



18 December 2023

Louise Pole
Federal President
Australian Federation of Air Pilots
Sent via email: admin@afap.org.au

Dear Louise Pole



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2023/151

An election has recently been completed by the Australian Electoral Commission (AEC) for the Australian Federation of Air Pilots and a post-election report has been issued by the AEC.

This letter explains the next steps you must take, including what information you need to give to members and what information you need to lodge with the Fair Work Commission (the Commission).

What you must do right now

- Let your members know about the election report issued by the AEC
- Arrange financial training for officers newly elected to an office with financial management duties. (This includes all members of the committee of management).
- Complete the notification of change and email it to the Commission at regorgs@fwc.gov.au

This letter explains these steps and the tools available to help you.

STEP 1: Notify members

You must put a notice on your website once you receive your post-election report. It must tell your members they can request a copy of the post-election report from you or the AEC (regulation 141). The notice must be on your website for at least three months.



Can we put more information on our website?

Yes! Being transparent is part of good governance. You can publish the whole report or the declaration of results, as well as your notice and leave them up longer than three months. You can always do more than the regulatory minimum.

The Commission will also publish your declaration of results on our [website](#).

STEP 2: Financial training

You may have to arrange financial training for people elected to new roles.

All officers with financial management duties must complete approved financial training (section 293K). For information on when officers must redo training and hints on when to book training for officers taking up multiple offices [please see our fact sheet](#).

There are face-to-face and online [financial training packages on the Commission website](#).

You must act on this now, as affected officers **MUST** complete approved financial training OR receive an [exemption by the Commission](#) **within six months** of beginning to hold office.



Good governance tip:

Organisations should instruct officer holders about their other obligations. This is especially important for committee of management members.

Our podcast covers the [benefits of officer induction](#). Officers have responsibilities under the rules, the *Fair Work (Registered Organisations) Act 2009* (the RO Act), and disclosure requirements around conflicts of interest, remuneration and material personal interests. Officers will benefit from our [officer induction kit](#) and our [podcast](#), such as [episode 17 - conflicts of interest](#).

STEP 3: Notifications of change



A notification of change must be lodged with the Commission within **35 days** of the change occurring.

We have a [template](#) to help you with this, which you can send to regorgs@fwc.gov.au. An officer must sign the completed notification template.

You must lodge a notification of change if:

- any of your officers have not been re-elected;
- officers have changed offices; or
- you have new officers.

Only notify us of changes that have **already occurred**. If people take up office in the future, you must wait until the change happens before lodging the notification within 35 days of the change.

Note: One election may result in many notifications of change.



Penalties apply

Failing to lodge your notifications of change on time can expose your organisation and its officers to significant penalties.

Real-life example of penalties in Court An organisation failed to make a series of notifications of change on time.

The Full Court said ‘The record-keeping obligations imposed under the Registered Organisations Act are treated by the legislature as important and serious, and contravention of those obligations are correspondingly serious.’

The organisation was ordered to pay a penalty. More information is available in our [case summary](#).



Why do I need to tell you the results of the election when you’ve already received them?

The RO Act requires that **you** tell us this information about your officers – it is a legal obligation. The notification of change also contains information that is not in the declaration of results.

What if the officer has already done training?

Check out our [fact sheet](#) for when officers need to redo training, when they can get an exemption and when further training isn’t required.

If you have any queries we can be contacted on 1300 341 665 or by email at regorgs@fwc.gov.au.

Yours sincerely

Fair Work Commission



The Commission has an interim [Compliance Policy](#) which explains how we respond to issues of non-compliance. The policy is available on our website if you would like further information on the steps the compliance team may take in response to non-lodgement of a financial report.

Post-election report

Australian Federation of Air Pilots
Insufficient Nominations Election
E2023/151 – Stage 2

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Election(s) Covered in Post-Election Report (PER)

Organisation:	Australian Federation of Air Pilots
Election Decision No:	E2023/151 – Stage 2
Election:	Insufficient Nominations
Date the nominations closed:	07/12/2023
Date results declared:	14/12/2023
Date PER due:	14/01/2024

Relevant legal provisions

Fair Work (Registered Organisations) Act 2009 ('the Act')

197 Post-election report by AEC

Requirement for AEC to make report

- (1) After the completion of an election conducted under this Part by the AEC, the AEC must give a written report on the conduct of the election to:
 - (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

Note: The AEC may be able, in the same report, to report on more than one election it has conducted for an organisation. However, regulations made under paragraph 359(2)(c) may impose requirements about the manner and timing of reports.

