



# DECISION

s.468A(4) - Review of eligible protected ballot agent

**Democratic Outcomes Pty Ltd T/A CiVS**  
(B2026/38)

**TrueVote Pty Ltd**  
(B2026/39)

**uCommunications Pty Ltd T/A uComms**  
(B2026/40)

**Vero Engagement & Voting Solutions Pty Ltd T/A Vero Voting**  
(B2026/41)

**Crowd Faction Pty Limited**  
(B2026/42)

**IR Balloting Pty Ltd T/A IR BLOTS**  
(B2026/43)

**Fair Vote Services Pty Ltd**  
(B2026/44)

**RMK Investments Pty Ltd as Trustee for Kidd Family Trust T/A Australian Election Company**  
(B2026/45)

DEPUTY PRESIDENT HAMPTON

ADELAIDE, 11 MAY 2026

*3-Yearly review of the approval of persons as an eligible protected action ballot agent.*

## 1. What this decision is about

[1] This decision concerns the Fair Work Commission's review of approved eligible protected action ballot agents (**PAB Agents**) under s.468A(4) of the *Fair Work Act 2009* (Cth) (**Act**). The reviews are the first of their kind under the amendments introduced by the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (CTH) (**SJBP**), which commenced on 6 June 2023.

[2] In brief terms, a PAB Agent, when approved by the Commission, is authorised under the Act to conduct protection action ballots as part of a protected action ballot order (**PABO**), which arise under the bargaining regime of the legislation. The Commission must determine which PAB Agent is to conduct the ballot as part of making any PABO.<sup>1</sup> The PAB Agents are and must remain independent of the parties, and it is vital that they be able to act impartially, promptly and with integrity.

[3] Under s.468A(4), the Commission must, at least every 3 years following a person's approval as an eligible PAB Agent, consider in effect whether it remains satisfied that the person continues to meet the requirements for approval.

[4] The requirements for a person to be a PAB Agent, and the basis of the review being conducted, are detailed in s.468A of the Act as follows:

**“468A Eligible protected action ballot agents**

- (1) Each of the following is an eligible protected action ballot agent:
  - (a) the Australian Electoral Commission;
  - (b) a person approved by the FWC under subsection (2).
- (2) For the purposes of paragraph (1)(b), the FWC may, in writing, approve a person as an eligible protected action ballot agent if the FWC is satisfied that:
  - (a) the person is a fit and proper person to be an eligible protected action ballot agent; and
  - (b) any other requirements prescribed by the regulations are met.
- (3) The regulations may prescribe:
  - (a) conditions that a person must meet in order to satisfy the FWC that the person is a fit and proper person to be an eligible protected action ballot agent; and
  - (b) factors that the FWC must take into account in determining whether a person is a fit and proper person to be an eligible protected action ballot agent.
- (4) The FWC must, at least every 3 years after it approves a person as an eligible protected action ballot agent, consider whether the FWC remains satisfied that the person meets the requirements mentioned in subsection (2).
- (5) If, after considering the matter under subsection (4), the FWC is no longer satisfied that an eligible protected action ballot agent meets the requirements mentioned in subsection (2), the FWC must take:
  - (a) any action prescribed by the regulations; and
  - (b) any other action the FWC considers appropriate.”

[5] As is clear from s.468A(1)(a) and related provisions of the Act, the Australian Electoral Commission (**AEC**) is, in effect, directly approved by the Act as an eligible protected action ballot agent and is beyond the scope of the present review process.

## 2. The scope of this review process

[6] Since 6 June 2023, the Commission has approved nine PAB Agents under s.468A(1)(b) of the Act. The review covers all PAB Agents whose approvals are due for review to be completed no later than between 20 June and 24 November 2026, as set out below:

<b>PAB Agent</b>	<b>Review Deadline</b>
CiVS <sup>2</sup>	20 June 2026
TrueVote	20 June 2026
uComms <sup>3</sup>	21 June 2026
Vero Voting	3 July 2026
Australian Election Company	3 July 2026
Crowd Faction	24 July 2026
IR Blots	24 November 2026
Fair Vote	31 July 2026 <sup>4</sup>

[7] For context, I observe that the Commission records indicate that the following number of PABO ballots have been ordered by the Commission naming each relevant PAB Agent following their approval, as at 31 December 2025:<sup>5</sup>

<b>PAB Agent</b>	<b>Number of times included on a PABO issued by the Commission after being approved under s.468A</b>	<b>Percentage of total ballots issued</b>
AEC <sup>6</sup>	362	21.6%
CiVS	584	34.9%
TrueVote	122	7.3%
uComms	1	0.06%
Vero Voting	333	19.9%
Australian Election Company	3	0.18%
Crowd Faction	0	N/A
IR Blots	0	N/A
Fair Vote	230	13.7%
Lumi	0	N/A
Non-approved PAB agents	1	0.06%

## 3. The review process and timetable

[8] The Commission commenced the review process on 2 February 2026. This was confirmed by a public statement<sup>7</sup> issued by me as the National Practice Leader for Bargaining.

[9] Each review has been considered on its own merits and assigned a separate matter number. However, the reviews have been conducted concurrently for the effective use of Commission resources. For convenience, in this decision I have described the present exercise as the **Review**.

