

**Submission
No 21**

**ADMINISTRATION OF THE 2023 NSW STATE ELECTION AND OTHER
MATTERS**

Name: Ms Rebecca Clarke

Date Received: 19 February 2024

I write in relation to the NSW Government Inquiry of the Administration of the 2023 NSW state election and other matters.

I was a volunteer for the independent candidate in Pittwater in the 2023 NSW state election.

Preferences Matter

Pittwater was essentially a two cornered contest between the Liberal candidate and the independent candidate where preference votes were needed to win. Ultimately the Liberal candidate beat the independent candidate by only 606 votes or 1.32%. 3,387 votes were exhausted.

<https://pastvtr.elections.nsw.gov.au/SG2301/LA/pittwater/TCP>

If only 18% of these voters had numbered more than one box, the election result may have been different.

“You only need to number one box”

When I went to vote and was handed the ballot paper despite not asking for instructions on how to complete it I was told by the electoral official “you only need to number one box” to which I said “...or, I can choose to number every box”. She replied “yes, you can”. I soon started to hear similar stories from many other voters in Pittwater and elsewhere.

I began to wonder how many voters only numbered one box because that is what they were instructed to do by an election official, a person in authority. I wondered how many of these voters may have numbered more than one box if they had been instructed by a person in authority, that they could do so.

When the result was announced I wondered whether it may have been different in Pittwater if voters were told they could number more than one box. I also wondered about the training provided to election officials and what they are supposed to say to voters, so I arranged a GIPA application to find out. A sample of the documents obtained are attached to this submission in Annexure 1 on p.5 of this submission.

I can understand how only numbering one box might be considered the ‘easy’ option by many – both voters and electoral staff, however by not following correct procedure, electoral staff can inadvertently affect their duty to be impartial and in some close contests possibly impact the result.

Optional preferential voting

NSW is the only state which uses the optional preferential voting system. All other states use compulsory preferential voting as does the federal election.

With compulsory preferential voting it is in the interests of **all** candidates to remind voters that they need to number every box to ensure their vote is formal. However, this is not the case when it comes to optional preferential voting.

For major party candidates it is in their interest to tell voters that they need only number one box as they have the most well-known brands – i.e. Vote 1 for the major party candidate and leave the other boxes blank.

For minor party, independent and new entrant candidates who are generally not so well known it is in their interest to tell voters to number every box – i.e. – even if you vote 1 for another candidate you can vote 2 for me.

Given in NSW we have optional preferential voting, and this is not likely to change anytime soon due to the complexities involved, it is incumbent on the Electoral Commission to ensure that all staff are not only well trained in the importance of impartiality and when dealing with both voters and campaigners, correct correct voting instructions are always provided.

Electoral Commission training

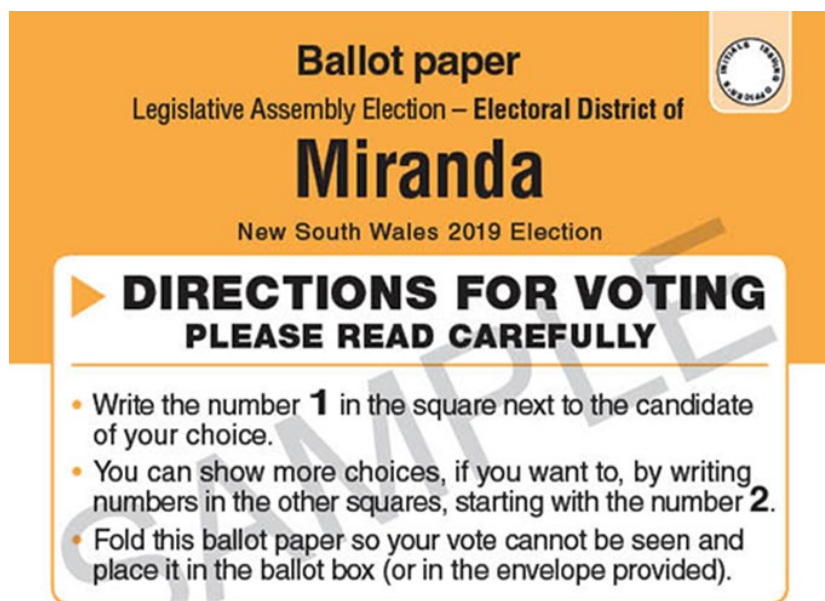
It is clear from the excerpts of Electoral Commission training material provided in Annexure 1 obtained through a GIPA application, that their training materials provide clear and consistent guidance on instructing the voter to read the instructions on the ballot paper.

