

17 January 2018



Mr. Simon Bullock
Returning Officer
AEC
Perth Office
200 St Georges Terrace
Perth 6000

BY E-MAIL

Dear Mr. Bullock

E2017/210 CPSU, SPSF Group WAPOU Branch – 12 December 2017 Post Election Report

Response for the purposes of s198 of the Fair Work (Registered Organisations) Act 2009 (“RO Act”)

I refer to your post election report dated 12 December 2017. On pages 3 and 4 you refer to those rules of the CPSU (SPSF) and its Branch which are “difficult to apply/interpret”.

I will deal with each of those rules in turn:

Roll of Voters – Chapter C Rule 17.2(e) and Rule 25.1(c)

Response: We are aware of the inconsistency between the wording of Rule 17.2(e) and s143(c) of the RO Act.

On 8 November 2017 the Federal Office lodged an application to (amongst other things) affect the change of wording you recommend. Other than being informed of the matter number, we have not heard from the Fair Work Commission as to the progress of that application.

Candidate Statements – redundancy of WAPOU Branch rule 23.2

Response: The Federal Executive of the SPSF Group has approved a work program for 2018 which includes examining and simplifying the State Rules.




This program includes the creation of autonomous rules for the WAPOU Branch (rather than as a Schedule to Chapter C). In the process of drafting those State Branch rules we will ensure consistency and remove duplication between Chapter C and the new autonomous rules.

Next Steps

We will make your report and this response available to members in a manner which complies with s198 (3) and (4). In due course, we will file the necessary documents with the Registered Organisations Commission in a manner consistent with s198 (6).

If you have any questions or comments concerning the remedial action the Group or Branch intend to take in relation to these rules please contact me on XXXXXX



John Welch
Branch Secretary
WAPOU Branch

12 December 2017

Post-election Report

CPSU, the Community and Public Sector Union, SPSF Group
Western Australian Prison Officers' Union Branch Vacancy
Election E2017/210

Contents

Election(s) Covered in this Report 3

Rules..... 3

Roll of Voters..... 4

Irregularities..... 4

Other Matters 5

Attachments 5

Election(s) Covered in this Report

Election Decision No/s:

E2017/210

Rules

Rules used for the election:

(090V: Incorporates alterations of 29/04/2016 [D2015/58]
 Replaces rulebook dated 11/12/15 [R2015/231] and
 [090V-SPSF: Incorporates alterations of 23/12/2015
 (R2015/253) Replaces rulebook dated 11/12/2015
 (R2015/231)]
 I

Rules difficult to apply/interpret:

Roll of Voters

- CPSU-SPSF Chapter C Group Rule 17.2(e) in reference to the election notice states:
 fix the date for the closure of the roll of voters by specifying a day which shall be no earlier than 30 days, and no later than seven days, after the date fixed for the opening of nominations.
- CPSU-SPSF Chapter C Group Rule 25.1(c) states:
 Close of Roll Day shall be a day which is no earlier than 30 days and no later than 7 days before the day on which nominations for the election open.

Section 143(3) of the *Fair Work (Registered Organisations) Act 2009* states:

The day provided for in the rules of an organisation as the day on which the roll of voters is to be closed (see paragraph (1)(e)) must be a day no earlier than 30 days, and no later than 7 days, before the day on which nominations for the election open.

It is recommended that CPSU-SPSF Chapter C Group Rule 17.2(e) be amended to comply with Section 143(3) of the *Fair Work (Registered Organisations) Act 2009*.

Candidate Statements

- WA Branch Rule 1 states:
 These rules are in addition to the federal rules of CPSU, the Community and Public Sector Union and shall apply to the Western Australian Branch so far as they are not in conflict with the federal rules.

- WA Branch Rule 23.1 states in part:
Every election required by these rules shall be conducted in accordance with Chapter C the Federal Rules.
- WA Branch Rule 23.2 states:
WAPOU Branch policy may provide for candidates' information of a prescribed form to accompany ballot papers issued in the conduct of a Branch election.
- CPSU-SPSF Chapter C Group Rule 28 Provides for Candidate Statements.

WA Branch Rule 23.2 becomes redundant due to the application of WA Branch Rules 1 and 23.1, and CPSU-SPSF Chapter C Group Rule 28.

