

He Arotake Pōtitanga Motuhake Independent Electoral Review

“What do you think the
voting age should be?”

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Who We Are

YouthLaw Aotearoa is a Community Law Centre vested under the Legal Services Act 2000. We are a charity and part of the nationwide network of twenty-four community law centres throughout Aotearoa. Our service provides free legal advice and advocacy for children and young people under 25 years of age. We help children and young people in several ways:

- Our legal advice team supports children and their families with information and advice to help them navigate legal matters.
- We run legal education workshops about laws relating to youth, for the benefit of children, young people, and/or those supporting them.
- We research and make submissions on proposed legislation that is relevant to children and young people.
- We publish youth-friendly information resources (mostly on our website).
- Occasionally, we provide advocacy services, such as representation at school suspension meetings.

This submission is informed by YouthLaw Aotearoa's insights from working with children and young people across New Zealand for over thirty years.

It has been prepared by Shania Spooner (Legal Assistant), Angela Yang (Law Clerk), Andrew Fermor (Law Clerk), and our YouthLaw staff and board.

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YouthLaw Aotearoa's Submission

YouthLaw Aotearoa acknowledges and applauds the government's openness to electoral reform. We hope that this process results in fairer, freer elections, leading to good governance of New Zealand.

We do not think that determining the minimum voting age is a cut-and-dry issue. Therefore, we will outline the strongest arguments for lowering the minimum voting age to 16 and provide counterpoints to these arguments.

We will conclude that, on balance, we recommend that New Zealand lowers the minimum voting age to 16.

The rights and responsibilities held by 16-year-olds are of similar importance to voting

16-year-olds are already entrusted with the ability to make many important life decisions, including the right to:

- Get a driver's licence;
- Consent to sex;
- Consent to medical procedures;
- Leave school;
- Leave home and pay rent;
- Own a firearms license; and
- Work full time.

Many young people have their first job, and pay significant income tax¹, before 18 years of age. It is reasonable for young people to have an official say on which representatives should decide how to spend their taxed income, and how it should be spent.

YouthLaw often provides advice to 16-year-olds, or trusted adults on their behalf, about moving out of home. Many such 16-year-olds must be their own advocates, apply for benefits, open bank accounts, and everything else required to move out of home. This is a huge amount of responsibility, and many 16-year-olds capably shoulder it.

We also advise many young people who are involved in family conflicts. In many cases, the 16-year-old has been assigned a social worker, and Oranga Tamariki and the Police are involved. These publicly funded services are hugely impactful upon young lives, so it is reasonable for young people to have input into them through voting.

Counterpoint:

It is arguable that the rights a young person has at 18 years old are more analogous to the right to vote. These include the right to:

- Purchase alcohol;
- Purchase tobacco products;
- Join the Police force;
- Get married (without parental consent); and
- Send, receive, and be in nude photos.

Most young people under 18 years of age are not independent, largely relying upon their caregivers. This dependence makes it likely that young people's votes will be heavily influenced by significant adults. Most 16 and 17-year-olds will not have been exposed to, or considered, enough views to seriously challenge those of influential adults. Teachers, parents, and role models who largely shape young people's views may even coerce them.

¹ Employment Relations Act 200, s 6.

However, 16 and 17-year-olds have more accessible information than ever before, offering huge amounts of knowledge and alternative viewpoints. Also, most teenagers are going through the phase of becoming independent and breaking away from their parents' views and protection, so fears of excessive influence and coercion may be over-stated. Furthermore, many older people have an under-developed, biased understanding of political issues as well! Civics education and an active, free-speaking, democratic culture may be a better solution to poor political thinking than a higher voting age.

The minimum voting age of 18 may be unjustified discrimination

The New Zealand Bill of Rights Act 1990 states that everyone has the right to freedom from discrimination.² Section 21(1)(i) of the Human Rights Act 1993 states that no one can be discriminated against. It has been argued that the Electoral Act 1993 discriminates against people based on age by stating that only New Zealand citizens who are over the age of 18 may have the right to vote.³

While justified discrimination is allowed, limiting the right to vote to those 18 years and older is arguably unjustifiably discriminatory against younger people.⁴ In a recent case, the Court of Appeal found that this right *is* being breached unjustifiably. However, the Court of Appeal refused to grant the declaration sought (despite having established the grounds to grant it) as this is a matter more appropriately dealt with by our political system. The case has now been heard by the Supreme Court but the judgment is yet to be released.⁵

Counterpoint:

The Supreme Court judgment is yet to be released, so we should not assume that they will also declare unjustified age discrimination. But even if they do, as the Court of Appeal said, this decision is ultimately a political (as opposed to an academic) one.

Lowering the voting age will encourage a culture of democratic participation

A democracy can only thrive if its citizens are invested in choosing representatives.