- (2) The report must include details of the prescribed matters.

Contents of report—register of members

- (3) If the AEC is of the opinion that the register of members, or the part of the register, made available to the AEC for the purposes of the election contained, at the time of the election:
 - (a) an unusually large proportion of members' addresses that were not current; or
 - (b) in the case of a register kept by an organisation of employees—an unusually large proportion of members' addresses that were workplace addresses;this fact must be included in the report, together with a reference to any relevant model rules which, in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: Model rules are relevant only to the conduct of elections for office, not for elections for other positions (see section 147).

Contents of report—difficult rules

- (4) If the report identifies a rule of the organisation or branch that, in the AEC's opinion, was difficult to interpret or apply in relation to the conduct of the election, the report must also refer to any relevant model rules, which in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: For model rules, see section 147.

Subsection (3) relevant only for postal ballots

- (5) Subsection (3) applies only in relation to elections conducted by postal ballot.

Note: An organisation can obtain an exemption from the requirement to hold elections for office by postal ballot (see section 144).

190 Organisation or branch must not assist one candidate over another

An organisation or branch commits an offence if it uses, or allows to be used, its property or resources to help a candidate against another candidate in an election under this Part for an office or other position.

Penalty: 100 penalty units.

193 Provisions applicable to elections conducted by AEC

- (1) If an electoral official is conducting an election, or taking a step in relation to an election, for an office or other position in an organisation, or branch of an organisation, the electoral official:
 - (a) subject to paragraph (b), must comply with the rules of the organisation or branch; and
 - (b) may, in spite of anything in the rules of the organisation or branch, take such action, and give such directions, as the electoral official considers necessary:
 - (i) to ensure that no irregularities occur in or in relation to the election; or
 - (ii) to remedy any procedural defects that appear to the electoral official to exist in the rules; or
 - (iii) to ensure the security of ballot papers and envelopes that are for use, or used, in the election.
- (2) A person commits an offence if the person does not comply with a direction under subsection (1).

Penalty: 30 penalty units.
- (3) Subsection (2) does not apply so far as the person is not capable of complying.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).
- (4) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter mentioned in subsection (4), see subsection 13.3(3) of the *Criminal Code*.
- (5) An offence against subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6) An election for an office or other position conducted by an electoral official, or step taken in relation to such an election, is not invalid merely because of a breach of the rules of the organisation or branch because of:
 - (a) action taken under subsection (1); or
 - (b) an act done in compliance with a direction under subsection (1).
- (7) If an electoral official conducting, or taking a step in connection with, an election for an office or other position:
 - (a) dies or becomes unable to complete the conduct of the election or the taking of the step; or
 - (b) ceases to be qualified to conduct the election or to take the step;the Electoral Commissioner must arrange for the completion of the conduct of the election, or the taking of the step, by another electoral official.

6 Definitions

irregularity, in relation to an election or ballot, includes:

- (a) a breach of the rules of an organisation or branch of an organisation; and
- (b) an act or omission by means of which:
 - (i) the full and free recording of votes by all persons entitled to record votes and by no other persons; or
 - (ii) a correct ascertainment or declaration of the results of the voting;is, or is attempted to be, prevented or hindered; and
- (c) a contravention of section 190.

Fair Work (Registered Organisations) Regulations 2009 ('the Regulations')

140 Declaration of result of election (s 193)

- (1) Within 14 days after the closing day of an election, the AEC must issue a declaration stating the following:
 - (a) the total number of persons on the roll of voters;
 - (b) the total number of ballot papers issued (if applicable);
 - (c) the total number of envelopes that were returned undelivered by the closing day of the ballot to the AEC (if applicable);
 - (d) the total number of ballot papers received by the electoral official by the closing day of the ballot (if applicable);
 - (e) the result of the election;
 - (f) the total number of informal ballot papers (if applicable).
- (2) In subregulation (1), ***closing day***, for an election, means:
 - (a) if a ballot is not required—the day on which nominations for the election close; or
 - (b) if a ballot is required—the closing day of the ballot.
- (3) Immediately after issuing a declaration under subregulation (1), the AEC must give a copy of the declaration to:
 - (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

