vote for.

As a result, unlike other electoral inclusion campaigns which focus on episodic activities such as enrolling to vote or filling out the ballot paper, Inclusion Melbourne found that it was important to engage the support networks around people with intellectual disability to support their growth as political citizens and build capacity around the development of political opinions and voting preferences over the long-term. We also noted that the provision of a step-by-step long-term planning toolkit was critical to empowering people with intellectual disabilities to access each step of the voting pathway, including not just turning up on election day, but also developing opinions and ideas about politics and current affairs and deciding on candidate preferences.

Planning resources also worked to ensure that carers and support staff were able to set timeframes and goals for learning about politics, develop skills in having legitimate and unbiased conversations about politics, establish who is responsible for supporting the person with intellectual disabilities in each stage of the voting journey and organise transport and other logistical arrangements to ensure that the person was able to vote on election day. Through providing these planning resources, we found that people with intellectual disabilities were able to overcome logistical barriers to electoral participation.

An NDIS plan is able to support learning about voting and the development of political citizenship, as well as the practicalities of support with transport, and support at the voting centre.
As mentioned earlier, the support to learn about democracy and elections, understand partisan political content, and vote on election day, can be done by disability support professionals who are skilled in the evidence-based support practices of Supported Decision Making, Person Centred Active Support, and Positive Behaviour Support. Support Professionals undertaking this support are able to be funded through an individual's NDIS (National Disability Insurance Scheme) plan using either Core, or Capacity Building (Individual Skill Development) funds. Voting and political citizenship are clear

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[25] Despott, 2017, pp. 3
[26] Ibid.

functions of civic life, and aligns closely with the National Disability Insurance Agency's (NDIA) domain of Social, Community and Civic Participation.

Many of the tools, practices, and funding structures to adequately support people with intellectual disability to engage with politics and elections already exist, yet prior to the 2018 *I Can Vote* campaign, had not yet been combined or promoted in such a way that they were made easily accessible for people with intellectual disability, and their carers. This presented a significant logistical barrier to civic education and voting support for people with intellectual disability. The *I Can Vote* campaign found that it was able to combine information about political rights, best practice disability support frameworks, planning and educational resources for people with intellectual disability and carers, and information about NDIS funding for election and political awareness support in order to create an accessible pathway to voting and political awareness for Australians with intellectual disability.

Summary:

Barrier:
‣ Many people with intellectual disabilities rely on the support of others yet do not have a reliable support plan for political citizenship capacity-building and voting.

Misconception:
‣ Voting support is as simple as taking someone to the voting centre on election day.

Our findings:
‣ To overcome logistical barriers to voting, people with intellectual disabilities need to be supported over the long-term through planning, education and best-practice disability support.

Recommendations:
‣ Develop and disseminate support planning resources for people with intellectual disabilities and their carers surrounding voting and political citizenship.
‣ Support the National Disability Insurance Agency to promote and fund voter support logistics, group-based learning as per learning circles model, and education, planning and support.

Campaigning for electoral inclusion of people with intellectual disability

Inclusion Designlab has promoted the need for a model of accessible political content for many years, including through:

▸ The publication of articles in Journals and news sources;

▸ Several meetings with self-advocates with intellectual disability and parliament representatives to discuss the importance of the UNCRPD articles around voting, and how these are currently being experienced by people with intellectual disability in everyday life;

▸ Extensive demonstrations and micro-presentations of the *I Can Vote* system and evidence-based approaches to supported voting to each interested politician, party representatives, and government/ministerial representatives. This approach is laborious, however created a good relationship between the project team and those interested;

▸ A long-term and resource demanding search for funding partners;

▸ Constant awareness that the Australian Electoral Commission and Victorian Electoral commission feel hesitant about work consisting of supported decision making and voting;

▸ Phase 1 campaign for *I Can Vote*, which included the initiation and scoping of a full campaign, champion videos, and a proof of concept web portal with accessible information.