Many young people are passionate about the issues which affect them. Voting at an earlier age could lead to the formation of an enduring habit of democratic participation, as people's democratic engagement outlasts their youthful enthusiasm. Consequently, New Zealand's democracy may be strengthened.

Counterpoint:

It is arguable that 16-year-olds are not informed enough, too immature, and lack enough life experience to cast well-informed votes. Most 16-year-olds will just be starting full-time work or have multiple years of schooling remaining. You can always argue that a certain age group could have more life experience (e.g. you could say the same about 18, or even 48-year-olds!) and some young people *do* have significant life experience. Yet, the younger the minimum voting age, the more inexperienced the voting population will be.

This is a very high price to pay for potential increases in democratic participation. Quality, not just quantity, of voters must be prioritised.

2 New Zealand Bill of Rights 1990, s 19.

3 Electoral Act 1993, s 3 (see definition of "adult").

4 New Zealand Bill of Rights 1990, s 5.

5 <https://www.courtsofnz.govt.nz/assets/cases/Case-synopses/NZSC/20220704-Make-it-16-synopsis.pdf>

Young people are often the most affected by long-term political decisions

Young people are often impacted for a larger portion of their life by long-term political decisions, such as:

- Significant ethical issues;
- Changes to recognised crimes;
- Climate change laws and policies;
- Laws affecting housing; and
- Employment laws.

Because young people stand to be more impacted by decisions on these issues, they should have a say on them.

Counterpoint:

The current voting population is responsible for engaging with, and voting in line with, issues relevant to younger people. Instead of decreasing the minimum voting age, the preferable solution is to educate the eligible voting population in issues affecting young people.

Further, young people's brains are still developing. Therefore, even if younger people are in-touch with issues affecting them, their under-developed brains may not identify good solutions to them. Short-term, pressured, and even "just for a laugh" reasoning may influence young people's votes on big issues.

However, while certain aspects of brain development occur after the age of 16, a growing body of evidence calls "cold thinking" (when calm and unpressured) in 16-year-olds comparable to that of much older adults. If democratic voting is an example of cold thinking (which is debatable), 16-year-olds' brains may be just as competent as adults' brains to vote.

In addition, older people often have an under-developed, biased understanding of political issues as well! Civics education and an active, free-speaking, democratic culture may be a better solution to poor political thinking than a higher voting age.

Many young people are politically and civically active

Recently, many young people participated in protesting against the 9-month home detention sentence of a person convicted of multiple counts of rape. An 18-year-old organised the protest marches in Hamilton, Gisborne, Taupō, and Whanganui.⁶ Further, in September 2022, students participated in protests for climate activism.⁷ These examples indicate that if 16 and 17-year-olds become entitled to vote, many will actively involve themselves in the democratic process.

In recent years, many young people have also run in, and been elected for, important political positions. Gore has just elected a 23-year-old Mayor; Nelson has a 22-year-old councillor who unsuccessfully ran for Mayorality; and in 2019, 18-year-old Sophie Handford was elected as a councillor.

Counterpoint:

Young people being enthusiastically involved in issues relevant to them does not guarantee that they will have good insight or make valuable contributions. Because many young people will not understand political issues as well as some older people do, their solutions may be less pragmatic and effective.

⁶ Rachel Sadler 'Protesters call for change to better support sexual assault victims following rapist's 'completely unfair' home detention sentencing' (2022) Newshub.

⁷<https://thespinoff.co.nz/society/22-09-2022/aotearoa-kicks-off-the-worldwide-climate-change-strike-tomorrow>

There is a growing international movement towards a voting age of 16 years old

Austria, Argentina, Brazil, Scotland, Wales, Guernsey, and Isle of Man are among the nations that have lowered their voting age to 16. There is a bill before Canada's parliament to lower the voting age, and Germany's three-party coalition made a party promise to lower the voting age to 16. As the first country to legislate universal suffrage, New Zealand ought to follow suit.

Counterpoint:

We should not lower the voting age simply because other countries are. Most countries have a voting age of 18 years old, while for some it's older (up to 25 years old!) We should go with the majority view on what the minimum voting age should be, rather than follow outliers.

Our Recommendation

We recognise that there is no clear, decisive answer to the question of what the minimum voting age should be. We also acknowledge that there are strong arguments (many with compelling counterpoints) on different sides of the issue.

Our recommendation is particularly informed by YouthLaw's vision, which includes "youth at the centre of our work" as one of our four strategic priorities. Put simply, giving young people opportunities to make decisions, and be empowered to help themselves, their peers and their communities is part of our DNA. It is more of a small step than a giant leap from that strategic priority to advocating for young people's enfranchisement.

Having carefully considered the arguments for and against lowering the minimum voting age, we recommend lowering the voting age to 16 years.

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