[10] The steps taken by the Commission in the Review have included:

- Establishment of a webpage dedicated to the reviews providing information and acting as a portal for the publication of submissions.
- The Commission contacted each PAB Agent whose approval was due for review, seeking submissions including:
  - A report on matters completed, complaints received, changes in circumstances or senior personnel, and other criteria set out in the Form F34C (Application for approval as an eligible protected action ballot agent); and
  - Disclosure of any adverse findings made by Courts or Tribunals against the agent or key personnel.
- The issuing of a subscriber notice and update of the appropriate Commission webpage, inviting interested parties and the public to make submissions regarding the continuing eligibility of any relevant PAB Agent. Submissions were open for 6 weeks, closing on 16 March 2026.
- The Commission has reviewed the material and evidence provided as part of the original approval of each PAB Agent and considered the basis for their approval at the time.
- The Commission also conducted desktop research for each PAB Agent's review, including but not limited to the Commission's internal records and publicly available materials.
- Where a submission received in the Review raised issues about one or more of the PAB Agents, the relevant agent was afforded the opportunity to make reply submissions.

[11] The PAB Agents were advised that if the Commission formed a preliminary view that a PAB Agent is no longer a fit and proper person, that agent would be informed and given an opportunity to be heard, which may involve further submissions or a hearing. Further, they were advised that under s.468A(5) of the Act, if at the conclusion of its review the Commission is no longer satisfied that a PAB agent meets the requirements for approval mentioned in s.468A(2) it may take any action prescribed by the regulations or any other action it considers appropriate. In this regard, I observe that there are no actions prescribed by the relevant regulations for this purpose.

[12] This decision represents and confirms the ultimate outcome of the reviews, including where the Commission is satisfied that the PAB Agents continue to meet the relevant requirements. In one case, for reasons set out below I have found that the PAB Agent does not continue to meet the relevant requirements and their approval has been cancelled. In 2 other cases, I have continued the PAB Agent's approval but recognised that an earlier than normal further review of that approval is warranted in the circumstances also outlined later in this decision.

#### **4. The submissions received**

##### **4.1 Submissions from each of the PAB Agents**

[13] Ultimately the Commission received and published submissions from all but one of the PAB Agents. The detail of those submissions will be addressed below.

[14] In the case of UCommunications Pty Ltd, no submission was received which addressed the approval requirements, and the circumstances of that PAB Agent are also addressed below.

##### **4.2 Submissions from other interested parties**

###### **Australian Resources and Energy Employer Association**

[15] The Australian Resources and Energy Employer Association (AREEA) emphasised importance of PAB agent integrity, stating that "the ballot process is intended to operate as a structured safeguard that introduces a period of deliberation before industrial action occurs". It further contended that "if agents fail to apply appropriate scrutiny this safeguard is weakened.

[16] AREEA contended that the collection of personal information beyond what is reasonably necessary to conduct a vote raises questions as to whether the information may be used for secondary purposes. It also submitted that if so, this raises concerns about whether employees have provided informed consent, which is a requirement under the *Privacy Act 1988* (Cth). That is, while some personal information may be reasonably necessary for conducting a ballot, it is "doubtful that the voting process requires an employee's middle name, private email address or postal address to conduct the vote." It further contended that such requests appear inconsistent with the requirements of the *Fair Work Regulations 2009* and the Australian Privacy Principles (APPs)

[17] AREEA's submissions originally brought to the Commission's attention what it contended were examples to illustrate privacy, timing, and "union involvement" concerns relating to 2 PAB Agents. This included one case where an unidentified ballot was allegedly closed prematurely. Following response submissions from the ballot agents involved, AREEA clarified its position in the following terms:

"AREEA did not intend to suggest that the ballot agents referenced were acting outside the scope of the Commission's orders or independently requesting information beyond that framework. To the extent that the original submission may have conveyed that impression, AREEA withdraws that characterisation."<sup>8</sup>

[18] AREEA also confirmed that it continues to hold concerns regarding:

- whether the categories of personal information required in protected action ballots are limited to what is reasonably necessary for the conduct of a vote;
- the transparency provided to employees regarding the purpose, use and handling of their personal information;
- the adequacy of safeguards in relation to the transmission, storage and protection of that information; and
- the potential impact of these practices on employee confidence in, and participation in, the ballot process.

[19] AREEA also reiterated its submission that the current framework, including elements of the Commission’s standard form documentation, may contribute to the routine collection of personal information beyond what it contends is necessary for the statutory purpose of conducting a ballot.

### **Australian Council of Trade Unions**

[20] The Australian Council of Trade Unions (ACTU) commended the inclusion of eligible protected action ballot agents for the purpose of PABOs, noting that prior to this the AEC generally conducted these ballots without charge but using the ‘slower’ postal ballot method.

[21] However, the ACTU noted the cost of such (private) ballots which it contends is “a significant barrier to workplace democracy” with the cost being “borne typically by trade unions and their members”. The ACTU recommended that the AEC consider offering electronic ballot, without charge, in addition to the existing service.

## **5. Consideration**

### **5.1 Some general issues arising from the submissions**

#### **The approach adopted to the approval criteria**

[22] In decisions of the Commission approving the various PAB Agents, the Commission has found as follows:

- A “person” for the purposes of s.444, s.468A and related provisions includes a corporation. This means that an eligible protected action ballot agent may be an individual (natural person) or a corporation. The Australian Electoral Commission (AEC) which is also an eligible protected action ballot agent is, in effect, approved directly by the Act.<sup>9</sup>
- No regulations have been made for the purposes of s.468(2)(b) of the Act.<sup>10</sup> This means that the Commission must consider whether the applicant seeking approval as an eligible protected action ballot agent is a fit and proper person by reference to the

general concept unaided by additional requirements or considerations. If satisfied, a discretion arises to approve the application.<sup>11</sup>

[23] The approach adopted to date by the Commission in assessing whether the proposed agent meets the fit and proper person test is best illustrated by the following:

“[28] Section 444 and associated provisions of the FW Act aim to protect the interests of the employees participating in the ballot and those of the employer(s) involved. Further, there is a statutory imperative arising from the scheme of the FW Act that any ballot that might authorise the taking of industrial action be conducted in a proper, democratic, prompt and robust manner by agents that are appropriate to undertake that task.

