

21 September

By email to: [REDACTED]

Dear [REDACTED]

OFFICIAL INFORMATION ACT REQUEST 2023/48

On 14 September 2023 you made a request under the Official Information Act 1982 (the OIA) for the following information:

1. *I request, under the Official Information Act 1982, where there are 48 list seats available, why a threshold of 1/20th (5%) and not 1/48th (2.08%) of the party vote is required in order to attain one of those seats?*
2. *Whether the votes for the larger parties are counted in increments of 5% or 2.08%?*
3. *If 5% (1/20th), does this mean that 50% of the list vote would entitle a larger party 10 seats or 24?*
4. *If the threshold is not 2.08% (1/48th), why not?*

I refer you to Sections 2(1)(2), 4C(a)(b)(c) and 191(4) of the Electoral Act 1993 and look forward to hearing from you within 20 working days. All I want to know is why the highly inaccurate threshold of 5% has been chosen.

The Electoral Commission is responsible for administering the election in accordance with the provisions set out in the Electoral Act 1993, including the 5% party vote threshold set out in section 191 of the Electoral Act.

You have asked why the threshold is 5% and not 2.08%. Although this is a question that goes to the merits of the legislation, which is a matter for Parliament rather than the Electoral Commission, to assist, I have provided some references to background information to the setting of the 5% threshold by Parliament.

The process of reform leading up to the introduction of MMP including the 5% threshold was lengthy beginning with the Royal Commission on the Electoral System in 1986. You can access a copy of the report [here](#). The discussion around their recommendation for a 4% threshold and the criteria they used to assess voting systems and settings are set out in chapter 2.

Following their report, the parliamentary Electoral Law Committee held an Inquiry into the Report of the Royal Commission. The select committee recommended that the threshold be 5% rather than the 4% recommended by the Royal Commission based on the West German system.

The 5% threshold was included in the proposal for MMP that was voted on by New Zealand electors in the 1993 referendum and then came into force under section 2 of the Electoral Act 1993.

Votes for larger parties are not counted in increments of 5% or 2.08%. Every vote is counted and then seats are allocated according to the Sainte Laguë method.

If a party receives 50% of the party vote, then they are entitled to approximately 50 per cent of the seats in Parliament, including any electorate seats they have won. You can assess scenarios using the MMP calculator which is available [here](#).

Any change to the threshold will require a law change. This is a matter for Parliament. If you are unhappy with the current threshold, you may wish to raise this in the post-election select committee review undertaken by the Justice Select Committee. You can find out more information about the review and how to make a submission after the election at: <https://www.parliament.nz/en/pb/sc/scl/justice/>.

In the interests of transparency, we release responses to Official Information Act requests every 3 months. We will publish this response with your personal details redacted.

You have the right under section 28(3) of the Act to make a complaint to the Ombudsman if you are not satisfied with the response to your request. Information about how to do this is available at www.ombudsman.parliament.nz or by phoning 0800 802 602.

Yours sincerely



Kristina Temel
Electoral Commission