Model Rule reference (if any)

Nil

Roll of Voters

| | |
|---|---|
| Total number of voters on the Roll: | 188 (118 Wooroloo Prison Farm and 70 Melaleuca Remand and Reintegration Facility) |
| Number of apparent workplace addresses: | Nil |
| Number of non-current addresses: | Nil |
| Other matters pertaining to the roll of voters: | Nil |

Irregularities

Details of written allegations of irregularities, and action taken by AEC: Nil

Other irregularities identified, and action taken: Nil

Other Matters

Nil

Attachments

- 1) Declaration of Results for Contested and Uncontested Offices



Simon Bulloch
Returning Officer

12 December 2017



10 January 2018

Mr John Welch
Secretary
CPSU, the Community and Public Sector Union - SPSF Group, Western Australian Prison Officers'
Union Branch
wapou@wapou.asn.au

Dear Mr Welch,

CC: kbatt@cpsuVIC.org

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for the election of contested and uncontested offices for Branch Councillor (2) [E2017/210]. This letter is a reminder of certain obligations imposed on organisations and on persons elected to office.

A notice must be published on the organisation's website

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regulation 141 of the Fair Work (Registered Organisations) Regulations 2009).

Holders of office required to undertake approved training

Section 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires each officer with financial management duties to undertake approved training that covers those duties within 6 months after the person begins to hold office. Please ensure that relevant officers undertake approved training within the required timeframe. Please also ensure that all new holders of office are advised of their obligations to make disclosures regarding remuneration, non-cash benefits and material personal interests, the details of which are provided for in the RO Act.

Organisation must notify the Commission of changes

Also, section 233(2) of the RO Act requires that an organisation must notify the Commission **within 35 days of any changes** to the holders of office in the organisation. **If there are no changes a notification is not required.** If the election has resulted in **any changes** to the holders of office, the CPSU, the Community and Public Sector Union - SPSF Group, Western Australian Prison Officers' Union Branch must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
 - the name of the office vacated;
 - the date of the change of office holder; and
 - the name of the person vacating the office.

2. Person(s) who have commenced to hold office:
 - the name of the office now held;
 - the date of the change of office holder;

- the name of the person now holding the office;
- the postal address of the person (generally the postal address of the organisation); and
- the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not need to notify until then (e.g. AGM, 1 January, 2nd Monday in March). If you have already lodged this information, please disregard this reminder.

Regards

Mitch Webster
Registered Organisations Commission

NOTIFICATION OF CHANGES TO RECORDS (Changes to Records in the Annual Return) required to be kept in accordance with section 230 *Fair Work (Registered Organisations) Act 2009* and regulation 147 *Fair Work (Registered Organisations) Regulations 2009*

I, [NAME], being the [OFFICER] of the [ORGANISATION NAME], declare the following:

1. I am authorised to make this declaration.
2. The following is a correct statement of the changes made to the information contained in the records required to be kept by the organisation in accordance with s.230(1)(b), (c), and (d) of the *Fair Work (Registered Organisations) Act 2009*:

[delete all that do not apply]

- On [DATE] the address of the organisation changed to [STREET ADDRESS].¹
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:²
 1. *[include OLD name and address and NEW name and address of every branch that has changed]*
 2. ...
- A list of changes to offices and the names, postal addresses and occupations of persons holding those offices is attached to this declaration at Annexure A and forms part of this declaration.
- On [DATE] the following branch[es]:³
 - COMMENCED operation:
 1. [include name of each new branch]
 2. ...
 - CEASED operation:
 1. [include name of each closed branch]

¹ s.230(1)(d); reg.147(d)

² s.230(1)(d); reg.147(a) & (d)

³ s.230(1)(d); reg.147(b) & (c)

2. ...

Signed: [SECRETARY OR OTHER AUTHORISED OFFICER]

Dated: [DATE]

*[PLEASE NOTE: This declaration must be submitted to the Registered Organisations Commission within **35 days** of the change. It can be submitted to regorgs@roc.gov.au.]*

ANNEXURE A

- Changes to Offices and Office Holders in the Organisation and its Branches [*insert as many pages as required*]:

Please note the 35 days begins at the earliest event (for instance when the officer retires) and an organisation may need to notify the events separately if the appointment or election process will take longer than 35 days.