[29] The Commission has found<sup>12</sup> that the assessment of whether a proposed protected action ballot agent is a fit and proper person should take place in that context. The test is whether a person is fit and proper to conduct protected action ballots, not whether they are fit and proper in some abstract sense. Further, and without being definitive, considerations that might inform whether an applicant is a fit and proper person to be an eligible protected action ballot agent might include (where relevant):

- The qualifications and experience of the individuals that lead the organisations and/or those that are intended to conduct the ballots;
- The experience with conducting ballots and the absence of issues (non-conformances) evident from that experience;
- The systems that are in place to ensure that ballots are conducted fairly, democratically, and expeditiously by fit and proper individuals and which ensure the integrity and privacy of the information provided to them by the parties;
- General standing within the community including whether they have a record of non-compliance with workplace laws and the absence of criminal convictions; and
- Independence, or robust systems to ensure proper separation, from the interests and influence of those whose members are being balloted and their employers.<sup>13</sup>

[30] Reference to “systems” above would include both information processes (technology and security arrangements) and staffing systems. In addition, findings made by the Commission as to whether the applicant is a fit and proper person for some equivalent ballot role or related purpose would also be relevant.”<sup>14</sup>

[24] None of the parties in this Review took issue with the above approach and I have applied this allowing for the fact that in these matters the Commission is assessing whether the PAB Agents continue to meet the requirements of the Act.

### **Privacy legislations and principles**

[25] In its submissions, AREEA raises the implications of the *Privacy Act 1988* (Cth) (**Privacy Act**) and the Australian Privacy Principles (**Principles**) to the information that is to be provided by the parties to the PAB Agents in each ballot.

[26] The context for this issue more generally is that the PAB Agents require sufficient information to enable them to prepare and finalise the list of voters in each ballot. This normally involves the applicant (union) providing a list of those employees that it is acting as a bargaining agent for and that fall within the group of employees specified in the PABO order, and the employer independently providing the list of its employees who also fall within the intended coverage of the proposed enterprise agreement. Each party provides sufficient identifying information to enable the PABO Agent to compare the lists and ensure that only the relevant employees are included on the list of eligible voters.

[27] It is self-evident that the above information contains details that are private in nature and potentially industrially sensitive between the parties. That is, it would not be normal for an employer to provide a full list of its employees to a Union or for a Union to provide a list of its members to an employer. This is particularly so in the context of bargaining where a PABO and protected industrial action is contemplated.

[28] Section 450 of the Act is relevant and provides:

**“450 Directions for conduct of protected action ballot**

- (1) This section applies if the protected action ballot agent is not the Australian Electoral Commission.
- (2) The FWC must give the protected action ballot agent written directions in relation to the following matters relating to the protected action ballot:
  - (a) the development of a timetable;
  - (b) the voting method, or methods, to be used (which cannot be a method involving a show of hands);
  - (c) the compilation of the roll of voters;
  - (d) the addition of names to, or removal of names from, the roll of voters;
  - (e) any other matter in relation to the conduct of the ballot that the FWC considers appropriate.

*Note 1: For the purposes of paragraph (2)(b), examples of voting methods are attendance voting, electronic voting and postal voting.*

*Note 2: A protected action ballot agent must not contravene a term of a direction given by the FWC in relation to a protected action ballot (see subsection 463(2)).*

- (3) A direction given under subsection (2) may require the protected action ballot agent to comply with a provision of this Subdivision (other than subsection 454(5)) in relation to a particular matter.

*Note: Subsection 454(5) provides for the Australian Electoral Commission to vary the roll of voters on its own initiative.*

- (4) To enable the roll of voters to be compiled, the FWC may direct, in writing, either or both of the following:

- (a) the employer of the employees who are to be balloted;
- (b) the applicant for the protected action ballot order;

to give to the FWC or the protected action ballot agent:

- (c) the names of the employees included in the group or groups of employees specified in the protected action ballot order; and
- (d) any other information that it is reasonable for the FWC or the protected action ballot agent to require to assist in compiling the roll of voters.”

[29] Noting that in most non-AEC matters, directions are made principally under s.450, ss.452 to 454 of the Act also provides some broader context as follows:

**“452 Compilation of roll of voters**

- (1) This section applies if:

- (a) the protected action ballot agent is the Australian Electoral Commission;  
or
- (b) the FWC has directed the protected action ballot agent to comply with this section.

*Note: If this section does not apply, the protected action ballot agent must comply with directions given by the FWC in relation to the matters dealt with by this section (see section 450).*

- (2) As soon as practicable after receiving a copy of the protected action ballot order, the protected action ballot agent must compile the roll of voters for the protected action ballot.
- (3) For the purpose of compiling the roll of voters, the protected action ballot agent may direct, in writing, the employer of the employees who are to be balloted, or the applicant for the order (or both), to give to the ballot agent:

- (a) the names of the employees included in the group or groups of employees specified in the protected action ballot order; and
- (b) any other information that it is reasonable for the protected action ballot agent to require to assist in compiling the roll of voters.

#### **453 Who is eligible to be included on the roll of voters**

An employee is eligible to be included on the roll of voters for the protected action ballot only if:

- (a) the employee will be covered by the proposed enterprise agreement to which the ballot relates; and
- (b) the employee is included in a group of employees specified in the order and either:
  - (i) is represented by a bargaining representative who was an applicant for the order; or
  - (ii) is the bargaining representative for himself or herself but is a member of an employee organisation that was an applicant for the order.

#### **454 Variation of roll of voters**

*Variation by protected action ballot agent on request*

- (1) Subsections (2) to (4) apply if:
  - (a) the protected action ballot agent is the Australian Electoral Commission; or
  - (b) the FWC has directed the protected action ballot agent to comply with those subsections.