141 Post-election report by AEC (s 197(2))

- (1) For subsection 197(2) of the Act, the following matters are prescribed for inclusion in the report (the ***post-election report***) given under subsection 197(1) of the Act:
 - (a) the declaration mentioned in regulation 140;
 - (b) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
 - (c) any matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act;
 - (d) the number of written allegations (if any) of irregularities made to the AEC during the election;
 - (e) action taken by the AEC in relation to those allegations;
 - (f) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
 - (a) give the post-election report within 30 days after the closing day of the election; and
 - (b) publish a notice on its web site advising that a copy of the post-election report can be obtained from the AEC on the request of a member who was eligible to vote in the election.
- (3) The AEC must supply a copy of the post-election report to the member as soon as practicable, but no later than 7 days, after receiving a request under paragraph (2)(b).

145 Elections conducted by AEC—no unauthorised action

- (1) For any election conducted by the AEC under Part 2 of Chapter 7 of the Act, a person other than the person conducting the election must not do, or purport to do, any act in the conduct of the election other than as directed or authorised by the person conducting the election.

Note: This subregulation is a civil penalty provision (see regulation 168).
- (2) The AEC must advise the General Manager of a possible contravention of subregulation (1) not later than 21 days after the AEC has become aware of the possible contravention.

Declaration of result of election

In accordance with reg 140 of the Regulations, the AEC issued a declaration of the result of election E2023/151 Stage 2 on 14 December 2023. For a copy, see **Attachment A**.

Australian Federation of Air Pilots - Rules

Australian Federation of Air Pilots.

Rules used for the election:

- [282V: Incorporates alterations of 6 January 2023 (R2022/128)]
(replaces rulebook dated 13 May 2022 (R2022/47))

Roll of Voters

There were no matters in relation to the roll of voters.

Written allegations of any irregularities

There were no written allegations of irregularities during the election.

Other irregularities

There were no other irregularities.

Signed

Benjamin Murray
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 03 9285 7111
18 December 2023

Attachments

A. Declaration of Results for Uncontested Offices

Australian Federation of Air Pilots

DECLARATION OF RESULTS - E2023/151 - Stage 2

Uncontested Offices

Insufficient Nominations Election

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

Eastern

Convention Representative (1)

Candidates

ANDERSON Tim

Helicopters

Secretary (1)

Candidates

No Nominations Received

Convention Representative (1)

Candidates

No Nominations Received

Qantas Mainline

Chair (and Convention Representative) (1)

Candidates

EGAN Mike

Vice-Chair (1)

Candidates

GILMOUR Mark Ian

Secretary (1)

Candidates

KOBELEFF Daniel

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Benjamin Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
14/12/2023

Australian Federation of Air Pilots

DECLARATION OF RESULTS - E2023/151 - Stage 1

Uncontested Offices

Insufficient Nominations Election

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

Helicopters Council

Committee Member (10)

Candidates

No Nominations Received

Rex Council

Committee Member (7)

Candidates

FITZGERALD Jordan

SHEEHY Matthew

Sunstate Council

Committee Member (1)

Candidates

DUNPHY Thomas

National Jet Systems

Committee Member (1)

Candidates

No Nominations Received

Qantas Mainline Council

Committee Member (4)

Candidates

ARMESSEN Michael

EGAN Michael

GILMOUR Mark

KOBELEFF Daniel

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Benjamin Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
11/10/2023



Fair Work
Commission

DECISION

Fair Work (Registered Organisations) Act 2009
s.189—Arrangement for conduct of an election

Australian Federation of Air Pilots
(E2023/151)

MS GUINA

MELBOURNE, 22 AUGUST 2023

Arrangement for conduct of election.

[1] On 10 August 2023 the Australian Federation of Air Pilots (**AFAP**) lodged with the Fair Work Commission prescribed information for an election to fill the following offices for the remainder of the term due to insufficient nominations received in the last scheduled election (**E2022/106**) and in the subsequent insufficient nominations election (**E2023/11**) and to fill a single casual vacancy:

Eastern

Convention Representative (1)

Sunstate

Committee Member (1)

Rex

Committee Member (7)

Helicopters

Committee Member (10)

Secretary (1)

Convention Representative (1)

Qantas Mainline

Committee Member (4)

Chair (and Convention Representative) (1)

Vice Chair (1)

Secretary (1)

National Jet Systems

Committee Member (1)

[2] In paragraph 6 of the prescribed information, the organisation's President declared that 'As with E2023/11, an election is not required for vacancies on the Cobham Council as there

are no members remaining in the Council'. A notification of change dated 2 December 2022 indicated that all Cobham offices had become vacant. Commission staff sought clarification about this aspect and on 1 February 2023 the organisation clarified that the reason that it would not seek to fill offices associated with the Cobham Council is because the Cobham electorate no longer exists due to the Cobham aviation businesses being sold and members previously employed by Cobham had moved into other applicable parts of the AFAP. An example provided by the organisation was that of Regional Express taking over Cobham's freight operations, and those former Cobham members now belong to the AFAP's Rex Council.

