ORDER OF CANDIDATES ON A PARTY LIST

Party lists in New Zealand

In a mixed member proportional system, the list acts as a compensating mechanism for the disproportionality generated in the electorate contests and thus provides an overall result that is roughly proportional.

It is the role of political parties to compile and rank the candidates in order of preference on their respective lists, and parties must ensure they have democratic candidate selection processes in place to do this.

Party lists in New Zealand are 'closed'. That is, in a general election, voters are not able to alter the ranking of parties' candidates, vote for a particular candidate on a list, strike candidates off the list, or make any other change which might alter the original order as determined by a political party.

What submitters said—

The issue of who should decide the order of candidates on a party list at an election was raised in 2,181 submissions during the consultation phase.

Of those, 61% were in favour of retaining the status quo. Open lists or voter ranking was favoured by 28%. Many of those in favour of allowing voters to order candidates noted the desirability of this in principle but did not offer any suggestions as to how this might be done. The 'best loser' system was the preferred choice of 11%.

A total of 564 submissions were received on the Proposals Paper on this question. The overwhelming majority supported the status quo (90%) with 10% in support of the voter having some influence over the list ranking.

Figure: Simple analysis of submissions on who should order party lists
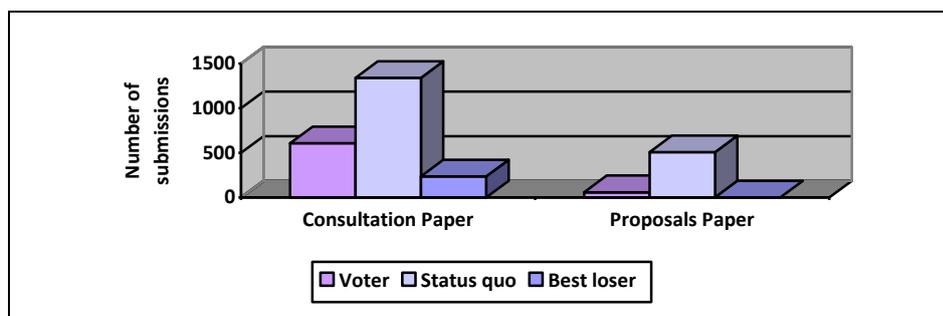
COMMISSION'S RECOMMENDATIONS

- ❖ **Political parties should continue to have responsibility for the selection and ranking of candidates on their party lists.**

- ❖ **Political parties should be required to give a public assurance, by statutory declaration, that they have complied with their rules in selecting and ranking their list candidates.**

- ❖ **In any dispute relating to the selection of candidates for election as MPs, the version of the party's rules that should be applied to the Commission under section 71B as at the time the dispute arose.**

Comments and themes from the full submissions on who should decide the order of candidates on a party list.

Political parties

All the political parties, with the exception of United Future, supported the status quo. These parties submitted that in jurisdictions where voter influence is permitted, few exercise this right (thus suggesting that electoral outcomes are not likely to change if this option was introduced in New Zealand). Those preferring the status quo suggested the option of candidate ranking could be off-putting to voters and, as a consequence, result in a higher incidence of informal voting. These parties noted the current system is already subject to regulation and this has met the objective of providing for diversity and party stability.

United Future proposed that dual candidacy be compulsory and list candidates elected on the basis of the percentage of the party vote they win in their electorates.

Academic and social commentators

The majority of these commentators submitted the status quo should be retained. They agreed registered political parties are the only organisations able to select and order list candidates and suggested the perceived benefits in allowing voters to have an input into the final make up of party lists is far outweighed by the potential difficulties it would create (length of ballot paper, likely increase in informal votes, and the time taken to produce an election result). The view was expressed that "if voters want to participate in the makeup of party lists they should join their preferred party and actively participate in its selection processes".

What other submitters said—

Retaining the status quo

- Open lists would be fraught with difficulties, especially the fact that ballot papers would be very long and hugely expensive to produce; and some voters would likely get confused and apathetic at having to rank numerous people from the same political party, especially when it comes to names they do not recognise.

- Public voting for party lists would increase the time and complexity of voting. Adding such an onerous step to casting a vote would result in a predictable decrease in the already low voter turnout.

- The current closed system for lists should be retained, with parties simply facing the political consequences of manipulating the system to favour 'party hacks' over effective community-advocating MPs.