*Note: If subsections (2) to (4) do not apply, the protected action ballot agent must comply with directions given by the FWC in relation to the matters dealt with by those subsections (see section 450).*

*Adding names to the roll of voters*

- (2) The protected action ballot agent must include an employee's name on the roll of voters for the protected action ballot if:
  - (a) the protected action ballot agent is requested to do so by:
    - (i) an applicant for the protected action ballot order; or

- (ii) the employee; or
- (iii) the employee's employer; and
- (b) the protected action ballot agent is satisfied that the employee is eligible to be included on the roll of voters; and
- (c) the request is made before the end of the working day before the day on which voting in the ballot starts.

*Removing names from the roll of voters*

- (3) The protected action ballot agent must remove an employee's name from the roll of voters for the protected action ballot if:
  - (a) the protected action ballot agent is requested to do so by:
    - (i) an applicant for the protected action ballot order; or
    - (ii) the employee; or
    - (iii) the employee's employer; and
  - (b) the protected action ballot agent is satisfied that the employee is not eligible to be included on the roll of voters; and
  - (c) the request is made before the end of the working day before the day on which voting in the ballot starts.
- (4) The protected action ballot agent must remove a person's name from the roll of voters for the protected action ballot if:
  - (a) the person (the former employee) is no longer employed by the employer (the former employer) of the employees who are to be balloted; and
  - (b) the protected action ballot agent is requested to do so by:
    - (i) an applicant for the protected action ballot order; or
    - (ii) the former employee; or
    - (iii) the former employer; and
  - (c) the request is made before the end of the working day before the day on which voting in the ballot starts.

*Variation by Australian Electoral Commission on its own initiative*

- (5) If the protected action ballot agent is the Australian Electoral Commission, the Commission may, on its own initiative and before the end of the working day before the day on which voting in the ballot starts:
- (a) include an employee's name on the roll of voters for the protected action ballot if the Commission is satisfied that the employee is eligible to be included on the roll of voters; or
  - (b) remove an employee's name from the roll of voters for the protected action ballot if the Commission is satisfied that the employee is not eligible to be included on the roll of voters; or
  - (c) remove a person's name from the roll of voters for the protected action ballot if the person is no longer employed by the employer of the employees who are to be balloted."

**[30]** For reasons previously stated, some personal identifying information from the parties in a PABO is normally required for the eligible protected action ballot agent to properly conduct the ballot. That is, to enable it to compile a proper and auditable list of eligible voters. In the normal course, although the information provided by the employer will include details of employees beyond the group of employees to be balloted (employees who would be covered by the proposed agreement but for whom the applicant is not the bargaining representative) that information would reasonably be required to enable the eligible voters list to be independently assessed and confirmed by the ballot agent. The Act and the regulations contemplate the Commission issuing directions of this kind requiring appropriate and sufficient identifying information to be provided. In general terms, those elements of the orders requiring the provision (and use) of the personal information represent directions issued under s.450(4) of the Act.

**[31]** In terms of the Privacy Act and Principles, these permit<sup>15</sup> the use or disclosure of personal information for another purpose (a secondary purpose) in specified circumstances, including where that use or disclosure is required or authorised by or under an Australian law, such as the Act, or otherwise required or authorised by a Court/Tribunal order. Further, consistent with the Principles, the use of disclosed personal information should in the present context be limited to that which is reasonably necessary for the purpose of assisting in compiling a valid roll of voters and for the proper conduct of a ballot more generally.

**[32]** In a specific PABO application<sup>16</sup> where the scope of the information<sup>17</sup> that was to be provided was initially in dispute, the Commission considered this issue and found:

“[21] ... Section 450(4) of the FW Act does on face value provide that either the applicant or the employer, or both, may provide the required information. However, given the importance of the ballot and the potential legal and industrial consequences for those involved, and the need to ensure that the integrity of a Commission endorsed ballot process is maintained, including by providing a proper reference point against which the eligible protected action ballot agent can resolve any subsequent request for changes<sup>18</sup> to the eligible voter list, I consider on balance that the normal terms of the

Order are reasonably required.<sup>19</sup> There is a strong public interest in maintaining the integrity and robust nature of these ballots.

[22] In reaching that view I am also concerned that if the eligible protected action ballot agent sought additional employee contact or other information that only the employer could provide or verify, it may not, at least directly, be able to subsequently apply to have the PABO varied.<sup>20</sup> The fact that the ballot will be conducted electronically, using email addresses that might well need to be provided or at least confirmed by the employer, is particularly important in this respect. I would also observe that the potential “détente” about the provision of the employee information and related actions of the parties associated with this matter barely lasted the duration of the hearing, and this did not bode well for the entirety of the ballot period or a non-controversial ballot.

[23] I emphasise that the employee information required of the employer by the Order will be provided to the eligible protected action ballot agent and not to the TWU. The information provided by the TWU will also only be provided to the Agent. The Agent is itself bound by the Privacy Act and principles and has been approved by the Commission on the basis of the integrity and independence of its systems and the fit and proper nature of those individuals who will conduct the ballot.<sup>21</sup> See also the strict obligations upon the eligible protected action ballot agent in terms of the disclosure of certain information.<sup>22</sup>”

[33] This is not the forum to review the specifics of the PABOs made by the Commission but the above provides some of the context for the consideration of the issues raised in relation to the PAB Agents more generally. It is now tolerably clear that in the cases initially raised by AREEA, following discussions between the parties, the Commission issued the orders by consent with a narrower field of personal information to be provided than is found in many such orders. There is absolutely no suggestion that the PAB Agents concerned did not apply the terms of the orders made by the Commission in those matters. This included applying the required protections associated with the provision and use of the information as set out in the order and the legislation.