While we applaud the electoral commissions' attempt to develop and facilitate learning groups, Inclusion Designlab feels that the evidence from Australia and international jurisdictions demonstrates that groups need to be run by a third party who can confidently and objectively facilitate political content. This is evidenced by research conducted in Sweden on the experiences of voting with an intellectual disability[27]; the learning circles developed in Mitt Val (My Choice); Distinctive options (civic peer learning group in Sunbury, Victoria; Study groups created during *I Can Vote 2018*; and Microboards Australia supporting individual Microboards to support a person to vote.

The Inclusion Designlab team received significant positive feedback from a range of stakeholders, including election candidates, members of parliament, disability organisations, self-advocates, advocates and families about the work they do on electoral inclusion. In particular, in discussions with people with intellectual disability who had participated in the 2018 *I Can Vote* campaign, it was reported that resources were highly beneficial for building political awareness, creating voting support structures, and developing skills in voting decision-making. The team received significant interest online, with a social media reach of over 100,000 people.

The inaugural campaign was nominated, and awarded the prestigious Zero Project award in Vienna in early 2019, in recognition of innovative design for *I Can Vote 2018*.

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[27] Kjellberg A, & Hemmingsson H. 2013. 'Citizenship and Voting: Experiences of Persons with Intellectual Disabilities in Sweden' in *Journal of Policy and Practice in Intellectual Disabilities* Vol.10 No.4 pp 326-333 December 2013.

The future of *I Can Vote*

Since 2018, our team have worked to integrate our findings from the first campaign and 'package' it for use in other jurisdictions. Our hope is that the successes of the 2018 *I Can Vote* campaign for the Victorian election can be repeated and amplified at a national level to empower people with intellectual disabilities across Australia to overcome barriers to voting and have their say in their democracy.

I Can Vote brings together a diverse range of knowledge, and specialities to work effectively and successfully for an election. The campaign brings together world-class research into inclusive elections, evidence-based disability support practices, the lived experience of self-advocates, the nuanced understanding of democracy and the Australian political system, accessible formats for intellectual and cognitive disability, and an easy to use online portal for all users. For *I Can Vote* to be successful for future elections, it is important that these parts are maintained, and encouraged to participate fully.

Figure 5: Elements that contribute to I Can Vote

Our recommendations for the operationalisation of *I Can Vote* moving forward are outlined below:

a) Program Operationalisation

It is essential that the *I Can Vote* campaign is operationalised by an impartial third party who is able to publish and disseminate political information. As a result, operationalisation cannot be managed by electoral commissions, who are unable to produce partisan information. The Inclusion Designlab *I Can Vote* team is happy to have leadership in the operationalisation of the campaign moving forward and welcomes operational partners.

b) Campaign Funding

It is appropriate for governments to fund the *I Can Vote* campaign as long as the program has suitable cross-party support, the contents of the program are transparent and agreed upon before funding, and there is widespread community and stakeholder support for the initiative. In our discussions with members of parliament, we have found that the campaign has attracted significant support across the party divide.

c) Web Portal

In our experience, we have found that this campaign works best when provided in a central portal. Our 'meet the candidates' web portal at www.icanvote.org.au/meet-the-candidates is a one-stop-point for people with intellectual disability to access a broad range of political content so that they are able to make informed decisions about the candidates/parties which most accurately represent their ideas and beliefs. This portal removes the difficulty that would be involved with tracking down each candidate's own website and locating easy language content.

d) Political Content

In order for *I Can Vote* to continue to act as an impartial and unbiased third-party platform for the dissemination of cognitively accessible political content, it is imperative that the political content continues to be written by candidates and parties themselves with support from easy language translators. Candidates/parties may produce their own videos or may seek support from the *I Can Vote* team to produce video recordings of candidates voicing their policy platforms. The production of such content could be funded by candidates/parties themselves, who have political incentive to advertise their policy platforms. There is also potential for government to set aside funding to cover the small cost of the production of one video for each candidate. In addition to a main policy platform video, candidates/parties should be permitted and encouraged to produce and upload additional easy language resources for people with intellectual disability.

e) Disability Sector

In order for the campaign to be successful, it is essential that people with intellectual disability are supported to access the *I Can Vote* resources that have been produced. In this sense, we are seeking a commitment from the disability support sector to employ evidence-based practice and supported decision-making frameworks within their practice. It is also essential that people with intellectual disability are afforded equitable access to ICT in order to access online *I Can Vote* resources.

f) Campaign Evaluation

The *I Can Vote* team is eager for reliable local academic evaluation of the program, and research into the impact of this campaign on the voting of people with intellectual disability.