“Advise the elector to read the instructions on the ballot paper” is a phrase that reoccurs frequently in the training material.

Instructions on the ballot paper

Nowhere in the directions for voting on the ballot paper is it written that they can say “you only need to number one box” as I and many others were told when handed the ballot paper.

It is clear from the below sample ballot paper that there are 3 directions provided – the first 2 detailing how to complete the ballot paper.



Voting Centre Managers Reminder Communication

Despite clear and consistent training materials Voting Centre Managers need to be reminded of this by email and sms, on at least 3 occasions in the final 3 days of the election period.

See Annexure 1 for documents obtained through GIPA application

1. 23 March email sent from EMSO Support to Early Voting Centre

Managers:

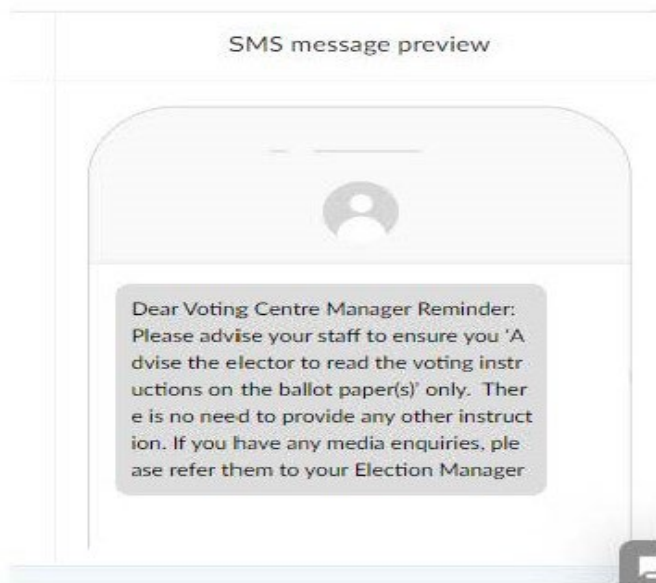
Can we make sure of the following:

- 1. Please ensure that all staff are advising the electors to read the top of the ballot paper in relation to the instructions how to vote”*

2. Friday 24 March Email sent from EMSO Support to Early Voting Centre Managers:

.....This is very important that we don't make up the instructions. Please keep to the script on the ballot paper. Refer to the How to issue an ordinary vote card SE.307

3. Saturday 25 March SMS message to all Voting Centre Managers:



Why was the Electoral Commission expecting media enquiries on instructing people how to vote? Was it because they were aware that in some electorates there was a lot of consternation between campaigners about the different options available to voters on how to complete the ballot paper?

I do not know what time on election day this SMS was sent but from anecdotal evidence my guess is around lunchtime by which time at least 90% of votes have already been cast. It seems very late in the day that Voting Centre Managers should still need to be reminded how to follow correct procedure.

Conclusion

Correct procedure would have meant myself and all voters in NSW were told to *read the instructions on the ballot paper* – that, and nothing else - and, if voters had been told that, some of them may well have numbered more than one box on the ballot paper.

From my own experience and, anecdotally from dozens of other sources and, from the Electoral Commission email & SMS communication with voting centre managers, it seems correct procedure was not followed as it should have been.

It is impossible to know how many voters were not given correct instructions and whether this affected any results. However, by not following correct procedure electorate staff were inadvertently not acting in the interest of impartiality which is a fundamental democratic principle expected by the people of NSW.

Rebecca Clarke

16 February 2024

Annexure1

All documents in this Annexure were obtained from the NSW Electoral Commission through a GIPA application. **Yellow highlighting is my own.**

a) 23 March email to Early Voting Centre Manager:

From: EMSOSupport
Sent: Thursday, 23 March 2023 10:39 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: An update for more information [DLM= Unclassified]

Dear Early Voting Centre Managers

[REDACTED]

[REDACTED]

Can we make sure of the following:

[REDACTED] he
[REDACTED] instructions how to vote

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Kind regards
bcc Election Managers

[REDACTED] | EMSO Support Centre Team Leader
Election Support Services
NSW Electoral Commission

231 Elizabeth Street | Sydney NSW 2000 | GPO Box 832 | Sydney NSW 2001

Direct: (+61 2) [REDACTED] 0 | SWITCH: (+61 2) 9290 5999 | ENQUIRIES: 1300 135 736

E:

W: www.elections.nsw.gov.au

b) 24 March Email to Early Voting Centre Managers 24 March

From: EMSOSupport
Sent: Friday, 24 March 2023 12:31 PM
To: EMSOSupport
Cc: [REDACTED]
Subject: Ballot Paper instruction [DLM= Unclassified]

Dear Early Voting Centre Managers

Please ensure that all issuing officers advise electors to read the instructions on the ballot paper and NOT 'they didn't have to mark more than 1 box below the line again'

This is very important that we don't make up the instructions. Please keep to the script on the ballot paper. Refer to the **How to issue an ordinary vote card SE.307.**

Kind regards

[REDACTED]

[REDACTED] | **EMSO Support Centre Team Leader**
Election Support Services
NSW Electoral Commission

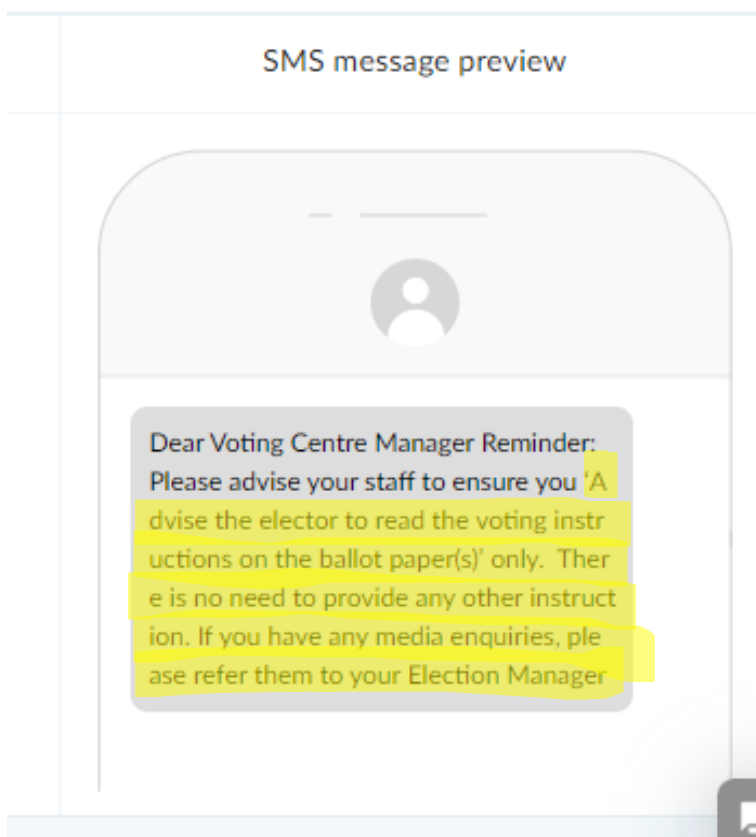
231 Elizabeth Street | Sydney NSW 2000 | GPO Box 832 | Sydney NSW 2001

Direct: (+61 2) [REDACTED] | **Mobile:** [REDACTED] | **SWITCH:** (+61 2) 9290 5999 | **ENQUIRIES:** 1300 135 736

E:

W: www.elections.nsw.gov.au

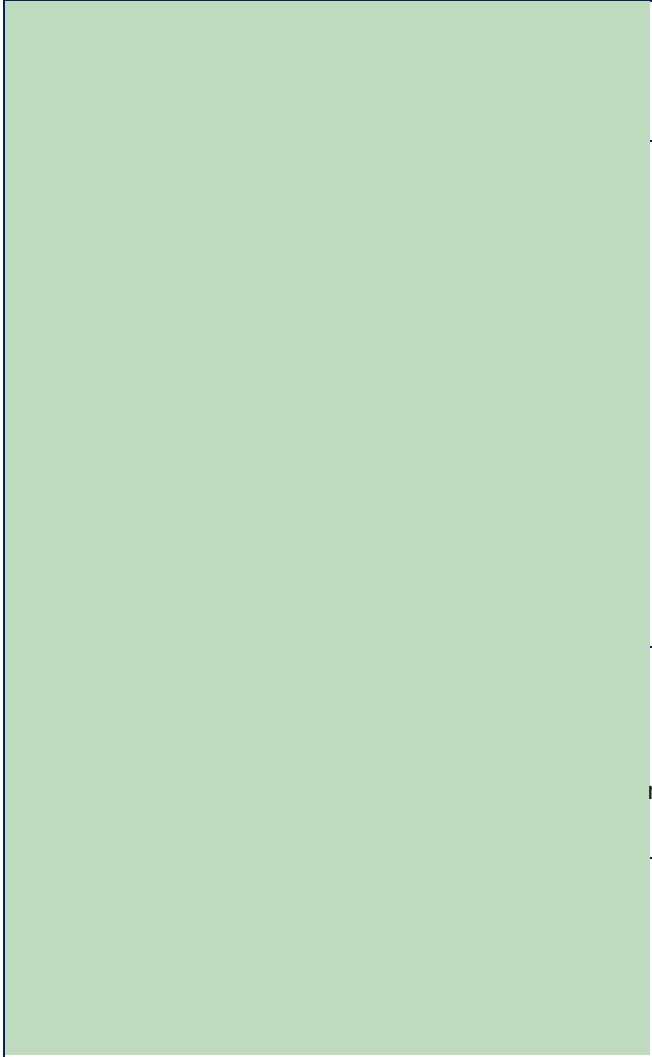
c) 25 March SMS to all Voting Centre Managers:



d) Extract from instructions summary card:

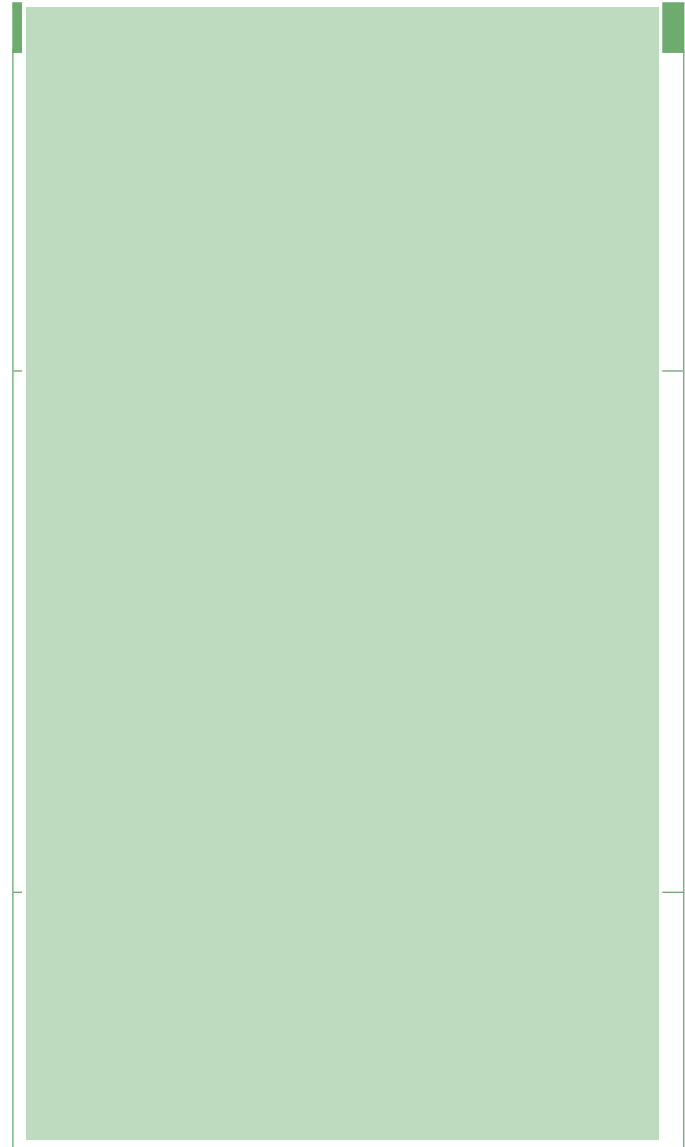
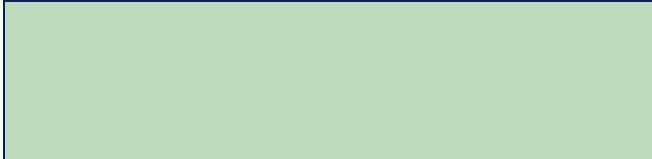

How to issue an ordinary vote – instructions summary card

Issuing an ordinary vote process



5 Initial ballot papers and issue to elector

- Initial in the top right corner
- Advise the elector to read the voting instructions on the ballot paper(s)
- Tell the elector that if they make a mistake, they can bring any spoiled ballot paper(s) back for a replacement.