[34] I observe that it is not open to a PAB Agent to unilaterally add to the information fields required from the parties beyond that set out in any PABO issued. If there were concerns about whether the proposed narrower class of information would be sufficient to properly carry out its functions, this would need to be raised with the parties and the Commission. I also observe that it is important that any proposed variations to the standard orders of the Commission and any proposed changes to the draft order provided with the application directly impacting upon the information to be provided to the PAB Agent, be notified to the relevant agent in a timely manner so that its views can be taken into account before the PABO is issued.

[35] It may also be appropriate, as an exercise outside of this Review, for the Commission, after inviting submissions from peak councils, other interested parties and the PAB Agents, to consider the extent of personal information generally required in the Commission’s standard non-AEC draft orders. This is consistent with the notion of only collecting private information that is necessary for the purpose and could include, for example, whether middle names are essential. In so doing, the Commission would also need to consider whether for instance, home

address and email details are required if the parties intend that employees on leave be included in the ballot, potentially necessitating the provision of such information.

[36] In terms of the security of the information supplied, all of the PAB Agents have the systems, both technological and human, to comply with the strict requirements set out in the orders of the Commission, which include for example, the use of encrypted communications.

### **The independence of the PAB Agents**

[37] The issues raised by AREEA in this context were general in nature. For reasons set out earlier, it is important for the integrity of the PABO system that the PAB Agents be genuinely independent of the parties involved. This was also the focus of several decisions of the Commission approving some of the PAB Agents referenced earlier. The circumstances of the alleged ‘early’ closure of a ballot are not presently before the Commission.

[38] I observe that under the scheme of the Act, it is the applicant that engages and funds the PAB Agent (with the exception of course for AEC-run ballots). This necessitates that the PABO applicant have some dealings with the proposed agent ahead of the application. All parties, including the employers, will also by necessity have some dealings with the PAB Agent after any order is made. This includes in connection with the development of the list of voters and if sought, in the context of scrutineers. The PAB Agents once approved to conduct a PABO, must be careful to engage with the parties and undertake the ballot in a manner that is transparent and neutral.

[39] I do not consider that anything put to the Commission in this Review has provided a basis for any adverse findings about the independence of any of the PAB Agents.

[40] I would however remind all parties that there are significant obligations<sup>23</sup> under the Act to comply, and not to interfere, with a PABO.

### **The Australian Electoral Commission**

[41] The ACTU raised the notion that the AEC should consider offering electronic PABO ballots, without charge, in addition to its present postal ballot service.

[42] As stated earlier, the AEC is beyond the scope of this Review, and the request might usefully be raised with it directly by the ACTU.

## **5.2 Whether each PAB Agent continues to meet the requirements for approval.**

### **5.2.1 Democratic Outcomes Pty Ltd (CiVS)**

[43] CiVS submitted that it has had no business structure changes since its approval, it has conducted 564 Protected Action Ballots (Prior to October 2025), has received no formal complaints, and have had no senior personnel changes. CiVS further submitted the following, amongst other matters, in support of its continuing compliance with the relevant approval criteria:

- Mike Michael is a fit and proper person to be a ballot agent, including as a result of his tertiary education, professional memberships (including Chairman and President) of company and industry Boards, and that he has no criminal charges or convictions.
- Undertaking that there have been no adverse findings made by Courts or Tribunals against the agents or any key people involved in the agent's operations.
- In relation to the secrecy and security of votes casted, CiVS collects the minimum personal data required to conduct the ballot, stores it securely and only uses that information for the purpose of conducting the ballot, after which the data is destroyed. Staff maintain up to date police clearances and are trained in a strict privacy policy.
- CiVS maintains its independent 3<sup>rd</sup> party status and has no interest in the outcome of the ballots. It ensures individuals with a right to participate are given an equal opportunity to do so.
- The electronic voting system allows ballots to be conducted expeditiously and is structured to ensure eligible participants have their ballot information as soon as practicable. The results are prepared, audited and dispatched within minutes of the ballot closure.

[44] Research undertaken by the staff of the Commission reveal that no adverse findings have been made by a Court or Tribunal about CiVS or any of the key personnel. A random audit of matters where CiVS had undertaken the ballot revealed no significant concerns about the timeliness and integrity of the ballots.

[45] I observe that CiVS also submitted a response to AREEA's initial contentions and these have been dealt with earlier in this Decision.

[46] I am satisfied that CiVS remains a fit and proper person for present purposes and continues to meet the relevant requirements for approval as an eligible protected action ballot agent.

### **5.2.2 TrueVote Pty Ltd (TrueVote)**

[47] TrueVote submitted that it had no business structure changes since its approval by the Commission, it had conducted 119 Protected Action Ballots (since that approval), received two complaints, one of which is in progress at date of submission, and have had no senior personnel changes. TrueVote further submitted the following information and evidence in support of their continuing compliance:

- That Mr Stephen Donaldson as the only individual to carry out the functions of the PAB agent, is a fit and proper person due to their "training and education, knowledge, experience, and personal values" which are set out in detail in their submissions, including several auditor qualifications, and public service experience.

- In relation to the secrecy and security of votes, data is stored on infrastructure which has “globally recognised security assurance frameworks and certifications” which is validated by independent third-party assessors. Data for the ballots is stored on a dedicated server to which the ballot agent cannot see how any individual has voted, only that they have voted. At the conclusion of the ballot process personal identifying information is deleted.
- In relation to fair and democratic ballots, TrueVote conducts the ballot in accordance with the PAB Order from the FWC, employees can vote anytime during the period and cannot vote more than once, the system also doesn’t compel employees to cast a vote. While it also offers a range of voting options, including linked postal ballots, TrueVote submits that electronic voting is the most secure and least prone to errors.
- TrueVote’s electronic voting operates with high efficiency allowing for a ballot to be set up in as little as 24 hours’ notice. It ensures expeditious conduct of the ballots through automatic recording a tallying, real-time validation, electronic transmission of voting outcomes.