Summary of Recommendations

1. Support the development and distribution of political/campaign materials in cognitively accessible formats.

2. Provide guidelines, tools and education for carers on how they can offer legitimate voting support using evidence-based disability support practice.

3. Remove S 93.8a, and S 118.4 of the *Commonwealth Electoral Act 1918* which dictate that a person of 'unsound mind' should be disqualified from voting and outline the method for disqualification.

4. Provide evidence-based voter support and guidelines to remove informational, logistical and social barriers to voting for people with intellectual disability.

5. Standardise and systematise current electoral commission arrangements that allow people with disability to have fines waived through discretionary case by case engagement with electoral commissions. However, this should be a stop gap to be used in addition to improved support and community attitudes.

6. Create and promote tools to raise awareness among support professionals, carers, advocates, and families of people with intellectual disabilities about the importance of voting, the right to vote regardless of assumptions of mental capacity, and the right to be supported.

7. Ensure that all electoral and voting centre staff consistently accommodate all types of evidence-based disability support at the voting centre, including formal recognition of supported decision-making supports.

8. Develop and disseminate support planning resources for people with intellectual disabilities and their carers surrounding voting and political citizenship.

9. Support the National Disability Insurance Agency to promote and fund voter support logistics, group-based learning as per learning circles model, and education, planning and support.

References

Agran, M & Hughes, C. (2013). "You can't vote - you're mentally incompetent": Denying democracy to people with severe disabilities. Research and Practice for Persons with Severe Disabilities, vol. 38, no. 1, pp. 58-62.

Agran, M, Maclean, W & Arden Kitchen, K (2016). "My voice counts too": Voting participation among individuals with intellectual disability, *Intellectual and Developmental Disabilities,* vol. 54, no. 4, pp. 285-294.

Australian Law Reform Commission (2014). 'Repeal of the 'unsound mind' provision', *Australian Government,* accessed 18 April 2020, <https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-alrc-report-124/9-electoral-matters-2/repeal-of-the-unsound-mind-provisions/>

Bell, D, McKay, C & Phillips, K (2001). 'Overcoming the barriers to voting experienced by people with learning disabilities', *British Journal of Learning Disabilities*, vol. 29, no. 1, pp. 122 – 127.

Bigby, C., Tipping, S., Bould, E., Thiele, R. (2019). *Final report: Strategies to support people with intellectual disabilities to participate in voting*. Living with Disability Research Centre, La Trobe University: Bundoora, VIC.

Despott, N (2017). *Electoral Inclusion: Rights, Barriers and Global Campaign Strategies for Voters with Intellectual Disability*. Inclusion Melbourne: Melbourne. February 2017, pp. 2

Despott, N & Leighton, D (2017). 'It's in the practice: commentary on "The Value of Citizenship" (Duffy 2017)', *Research and Practice in Intellectual and Developmental Disabilities,* vol. 4, no. 1, pp. 35-41.

Hawkins, R., Redley, M., & Holland, A.J. (2011). Duty of Care and Autonomy: How support workers managed the tension between protecting service users from risk and promoting their independence in a specialist group home. *Journal of Intellectual Disability Research*, 55(9), 873–884.

Keely, H, Redley, M, Holland, A & Clare, I (2008), 'Participation in the 2005 general election by adults with intellectual disabilities', *Journal of Intellectual Disability Research,* vol. 57, no. 3, pp. 175-181.

Kjellberg A, & Hemmingsson H. (2013). 'Citizenship and Voting: Experiences of Persons with Intellectual Disabilities in Sweden' in *Journal of Policy and Practice in Intellectual Disabilities,* vol.10, no. 4, pp 326-333

Redly, M 2008, 'Citizens with learning disabilities and the right to vote', *Disability and Society,* vol. 23, no. 4, pp. 375-84.