| Branch | Date of Change | Name of Office that has changed | Name of <u>Outgoing</u> Office Holder | Name of <u>New</u> Office Holder | Postal Address of <u>New</u> Office Holder | Occupation of <u>New</u> Office Holder |
|-----------------|---|--|--|---|---|---|
| <i>National</i> | <i>1.1.2014</i> | <i>Secretary</i> | <i>Full Name</i> | <i>Full Name</i> | <i>c/- the Registered Organisation, postal address of Registered Organisation</i> | <i>Paid official</i> |
| | <i>25.12.2013</i> | <i>President</i> | <i>vacant</i> | <i>Full Name</i> | <i>As above</i> | <i>mechanic</i> |
| <i>...</i> | | | | | | |
| <i>NSW</i> | <i>1.1.2014 (resigned) 7.1.2014 (appointed)</i> | <i>President</i> | <i>Full Name</i> | <i>Full Name</i> | <i>c/- the Branch, postal address of the Branch</i> | <i>mechanic</i> |
| | | <i>Committee of Management Member</i> | <i>Full Name</i> | <i>Full Name</i> | <i>As above</i> | <i>mechanic</i> |
| | | <i>Treasurer</i> | <i>Full Name</i> | <i>vacant</i> | <i>vacant</i> | <i>vacant</i> |
| <i>...</i> | | | | | | |
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**CPSU, the Community and Public Sector Union, SPSF Group
Western Australian Prison Officers' Union Branch
Vacancy Election**

Declaration of Results for Contested and Uncontested Offices

E2017/210

Below are 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.

Branch Council

| | |
|---|------------|
| Total number of names on the roll of voters | 118 |
| Ballot papers issued | 118 |
| Replacement ballot papers issued | 0 |
| Total Ballot Papers Issued | 118 |
| Ballot papers / envelopes returned for scrutiny | 53 |
| Less ballot papers / envelopes rejected at preliminary scrutiny | 0 |
| Adjusting balance | 0 |
| Total Ballot Papers Admitted to Scrutiny | 53 |
| Percentage of ballot papers returned to number issued | 44 |
| Ballot papers returned as unclaimed mail | 0 |
| Ballot papers not returned | 65 |

Branch Councillor (Delegate to Branch Council) - Wooroloo

| <u>Candidates</u> | <u>First Preference Votes</u> | <u>Votes</u> |
|------------------------|-------------------------------|--------------|
| RICHARDSON, Stephen | 12 | 12 |
| CURTIS, Barrie | 41 | 41 |
| Exhausted Votes | | 0 |
| Loss/Gain by Fraction | | 0 |
| Total votes | 53 | 53 |
| Formal ballot papers | 53 | 53 |
| Informal ballot papers | 0 | 0 |


I declare Barrie Curtis elected.

Branch Councillor (Delegate to Branch Council) - Melaleuca

Candidates

HEARD, Dean

I declare Dean Heard elected.


Simon Bulloch
Returning Officer
Australian Electoral Commission

12 December 2017



DECISION

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

CPSU, the Community and Public Sector Union
(E2017/210)

MR ENRIGHT

MELBOURNE, 2 OCTOBER 2017

Arrangement for conduct of election.

[1] On 15 September 2017 the Western Australian Prison Officers' Union Branch (the Branch) of the SPSF Group (the Group) of the CPSU, the Community and Public Sector Union lodged with the Registered Organisations Commission (the Commission) prescribed information in relation to an election for offices:

[2] Prescribed information was lodged on 15 September 2017 in relation to an election for the following new office:

Branch Councillor (Delegate to Branch Council) from the following electorate:
Melaleuca (1)

[3] Prescribed information was also lodged on 15 September 2017 in relation to an election to fill a casual vacancy in the following office for the remainder of the term:

Branch Councillor (Delegate to Branch Council) from the following electorate:
Wooroloo (1)

[4] I note that in relation to the casual vacancy office, the documentation lodged with the prescribed information indicates that the office was vacated on the 11 October 2016 which is more than eleven months ago.

[5] Mr John Welch, the Secretary of the Branch, advised the Commission on 28 September 2017 that during the conduct of elections which were concluded on 27 September 2017, the Branch became aware that an election in respect of the office of Branch Councillor from Wooroloo Prison Branch had not been previously requested although as is indicated above, that office was vacated on 11 October 2016. Mr Welch further indicated that this had been as a result of an administrative error which caused the Branch to overlook the vacancy and not request an election.

[6] In relation to casual vacancy elections, rule 44.4(b) of the Group’s rule book states that “*The election shall be held within six months of the vacancy*”. Accordingly it is clear the Branch did not lodge the prescribed information before the prescribed day as required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*.