[48] Research undertaken by the staff of the Commission reveal that no adverse findings have been made by a Court or Tribunal about TrueVote or any of the key personnel. A random audit of matters where TrueVote had undertaken the ballot revealed no significant concerns about the timeliness and integrity of the ballots.

[49] I observe that in a matter,<sup>24</sup> the Commission found that a declaration of results issued by TrueVote following a PABO was non-compliant (in that it named the State entity of the applicant union rather than the Federal counterpart which had applied for the order) at the relevant time and this led to proposed industrial action being found to be unprotected. The decision in that matter also found that a rectified declaration issued shortly thereafter complied with the PABO and noted that TrueVote had taken further (administrative) action to ensure that there were no further errors of this kind.

[50] TrueVote provided the Commission with the 2 complaints referenced in its submissions. In one case, an employee who was not the relevant contact person within an employer, received a declaration of results. This should not have occurred but was a minor error given that declarations of results are made publicly available on the Commission’s website. In the other matter, an employee was incorrectly added to the voter roll due to a mismatch of employee information (having the same last name). TrueVote advises that this was rectified and did not impact the integrity of the ballot. I accept that TrueVote has been transparent about these issues and has taken appropriate corrective actions.

[51] I am satisfied that TrueVote remains a fit and proper person for present purposes and continues to meet the relevant requirements for approval as an eligible protected action ballot agent.

### **5.2.3 UCommunications Pty Ltd (uComms)**

[52] No submissions were received from or on behalf of uComms. However, the Commission is aware that on 16 April 2025, at a general meeting of the members of the

Company, it was resolved that it be wound up and that Travis Pullen be appointed liquidator(s) from B&T Advisory. The Australian Securities and Investment Commission (ASIC) reports the current status of uComms as ‘in liquidation’.

[53] The Commission has provided a direct opportunity for B&T Advisory to be heard in this matter. In so doing, B&T was advised that the preliminary view of the Commission was that in absence of further information, it was likely that the approval of uComms would be withdrawn. No contrary submissions have been provided.

[54] I am not satisfied that uComms continues to meet the relevant requirements. In the circumstances I consider that the appropriate action is for the Commission to cancel the approval of uComms as an eligible protected action ballot agent.

#### **5.2.4 Vero Engagement and Voting Solutions Pty Ltd (Vero)**

[55] Vero submitted that it has had no business structure changes since its approval, it has conducted in the order of 235 Protected Action Ballots, it has received no complaints, and have had no senior personnel changes. Vero also submitted the following information and evidence in support of their compliance:

- There has been no change in circumstances that would affect their fit and proper person eligibility since their initial approval.
- All ballots are run in secrecy, security and with integrity.
- All ballots are run independently of the organisations, and all eligible voters have a chance to vote.
- It actions ballots quickly and accurately and can start the ballot process the same day as the issuing of the order.
- Vero also contended that it is a growing and profitable company that has run ballot processes for over 1000 organisations every year.

[56] Research undertaken by the staff of the Commission reveal that no adverse findings have been made by a Court or Tribunal about Vero or any of the key personnel. A random audit of matters where Vero had undertaken the ballot revealed no significant concerns about the timeliness and integrity of the ballots.

[57] I am satisfied that Vero remains a fit and proper person for present purposes and continues to meet the relevant requirements for approval as an eligible protected action ballot agent.

#### **5.2.5 Crowd Faction Pty Limited (Crowd Faction)**

[58] Crowd Faction submitted that it has had no business structure or operation changes since its approval and there are no outstanding actions or complaints against them. Crowd Faction further submitted the following information and evidence in support of their compliance:

- Its Director and one other senior employee cited in the submissions are the identified individuals who will carry out the functions of the ballot agent and act stated to be fit and proper persons to conduct the ballots, including the fact that neither had been charged or convicted of a criminal offence. Further, the Director has extensive industrial relations experience.
- Crowd Faction is aware of the importance of the secrecy and security of PABs. Personal information is stored using “SSL and 256 encryption”. Records are only used for the purpose of the ballot, and details are destroyed within 6 months of the vote being conducted.
- Crowd Faction is an independent 3rd party with no interest in the outcome of PABs. No individual information is shared with key stakeholders other than the overall result.
- Ballots are conducted electronically and are sent to eligible voters immediately upon ballot opening, results are record electronically and sent to relevant parties soon after the election result is declared. It never discloses how an eligible voter has voted unless compelled by law.

[59] Research undertaken by the staff of the Commission reveal that no adverse findings have been made by a Court or Tribunal about Crowd Faction or any of the key personnel.

[60] As at the time of this Review, Crowd Faction has not undertaken a PABO under the present scheme now found in the Act. Given that its systems have still not been utilised or tested in that precise context, I consider that an earlier review (well inside of the maximum 3 year period) of any continuing approval is warranted and a prudent course of action.

[61] I am satisfied that Crowd Faction remains a fit and proper person for present purposes and continues to meet the relevant requirements for approval as an eligible protected action ballot agent.

#### **5.2.6 IR Balloting Pty Ltd (IR BLOTS)**

[62] IR BLOTS submitted that it has had no business structure changes since approval. It also confirmed that it had not yet conducted a Protected Action Ballot. IR BLOTS also advised of a number of changes in its senior personnel.

[63] IR BLOTS submitted the following information and evidence in support of their compliance:

- The senior employees now involved (cited within the submissions) are the individuals identified as being fit and proper persons to conduct PABs for IR BLOTS. It contended that the qualifications and experience of the identified individuals (supplied to the Commission) support this proposition, as well as an overall submission of IR BLOTS employees being held to “highest of standards”, within a “robust governance framework”.