Savery, J 2015, 'Voting rights and intellectual disability in Australia: an illegal and unjustified denial of rights', *Sydney Law Review,* vol. 37, no. 2, pp. 295

Appendix 1:
Overview of the 2018 Victorian Election '*I Can Vote*' Campaign

In the months leading up to the 2018 Victorian Election, Inclusion Melbourne ran a campaign for more inclusive, and accessible political content for people with intellectual disability. This world-first campaign can be articulated in 2 distinct phases which occurred in the lead up to the election, *Proof of Concept* and *Election Campaign*.

Phase One: Proof of Concept
Following the success of the Inclusion Designlab publications 'Electoral Inclusion' and '*I Can Vote*', funding was sourced to develop a proof of concept for inclusive and accessible election materials. This proof of concept consisted of an interactive website to host materials, and sample or 'champion' videos of current members of Victorian parliament.

Website Development
The project team worked with a web developer to create a website that was capable of hosting existing materials, as well displaying common information – such as how to prepare to vote - in an accessible, step-by-step, way for people with intellectual disability.
La Trobe University's ABI/TBI academics and self-advocates were consulted to ensure that people with acquired and traumatic brain injuries (ABI/TBI) with cognitive impacts were able to access the website confidently and successfully.

The website was designed specifically for people with cognitive disability, using photos, images, videos, along with easy language, and an option to listen to the text. Websites designed for people with disabilities often lead to one group's accessibility needs taking priority over those of others. The project team endeavoured to accommodate the needs of people with vision impairment, deaf people, and people with cognitive impairments.

Lived Experience Videos
Four people with very different stories of voting were asked to share their story in a short video for the website. These videos highlight some of the common barriers to voting and understanding political content faced by people with intellectual disability, or ABI/TBI.

Champion Videos
A selection of Victorian politicians was chosen from all current parties to participate in the *I Can Vote* Champion Videos. candidates were approached based through professional networks. Eight candidates representing the breadth of the political spectrum participated. Videos were filmed by a professional film crew at Parliament House, their offices, or a studio. Candidates read from a script that was originally written by themselves, and translated into easy language with support from the *I Can Vote* team.

It was important for the *I Can Vote* team to ensure that the candidates spoke about their policy platforms, rather than speaking specifically about disability and voting. It was important that the intended viewers received the same content as anyone else would.

Phase Two: Election Campaign 2018 (Victorian State Election)

Three fact sheets were created to assist in the recruitment of political candidates to the campaign;
▸ **About the** *I Can Vote* **project**: describes the history of the work completed by Inclusion Designlab, and why a campaign for cognitively accessible election and policy material is needed.
▸ **Are you an election candidate in the 2018 Victorian State Election?**: encourages candidates to communicate their message in an accessible way, highlighting how *I Can Vote* can support this cheaply. This fact sheet also includes the 3 steps for creating an accessible video through *I Can Vote*.
▸ **Pathways to Voting:** discusses the 5 steps to voting that people go through to vote in an election. This was taken from the VEC-funded *Electoral Inclusion* and *I Can Vote* publications, created in 2017 and early 2018.

Recruitment of Politicians for New Videos
All political party candidates, and independents, were contacted in the months prior to the election with basic information about *I Can Vote*, and how to become involved in this campaign. All parties were contacted with the opportunity to meet with 2 project representatives, a person with lived experience of voting with intellectual disability, and a project coordinator.

Candidates and representatives who agreed to meet were all receptive to the project and saw the need for this campaign, with some smaller parties citing financial or external barriers to participating in 2018.

Website Development
A short video explainer of the website, and how to use the website was created and uploaded to the home page. This was filmed with a person with intellectual disability.

The website search function was updated to allow users to choose their electorates from a list, and the relevant videos of candidates in their area would appear.

The Website was updated and expanded to include an automated portal for political candidates to submit draft scripts, videos, and payment for easy language translation.
1. A candidate submits their draft script and payment for translation (and video where chosen)
2. The script would be sent at random to a translation partner of *I Can Vote* (one of three organisations)
3. The script would be made available in the portal for candidates to review, and make comments/edits
4. The script would be finalised for filming.
5. The candidate would choose a time to be filmed at the Channel 31 studios, or be prompted to upload a video filmed themselves.
6. Video would automatically be uploaded to the website, and appear when a website user chose the relevant electorate.