[7] In correspondence dated 28 September 2017, Mr Welch made a formal request for an extension of time to lodge the prescribed information and acknowledged that the Branch had not complied with the requirements of the relevant rules. Mr Welch provided further details in his request which included that in the early part of 2017, the Branch had introduced new procedures which will prevent the type of administrative error or oversight which has occurred in this case. It was put by Mr Welch that the ‘sweep’ conducted by the Branch of the period prior to the implementation of the new procedures had been ‘flawed’ but the error leading to a failure to comply with the relevant rule could not occur in the future.

[8] I have taken into account the candour demonstrated by the Branch and that it appears the request for election was made one day after the Branch discovered its administrative error. I have carefully considered that the application for a later lodgement was made after the prescribed day required by regulation 138(3).

[9] Having regard to the normal and reasonable expectation that registered organisations take steps to ensure that they comply with the time-frame requirements set out not only in the *Fair Work (Registered Organisations) Act 2009* but also in instruments or references pertaining to the governance arrangements formulated by organisations themselves, I allow on this occasion a later day for lodgement.

[10] While I have allowed a later day for lodgement in the circumstances of this application, the failure of an organisation to lodge prescribed information before the prescribed day contravenes section 189(2) of the *Fair Work (Registered Organisations) Act 2009* and is a civil penalty provision which may be the subject of application by the Commission for orders in the Federal Court.

[11] 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.



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GALLICHIO, Sam

From: John Welch <JohnWelch@wapou.asn.au>
Sent: Friday, 29 September 2017 12:29 PM
To: MOUTEVELIS, Michael
Subject: Actioned MM Re: Request for Elections CPSU SPSF WAPOU [DLM=For-Official-Use-Only]

Dear Micheal,

My apologies yes it is in fact Damien Lee.

John Welch
Secretary
WAPOU

Sent from my iPhone

On 29 Sep 2017, at 9:23 am, MOUTEVELIS, Michael <Michael.Moutevelis@roc.gov.au> wrote:

For Official Use Only

Dear Mr Welch

Thank you for your lodgement of an extension of time request.

Just to clarify, when you refer to the resignation of the Delegate for the Wooroloo Prison below, are you referring to the resignation of Damian Lee as per the prescribed information? Your email below refers to a D Hill instead.

Regards

MICHAEL MOUTEVELIS

Assistant Adviser

Compliance

Registered Organisations Commission

Tel: (02) 8293 4644

michael.moutevelis@roc.gov.au

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From: John Welch [<mailto:JohnWelch@wapou.asn.au>]

Sent: Thursday, 28 September 2017 6:56 PM

To: ROC - Registered Org Commission

Subject: Request for Elections CPSU SPSF WAPOU

Dear Sir/Madam,

I am writing with reference to the request for elections made via the Statement of Prescribed information provided to the ROC on September 15th 2017. The Statement requested that elections be held for a newly created Branch of the CPSU SPSF WAPOU at Melaleuca Prison and also for a vacant position at Wooroloo Prison Branch.

In the course of running the elections that have just concluded on 27th September 2017 we became aware that due to an administrative error we had not requested an election in respect of the resignation of Delegate D Hill from Wooroloo Prison Branch on October 11th notified to Fairwork on October 21st 2016. Our request for the election is therefore outside the 6 months set out in Clause 44.4(b) of the Chapter C of the CPSU Group Rules.

In the early part of this year we put in place new procedures to ensure mistakes of this sort in relation to the calling of elections cannot occur unfortunately our sweep of the period before the

implementation of the new procedures was flawed. This error could not now occur however due to an administrative error on our part we have not complied with Clause 44.4(b)
I must therefore request an extension for the election to be allowed to take place.
I can only apologize and indicate that the new procedures in place will ensure this cannot occur again.

John Welch

Secretary

WAPOU

W A Prison Officers' Union

Phone : 9272 3222

Fax : 9271 2666

johnwelch@wapou.asn.au

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Notice and Statement of Prescribed Information for an Election

I, **John Welch** being the Secretary of the CPSU SPSF Group WAPOU Branch make the following statement:

I am the Secretary of the CPSU SPSF Group WAPOU Branch,

I am authorised to lodge the following prescribed information concerning forthcoming elections in the WAPOU Branch of the CPSU SPSF Group, and

I confirm that the following information is being lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009.