- To ensure secrecy and security of votes, IR BLOTS owns propriety software built for the purpose of conducting industrial relations ballots, which has been tested and subjected to annual cyber penetration testing. IR BLOTS further presents extensive material relating to data storage, encrypted and firewall types, and prevention of linking voters with their individual votes.
- Their system is designed to be accessible and user friendly, with clear communication for voters aimed at enabling greater levels of voter participation and controls that ensure eligible voters can only cast one vote. It offers SMS and Phone voting to remove barriers and engage in real time monitoring during the voting process to mitigate any issues.
- Ballots are conducted expeditiously, through quick configuration and deployment as soon as required. It assigns team members in pairs to ensure accuracy and time management of the process. Ballot reports are produced within minutes of the ballot closing.

[64] IR BLOTS provided additional information to the Commission including submissions in support of compliance with *Fair Work Regulations 2009* regulations 3.11(6) and (7) and details pertaining to their professional indemnity insurance and cyber security assurance. IR BLOTS also advises that even though they have not yet conducted any Protected Action Ballot Orders they have been invited to quote for a number of these ballots and they have invested and wish to grow into this area.

[65] Research undertaken by the staff of the Commission reveal that no adverse findings have been made by a Court or Tribunal about IR BLOTS or any of the key personnel.

[66] As at the time of this Review, IR BLOTS had not undertaken a PABO under the present scheme now found in the Act. Given that its systems have still not been utilised or tested in that precise context, I consider that an earlier review (well inside of the maximum 3 year period) of any continuing approval is warranted and a prudent course of action.

[67] I am satisfied that IR BLOTS remains a fit and proper person for present purposes and continues to meet the relevant requirements for approval as an eligible protected action ballot agent.

### **5.2.7 Fair Vote Services Pty Ltd (Fair Vote)**

[68] Fair Vote submitted that it has had no business structure changes since its approval, it has conducted 755 Protected Action Ballots (2024-2026), received one complaint which was rectified by through an extension to the ballot period being granted by the Commission, and it has had no senior personnel changes. Fair Vote further submitted the following information and evidence in support of their compliance:

- Gavin Ryan continues to be the individual who carries out the functions of the ballot agent and has and no adverse finding against him by a Court or Tribunal. Two other staff members support in this function. Fair Vote contended that all these staff

members are fit and proper persons to conduct the ballot, including on the basis that these employees undergo national police checks, require mandatory training and agree and comply with Fair Votes policies.

- Fair Vote provides a step-by-step voting procedure and extensive submissions in relation to the secrecy and security of votes cast. It utilises BigPulse Voting Pty Ltd online voting software, outlining security features such as end-to-end encryption, two factor authentication and dedicated servers for the ballot process. Fair Vote staff cannot see how an individual has voted and personal and sensitive information is only used for the ballot process and is discarded after 12 months.
- Fair Vote ensures that Ballots are fair and democratic by ensuring eligible voters have access and assistance when needed, all ballots are secret ballots, and adequate staff are trained to assist in discussing and planning with an applicant for the ballot before lodgement of an F34. They also ensure that one voter only casts one vote.
- Fair Vote submits that the ballot occurs expeditiously, with the ballot being able to be set up in under 24 hours. Voters are able to cast their vote right up until voting closes, with votes immediately tallied.

[69] In relation to the single complaint, the material before the Commission confirms that Fair Vote received incorrect data from the employers that affected the provision of voting information, to the extent that an application was made to the Commission to vary the order to extend the time to vote.

[70] I observe that Fair Vote also submitted a response to AREEA's initial contentions and these have been dealt with earlier in this Decision. I further observe that the continuation of the business structures at the time of approval are particularly relevant here given the basis of its approval as a PAB Agent.

[71] Research undertaken by the staff of the Commission reveal that no adverse findings have been made by a Court or Tribunal about Fair Vote or any of the key personnel. A random audit of matters where Fair Vote had undertaken the ballot revealed no significant concerns about the timeliness and integrity of the ballots.

[72] I am satisfied that Fair Vote remains a fit and proper person for present purposes and continues to meet the relevant requirements for approval as an eligible protected action ballot agent.

#### **5.2.8 RMK Investments Pty Ltd/ Coastal Collaborations Pty Ltd at trustee for Hadley Family Trust T/A Australian Election Company (Australian Election Company)**

[73] The originally approved PAB Agent RMK Investments Pty Ltd As Trustee For Kidd Family Trust T/A Australian Election Company (**Australian Election Company**) is now owned and operated by Wade Hadley (Coastal Collaborations Pty Ltd at trustee for Hadley Family Trust T/A Australian Election Company). The Australian Election Company submitted, in effect, that despite the ownership change there was substantial retention of key personnel and

all of the systems relied upon for the approval of RMK. It also stated that it had conducted “80+” Protected Action Ballots and had not received any complaints.

[74] Along with a Statutory Declaration of Wade Hadley (its Managing Director), the Australian Election Company submitted the following information and evidence in support of its continuing compliance with the approval requirements:

- Along with the Managing Director Wade Hadley, its Operations Supervisor and Election Supervisor (names cited in the submissions) are the identified individuals who will carry out the functions of ballot agents for PABs. It submits that these listed individuals are fit and proper persons, given their experience, education and training.
- Electronic voting systems used for PABs ensure the secrecy and security of votes and are done strictly in accordance with the Act and Regulations. A voter’s vote selection is immediately electronically detached from their identity and the voter is unable to vote again.
- It ensures the ballot is conducted in compliant with the Act and regulations and demonstrate independence, impartiality and integrity. The Australian Election Company raised it does a review of Orders and Directions upon receipt to ensure ballots are completed expeditiously.
- It has successfully conducted/delivered ballot within the timeframes allocated in the Order. The Australian Election Company submits that in apply resources and its capacities to be expeditious it does not ‘bend the rules’ when applying mandated governance approach or requirements.