Translating Interpreter Service (TIS national)

If an elector requires language assistance, contact the Translating and Interpreting Service (TIS national).

Ask your Voting Centre Manager to assist the elector with the translating service.

e) Extract from Early Voting Centre Manager Manual :

Election official – Ordinary Issuing Officer

#	Points to outline
1	[Redacted]
2	Read your How to issue an ordinary vote – instructions summary card SE.466 and remember to follow all the steps for every elector.
3	[Redacted]

f) Excerpt from training materials for Election Officials & Quiz:

Lesson 6 of 12

Issuing ordinary votes

The Election Official is responsible for issuing ballot papers to electors. To cast a formal vote the elector must follow the instructions on the ballot paper when voting.

You must be impartial at all times.

Do not comment on political parties, candidates, their policies or any issue relating to the election.

The **How to issue an election day ordinary vote – instruction summary card SE.466** is used to step through:

- how to issue ordinary votes, and
- how to handle exceptions.

Select numbers **one to six** and the **information icon** below to learn more.

Scenario 2

An elector has asked you how to fill in their ballot paper.

What advice should you give them?



Vote a number 1 for the candidate of your choice on each ballot paper. That is the easiest method.



Read the instructions on each ballot paper.



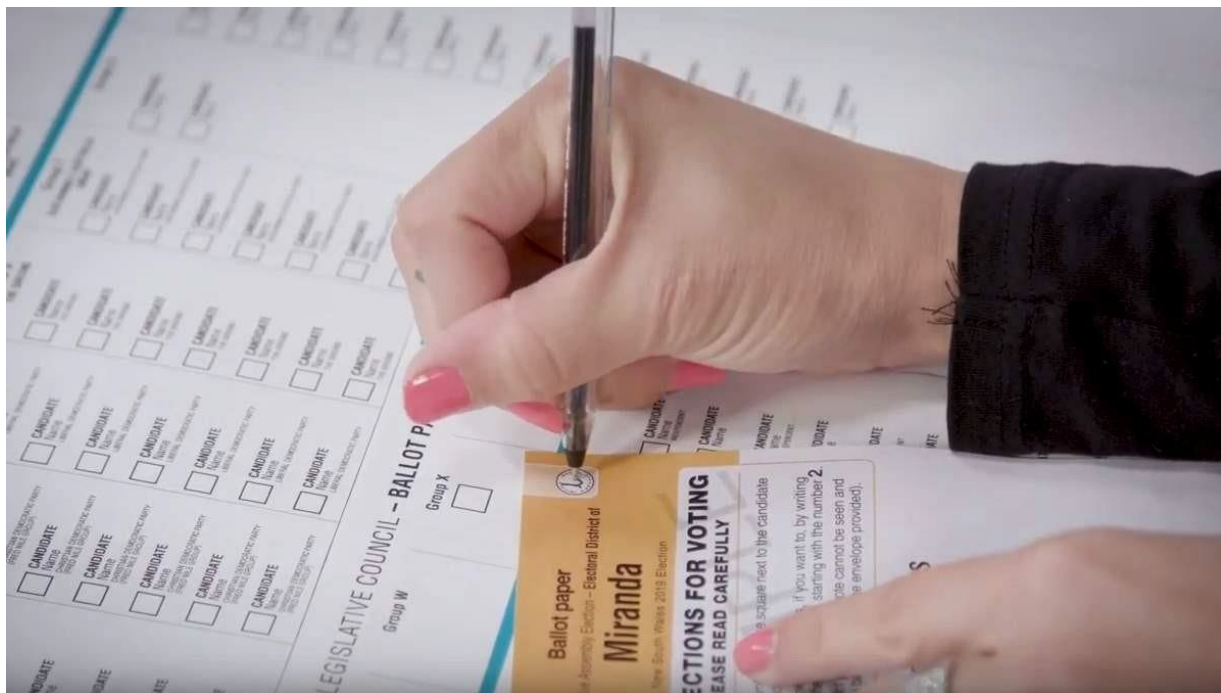
Vote 1 for you preferred candidate and then in subsequent order for the others.

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g) Extracts from training manuals for voting centre managers:

Step 8

Initial the ballot papers and issue to elector



- [REDACTED]
- Advise the elector to follow the instructions on the ballot papers.
- Ask the elector to return the ballot papers to you once they have cast their vote.