- It must be remembered political parties are private entities. Voter influence would turn the list into a popularity contest and undermine the stability of parties. Not good for stable government. It would also make determining results much harder.

- The list is published and it is up to those who choose to be a member of that political party to have a say in setting the list. If people want to have their say in any political party, the way to do so is to become a member of that party. It is that simple.

- The current system for selecting and ordering list MPs should remain as it enables party membership to generate lists strategically based on individuals' skills and knowledge rather than charisma and public appeal thus creating greater diversity within Parliament.

- The current list system ensures affirmative action for people outside the white, male, heterosexual, able-bodied privileged, and this should be maintained.

- We live in a representative democracy - we should not choose every single MP, otherwise it becomes one huge preference voting system.

- The electorate has the opportunity at an election whether or not to accept the list offered by a party.

Allowing voters to rank candidates

- A mechanism for voters to indicate their preferences during voting would be a good thing. Voters should be able to indicate to parties which list candidate they prefer, and, equally importantly, which candidates they do not think should be on the list.

- A more open ordering system is desirable to limit or prevent the party leader and his/her clique suppressing contrary opinions within the party by demoting or threatening to demote any MP with ideas of their own.

- At an election voters should have a right to re-order the party list of the party that they vote for. In effect the party's list is a recommendation to voters, which they do not have to accept it. Put these two together and the quality of list MPs will improve beyond recognition and parties will take on a new lease of life.

Change to the 'best loser' approach

- The current party list system enables people to enter Parliament without presenting themselves to the electorate. All candidates must stand for an electoral seat. Those who do not win the seat they stand for then go onto their party's list and their order on the list should be set according to the number of votes they received for their electoral seat, compared on a nationwide basis.

- The 'best loser' approach puts the selection of list votes totally in the power of voters rather than backroom party officials. It also eliminates people who have no credibility with voters. This is a very simple change, which is easily understood and would improve the quality and credibility of MPs.

- All candidates for election should stand in an electorate and submit themselves to the voting process. This system avoids creating two classes of MPs and 'tethers' list MPs to particular geographic areas, (in effect turning most MPs into a constituency MP) and it gives smaller parties representation in the seats with the highest concentration of voters for that party.

- The current situation where party lists are compiled by the party in secret is unpopular, particularly when unpopular MPs get in through tactical voting and popular ones don't. The order of a party list should be determined by the election results and candidates would be ordered by the number of votes they received in the electorate they contested.

The 'best loser' option was considered by the 1986 Royal Commission on the Electoral System (the Royal Commission) but disregarded on the basis that 'voter choice of best losers would be illusory' and that it may reinforce the perception of list MPs as second class or lesser MPs. This system is used in the German State of Baden-Wuerttemberg.

The Royal Commission argued that because the percentage of the vote achieved by the 'best loser' in an electorate is determined by voter turnout, traditional support patterns, and third party activity, a 'best loser' in a safe seat for another party would be unlikely to win a list place ahead of the 'best loser' in a marginal seat. The 'best loser' idea therefore is more illusionary than real. It would also have a major impact on the diversity of Parliament.

The table below shows what the lists may have looked like for the National and Labour parties in the 2011 general election had the 'best loser' option been in force. Care needs to be exercised with the scenario presented in this table. Under a 'best loser' system, it is likely parties would make different decisions regarding electorate seat contests.

Table 2: Comparison between actual list rankings and a 'best loser' ranked list for the Labour and National parties in the 2011 General Election