[3] Noting that the Cobham offices still exist under the rules of the organisation, the AFAP's correspondence also indicated that *'At the AFAP Executive Committee on 30 November 2022 it was discussed that a rule alteration would be proposed at the next AFAP Convention [scheduled for 6 October 2023] to remove the Cobham Council from the AFAP's council structure.'*

[4] As the AFAP has committed to take steps to review its election-related rules, particularly those around the offices of the Cobham Council with a view to removing them from the organisation's structure, and that former Cobham members appear to have been accommodated elsewhere in the AFAP, I am prepared to issue this election decision without the Cobham offices.

[5] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER

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PR755126

**PRESCRIBED INFORMATION FOR ELECTIONS in accordance with
Section 189 *Fair Work (Registered Organisations) Act 2009* and
Regulation 138 *Fair Work (Registered Organisations) Regulations
2009***

I, Louise Pole, being the President of the Australian Federation of Air Pilots make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Australian Federation of Air Pilots.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. The notice of resignation of Sunstate Council Committee member Clinton Shiell is attached for the casual vacancy.
5. Insufficient nominations were received in an earlier election (E2023/11) and the declarations of results are attached.
6. As with E2023/11, an election is not required for vacancies on the Cobham Council as there are no members remaining in the Council.
7. No rule alterations are pending that will impact the election.

Signed:

A handwritten signature in black ink that reads "Louise Pole". The signature is written in a cursive style with a large, stylized 'P'.

Captain Louise Pole
President

Dated: 10 August 2023

Annexure A

- Elections that are required [insert as many pages as required]

	Name of Office	Number required	Voting System Direct voting system; Collegiate electoral system	Reason for Election Scheduled; Casual vacancy; New office created; Insufficient nominations	Electorate
Eastern	Convention Representative	1	Collegiate electoral system	Insufficient nominations	Financial Eastern Council Committee members – Rule 5
Helicopters	Committee Members	10	Direct Voting System	Insufficient nominations	Financial Helicopters Council members – Rule 4
Helicopters	Secretary	1	Collegiate electoral system	Insufficient nominations	Financial Helicopters Council Committee members – Rule 5
Helicopters	Convention Representative	1	Collegiate electoral system	Insufficient nominations	Financial Helicopters Council Committee members – Rule 5
Rex	Committee Members	7	Direct Voting System	Insufficient nominations	Financial Rex Council members – Rule 4
Sunstate	Committee Member	1	Direct Voting System	Casual Vacancy	Financial Sunstate Council members – Rule 4
National Jet Systems	Committee Member	1	Direct Voting System	Insufficient nominations	Financial National Jet Systems members – Rule 4
Qantas Mainline	Committee Members	4	Direct Voting System	Insufficient nominations	Financial Qantas Mainline members – Rule 4
Qantas Mainline	Chair	1	Collegiate electoral system	Insufficient nominations	Financial Qantas Mainline Council Committee members – Rule 5

Qantas Mainline	Vice-Chair	1	Collegiate electoral system	Insufficient nominations	Financial Qantas Mainline Council Committee members – Rule 5
Qantas Mainline	Secretary	1	Collegiate electoral system	Insufficient nominations	Financial Qantas Mainline Council Committee members – Rule 5

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	As soon as possible	Rules 5.8(a) and Rule 12 – to be determined by the returning officer
Nominations CLOSE	Rule 12.3(a) – <i>‘shall remain open for a period of 21 days’</i>	Rules 5.8(a) and Rule 12 – to be determined by the returning officer
Roll of Voters cut off date	Rule 12.3(h) – <i>‘on the fourteenth day prior to nominations opening’</i>	Rule 5.8(a) – <i>‘as soon as possible after the declaration of the ballot of Committee Members’</i>