[75] Research undertaken by the staff of the Commission reveal that no adverse findings have been made by a Court or Tribunal about the Australian Election Company or any of the key personnel. An audit of matters where the Australian Election Company had undertaken the ballot revealed no significant concerns about the timeliness and integrity of the ballots.

[76] I am satisfied that despite the change in ownership, the systems and personnel involved have ensured that the Australian Election Company remains a fit and proper person for present purposes.

[77] I am satisfied that the Australian Election Company remains a fit and proper person for present purposes and continues to meet the relevant requirements for approval as an eligible protected action ballot agent.

[78] The Australian Election Company sought that the Commission display its approval under that trading name. This is at one level reasonable; however, it is important to be consistent with how other PAB Agents are publicly cited and to avoid any confusion with the AEC. As a result, this agent will be displayed on the Commission’s website as Coastal Collaborations Pty Ltd T/A The Australian Election Company.

## **6. Conclusions**

[79] I am satisfied that the following PAB Agents continue to meet the relevant requirements for approval as an eligible protected action ballot agent:

- Democratic Outcomes Pty Ltd T/A CiVS
- TrueVote Pty Ltd
- Vero Engagement & Voting Solutions Pty Ltd T/A Vero Voting
- Crowd Faction Pty Limited
- IR Balloting Pty Ltd T/A IR BLOTS
- Fair Vote Services Pty Ltd
- Coastal Collaborations Pty Ltd as trustee for Hadley Family Trust T/A Australian Election Company

[80] This decision confirms the continuing approval of the above persons as eligible protected action ballot agents under s.468A of the Act, and this will be stated on the Commission's relevant webpage. Each PAB Agent will in accordance with the Act be reviewed again by the Commission within the next 3 years. In the case of Crowd Faction and IR BLOTS, for reasons previously stated an earlier review (somewhat inside of the maximum 3-year period) of their continuing approval will be undertaken by the Commission.

[81] Each of the PAB Agents should also have regard to the findings and observations made by the Commission in this decision.

[82] I am not satisfied that uCommunications Pty Ltd continues to meet the relevant requirements for approval as an eligible protected action ballot agent. Having given notice of this preliminary view and afforded an opportunity to be further heard, I confirm that view. In the circumstances, the appropriate actions is to cancel the approval and, remove uCommunications Pty Ltd from the list of approved eligible PAB Agent. I so order.

[83] The Commission appreciates the contribution of the interested parties and the work of the staff in assisting with this Review.

The image shows a handwritten signature in black ink on the left, which appears to be 'P. H. ...'. To the right of the signature is the official seal of the Fair Work Commission of Australia. The seal is circular with the text 'THE SEAL OF THE FAIR WORK COMMISSION' around the perimeter and 'AUSTRALIA' at the bottom. In the center of the seal is the Australian coat of arms, featuring a kangaroo and an emu flanking a shield, with a seven-pointed star above.

DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

<PR797854>

---

<sup>1</sup> Section 444(1) of the Act.

<sup>2</sup> Democratic Outcomes Pty Ltd T/A CiVS.

<sup>3</sup> uCommunications Pty Ltd.

<sup>4</sup> Fair Vote has an earlier review period as determined by the Commission due to their approval circumstances. See [\[2024\] FWC 1775](#) at [64] for more information.

<sup>5</sup> These figures are based upon the orders made by the Commission and do not take account of any revocations made under s.448 of the Act prior to the finalisation of the ballot.

<sup>6</sup> The AEC has been included for context and information. Figures for the AEC are recorded from 6 June 2023, as they were automatically an eligible PAB agent by virtue of s.468(1)(a).

<sup>7</sup> See [National Practice Leader's Statement-Review of approved eligible protected action ballot agents](#), Deputy President Hampton, Adelaide, 2 February 2026.

<sup>8</sup> AREEA supplementary submission, 31 March 2026.

<sup>9</sup> *Democratic Outcomes Pty Ltd T/A CiVS* [\[2023\] FWC 1400](#).

<sup>10</sup> The *Fair Work Regulations 2009* relevantly provide requirements for the approval of non-eligible protected action ballot agent under s 444(1D)(c).in reg 3.11, but not in relation to s.468 of the Act.

<sup>11</sup> *Fair Vote Services Pty Ltd* [\[2024\] FWC 1775](#) at [23].

<sup>12</sup> *Ibid* at [41].

<sup>13</sup> *Ibid* at [42].

<sup>14</sup> *Fair Vote Services Pty Ltd* [\[2024\] FWC 1775](#).

<sup>15</sup> *Privacy Act* Sch 1, Part 3. APP 6.2(b).

<sup>16</sup> *Transport Workers' Union of Australia v Clark's Logan City Bus Services (Qld) Pty Ltd* [\[2023\] FWC 1721](#).

<sup>17</sup> Principally email addresses.

<sup>18</sup> Such as under s.454 of the Act.

<sup>19</sup> Section 452(3) of the Act.

<sup>20</sup> Section 447 of the Act appears to contemplate that the protected action ballot agent may only apply to vary the Order with respect to the ballot period.

<sup>21</sup> *Democratic Outcomes Pty Ltd T/A CiVS* [\[2023\] FWC 1400](#).

<sup>22</sup> For example s.467 of the Act.

<sup>23</sup> Sections 462 and 463 of the Act.

<sup>24</sup> *Royal Flying Doctor Service (Queensland Section) Limited v Australian Nursing and Midwifery Federation* [\[2023\] FWC 3025](#).