No	Labour Party		No	National Party	
	Actual list	*Best loser list*		*Actual list*	*Best loser list*
1	David Parker	Clayton Cosgrove	1	Lockwood Smith	Hekia Parata
2	Maryan Street	Jacinda Ardern	2	Chris Finlayson	Jonathan Fletcher
3	Clayton Cosgrove	Peter Foster	3	David Carter	Paul Goldsmith
4	Sue Moroney	Stuart Nash	4	Tim Groser	Leonie Hapeta
5	Charles Chauvel	Carmel Sepuloni	5	Steven Joyce	Chris Auchinvole
6	Jacinda Ardern	Andrew Little	6	Hekia Parata	Joanne Hayes
7	Andrew Little	Carol Beaumont	7	Michael Woodhouse	David Carter
8	Shane Jones	Julian Blanchard	8	Melissa Lee	Samuel Collins
9	Darien Fenton	Charles Chauvel	9	Kanwaljit Singh Bakshi	Paul Foster-Bell
10	Moana Mackey	Sue Moroney	10	Jian Yang	Tim Groser
11	Rajendra Prasad	Brendan Burns	11	Alfred Ngaro	Paul Quinn
12	Raymond Huo	Hamish McDouall	12	Katrina Shanks	Jackie Blue
			13	Paul Goldsmith	Tau Henare
			14	Tau Henare	Aaron Gilmore
			15	Chris Auchinvole	Michael Woodhouse
			16	Jackie Blue	Chris Finlayson
			17	Cam Calder	Melissa Lee

Name	Indicates a person not currently a member of Parliament

Open, semi-open or ordered lists

The Maxim Institute recommended a move to a more open list system. It prefers a version of the Bavarian Landtag list system where voters choose either the list as presented by a party or select one candidate from it. The list is then made up of the highest polling list candidates. This system might also include a threshold requirement before a candidate can 'leapfrog' other candidates and move up the list. In making this recommendation, the Institute argued that closed party lists have contributed to the perception that the list MPs are 'unelected' and a system as outlined above would overcome this by creating a sense of accountability.

The possibility of introducing a preference vote for the party vote was also raised. This would allow voters some degree of flexibility and reduce the amount of wasted votes.

In jurisdictions where voters have some influence over the rankings, research has shown that most choose the 'above the line' option and accept the list offered by the party of their choice without change. In Australia STV is used for elections to the federal Senate. The results below from the 2010 federal election show an overwhelming majority of voters opted for 'the ticket' or acceptance of the party's list ranking.

Table 2: Percentage of electors who used the 'ticket vote' or 'above the line' option in each State, Territory and nationally in the 2010 federal Senate election[1]

State	Ticket %	Non Ticket %
New South Wales	**97.76**	**2.24**
Victoria	**97.01**	**2.99**
Queensland	**96.91**	**3.09**
Western Australia	**96.94**	**3.06**
South Australia	**94.10**	**5.90**
Tasmania	**79.82**	**20.18**
Australian Capital Territory	**75.93**	**24.07**
Northern Territory	**90.67**	**9.33**
Total	**96.12**	**3.88**

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[1] Australian Electoral Commission (AEC)

Democratic processes

While a majority of submitters recommend keeping closed party lists many qualified this by suggesting more transparency around party list selection processes. A number used the Green Party's procedures as an example of how this could be done. Others suggested party members could participate in US style 'primaries', or a secret ballot for members and limited capacity for a party's executive or leadership to alter the result.

What other submitters said—

- Parties must be made to adopt internal democratic processes for the formation of their lists either in part or in whole. If some legislative form can be found to give this recommendation some weight without heavily restricting list formation processes, so much the better. Care would need to be taken with this approach to ensure parties can still support diversity of representation – this is more important to preserve and the present system is preferable to putting that at risk.

- The Electoral Commission must consider ways in which the democratic selection of candidates on lists could be made more visible to the public. In particular, the obligation to select a list by democratic means could be made more transparent. The legislation could be explicit about how the list is drawn up and provide consequences for failing to comply.

- Political parties should be encouraged to be more transparent and offer more public (or at least party members) engagement and participation in determining the party list selection and ranking.

However, not all agreed—

- List candidates must have the confidence of their political party if they are to have any credibility. Just as voters do not take part in the nomination and selection of electorate candidates for any political party, they should not have a role in the ranking of list candidates of any party.

- Parties have better insight into their candidates and should retain the right to decide which candidates bring the required skill sets for them to be effective as part of their team in Parliament.

- Voters vote on party lists on different criteria than they do in an electorate vote. The party list vote is a voter judgment on party policy generally and assumes that party list MPs are bound by their party's policy. This is a very different rationale to the casting of votes for candidates seeking to represent their electorate in Parliament.

- The two different roles of list vs electorate MPs under MMP should be acknowledged by continuing the current system whereby parties decide who to present on their party lists to the voter.

- Political parties must be free to decide their own destinies. Voters can judge the parties on their ordering of candidates. Legislative intrusion into party organisations is a slippery slope.