Signed: 

Dated: 15th SEPTEMBER 2017

Offices/Positions

| | |
|----------|---|
| | |
| A | <u>Delegates to Branch Council caused by resignation (An oversight from the currently conducted elections E2017/130)</u> |
| | Wooroloo (1) (resignation of Damien LEE) |
| | |
| B | <u>Delegate to Branch Council (New Sub-Branch created)</u> |
| | Melaleuca (1) |
| | |

Reasons for election:

Election for position marked A is the vacancy caused by the resignation of Branch Council Member Damien LEE. A copy of Damien Lee's resignation and a copy of the Notification of Change Form sent to FWA is attached to this form. This vacancy was unfortunately overlooked when the recent election (E2017/130) application was made.

Election for the position marked B is an additional position caused by the creation of a new Sub Branch at the newly established Women's Prison named Melaleuca. This new Sub Branch was created in accordance with rule 19 – Prison Branches under Schedule B of the CPSU Chapter C of the SPSF Rules. The decision of Branch Council to create the new Branch was made on the 28th July 2017. A copy of the minuted resolution is attached to this form. The number of financial members of the new Melaleuca Sub-Branch is 62 therefore the Sub Branch is entitled to 1 (one) delegate to Branch Council under Rule 6.2(b) of Schedule B of the CPSU SPSF Group WAPOU Branch Rules.

Elected by:

The positions under A and B are elected by the financial members of each identified Sub-Branch. Below is a table of the financial members of these Sub-Branches. This list identifies the total number of financial members for each Sub-Branch as at September 05 2017.

| | |
|-----------|-----|
| Wooroloo | 117 |
| Melaleuca | 62 |
| | |

Under Rule 44 (Rules of the CPSU_SPSF Group Rules) **Casual Vacancies** the election shall be "...conducted using so far as is practicable the same mode of election as is prescribed by these rules for election to that office"

Nominations open:

Rule 19.1 Nominations for all offices will be open for at least 14 days (Rules of the CPSU-SPSF Group Rules)

Nominations close:

Rule 19.1 (b) Nominations will close at 12 noon on the last day of the 14 (Rules of the CPSU - SPSF Group Rules)

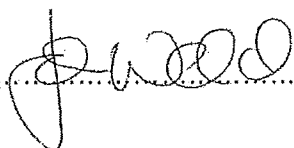
Cut-off date for roll:

As directed by the Returning Officer under Rule 25.1(c) (CPSU – SPSF Group Rules)

NOTIFICATION OF CHANGES TO RECORDS (Changes to Records in the Annual Return) required to be kept in accordance with section 230 *Fair Work (Registered Organisations) Act 2009* and regulation 147 *Fair Work (Registered Organisations) Regulations 2009*

I, JOHN WELCH, being the BRANCH SECRETARY of the COMMUNITY AND PUBLIC SECTOR UNION/SPSF WESTERN AUSTRALIAN PRISON OFFICERS (WAPOU) BRANCH, declare the following:

1. I am authorised to make this declaration.
2. The following is a correct statement of the changes made to the information contained in the records required to be kept by the organisation in accordance with s.230(1)(b), (c), and (d) of the *Fair Work (Registered Organisations) Act 2009*:
 - A list of changes to offices and the names, postal addresses and occupations of persons holding those offices is attached to this declaration at Annexure A and forms part of this declaration.

Signed: 

Dated: ...21-October -.2016.....

[PLEASE NOTE: This declaration must be submitted to the Fair Work Commission within 35 days of the change. It can be submitted to orgs@fwc.gov.au.]

ANNEXURE A

- Changes to Offices and Office Holders in the Organisation and its Branches [*insert as many pages as required*]:

Please note the 35 days begins at the earliest event (for instance when the officer retires) and an organisation may need to notify the events separately if the appointment or election process will take longer than 35 days.

| Branch | Date of Change | Name of Office that has changed | Name of <u>Outgoing</u> Office Holder | Reason for change | Name of <u>New</u> Office Holder | Postal Address of <u>New</u> Office Holder (for privacy reasons, we recommend NOT a private address) | Occupation of <u>New</u> Office Holder |
|--------------|-------------------|--|---------------------------------------|----------------------|----------------------------------|--|--|
| WAPOU Branch | 20-Septmeber 2016 | Delegate to Branch Council Bandyup Prison | Mihalj Olman | Dismissed | Vacant | | |
| WAPOU Branch | 11-October 2016 | Delegate to Branch Council Wooroloo Prison | Damien Lee | Resigned as delegate | Vacant | | |

16. CPSU/SPSF BRANCH BUSINESS

MELALEUCA BRANCH

Motion – It was proposed that the Melaleuca Branch be recognised and we request Fairwork call an election for the new branch delegate.

Proposed – P Vose

Seconded – J Hampton – Meagher

Carried