

9 June 2021

Post-election report

108v-ar2021-69

CPSU - SPSF Group
Western Australian Prison Officers'
Union Branch
Scheduled election
E2020/39

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Election(s) Covered in this Report

Organisation: CPSU - SPSF Group Western Australian Prison Officers' Union Branch
Election: Scheduled
Election Decision No/s: E2020/39

Rules

Rules used for the election: [090V-SPSF: Incorporates alterations of 27/03/2019]
[R2018/316] (replaces rulebook dated 12/04/2018
[R2017/70])

Rules difficult to apply/interpret: None

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website:

https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections

Roll of Voters

Total number of voters on the Roll: Roebourne Regional Prison - 90
West Kimberley Regional Prison - 97

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, Nil
and action taken by AEC:

Other irregularities identified, and action taken: Nil

Other Matters

Returning Officer actions required (Section 193): Yes

Details:

- To avoid the possibility of an irregularity the Returning Officer extended the ballot period from 21 days to 5 weeks to allow voters to receive and return postal ballot packs.
- Rules regarding the timetable of the election were set aside as the AEC held concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varied from the rules was set when the AEC was satisfied that stakeholders would be able to fully participate.

Signed



Catherine Bernoth
Returning Officer
Australian Electoral Commission
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9 June 2021

Attachments

A. Declaration of Results for CPSU - SPSF Group, Western Australian Prison Officers' Union Branch

**CPSU, the Community and Public Sector Union –
SPSF Group, Western Australian Prison Officers' Union Branch
DECLARATION OF RESULTS - E2020/39**

Scheduled 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:

Bandyup Women's Prison

Branch Councillor (2)

Candidates

No Nominations Received

Broome Regional Prison

Branch Councillor (1)

Candidates

No Nominations Received

Eastern Goldfields Regional Prison

Branch Councillors (2)

Candidates

CAVAZZI Keith

PARKER Steve

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

Greenough Regional Prison

Branch Councillors (2)

Candidates

PIZZEY Caroline

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

Hakea Prison

Branch Councillors (5)

Candidates

BOHLING John

MILLS Kevan Lockwood

MITCHELL Clive

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

Roebourne Regional Prison

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	90
Number of voters issued with voting material	90
Total number of voters issued with replacement voting material	1
Total number of voting material packs issued	91
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	41
Number of declaration envelopes rejected at preliminary scrutiny (minus)	0
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	41
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	2
Voting material packs not returned by voters by closing date of the ballot	48
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	46 %

Branch Councillor (1)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Final Votes</u>
KENNA, Gladys	9	9
OORLOFF, Henry	26	26

Total ballot papers admitted for this office	41
Formal Ballot papers	35
Informal Ballot papers	6

I declare the following elected:

- OORLOFF, Henry

West Kimberley Regional Prison

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	97
Number of voters issued with voting material	97
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	97
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	32

Number of declaration envelopes rejected at preliminary scrutiny (minus)	1
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	31
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	2
Voting material packs not returned by voters by closing date of the ballot	63
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	33 %

Branch Councillors (2)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Final Votes</u>
MENDES, Sam	9	11
REEVES, Michael	16	11
ROBINSON, Keith	6	9

Total ballot papers admitted for this office	31
Formal Ballot papers	31
Informal Ballot papers	0

I declare the following elected:	Order Elected
• REEVES, Michael	1
• MENDES, Sam	2

C Bernoth .

Catherine Bernoth
Returning Officer
Telephone: 02 9375 6375
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11/03/2021



DECISION

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

**CPSU, the Community and Public Sector Union - SPSF Group, Western
Australian Prison Officers' Union Branch**
(E2020/39)

MR COYLE

MELBOURNE, 10 JULY 2020

Arrangement for conduct of election.

[1] On 18 May 2020 the CPSU, the Community and Public Sector Union - SPSF Group, Western Australian Prison Officers' Union Branch (**Branch**) lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices:

Branch Councillor (Delegate to Branch Council) for the following electorates:

Bandyup Women's Prison	(2)
Broome Regional Prison	(1)
Eastern Goldfields Regional Prison	(2)
Greenough Regional Prison	(2)
Hakea Prison	(5)
Roebourne Regional Prison	(1)
West Kimberley Regional Prison	(2)

[2] 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*. I note that Chapter C of the CPSU rule book does not specify a prescribed day, however Rule 19.1(a)(iii) provides that the election 'should be conducted so that a result is declared not earlier than 1 May and not later than 30 June in the election year'. Consequently, the lodgement of the prescribed information with the Registered Organisations Commission on 18 May 2020 would not allow for the results to be declared in the timeframe contemplated by the rules.

[3] By letter dated 24 March 2020, the Assistant Commissioner and National Program Manager, Industrial Elections and Ballots within the Australian Electoral Commission (AEC) wrote to registered organisations to advise that, due to the impact of the COVID-19 pandemic, the AEC had determined that the conduct of all industrial elections not already commenced would cease for a period of three months from that date.

[4] The Secretary of the Branch, Andrew James Smith, provided a statement addressing the late lodgement of the prescribed information. Mr Smith explained that he had become aware that 'other Branches' in the SPSF Group had received correspondence from the AEC stating that

elections being conducted by the AEC had been put on hold until after 30 June. In that context Mr Smith mistakenly believed this meant the Branch had more time to file its prescribed information. It is not apparent whether the Branch did not receive a copy of the correspondence dated 24 March 2020 referred to above directly from the AEC, or whether in the context of the COVID-19 pandemic any such letter simply did not come to Mr Smith's attention. However, I accept that Mr Smith genuinely misunderstood the Branch's obligations, and that the Branch moved swiftly to lodge prescribed information on 18 May 2020 once that misunderstanding was corrected.

[5] I also accept and take into account the particular circumstances described by Mr Smith of the significant impact of the COVID-19 pandemic on the Branch's operations, which has understandably affected its priorities and disrupted its normal administrative arrangements during this period. I further note that the determination by the AEC to defer the conduct of industrial elections would necessarily in any event have delayed the conduct of this election until after 30 June, meaning that the election could not have been completed within the timeframe set out in Chapter C of the CPSU's rules.

[6] The Branch has requested that the Commissioner (or his Delegate) exercise his power under s 189(2) of the *Fair Work (Registered Organisations) Act 2009* to allow a later date for lodgement of the prescribed information be exercised, namely 18 May 2020.

[7] I am satisfied that the reasons outlined in the statement and letter accompanying the lodgement provide sufficient grounds to justify approval for allowing a later date for the lodgement. The normal and reasonable expectation is that registered organisations will take steps to ensure 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 their own governance, such as their own rules. My decision is influenced by the unprecedented impact of the COVID-19 pandemic and the fact that the AEC suspended the conduct of industrial elections during the relevant period.

[8] 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 COMMISSIONER

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PR351655

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, **Andrew James Smith** being the Branch Secretary of the CPSU/SPSF Group WAPOU Branch make the following statement:

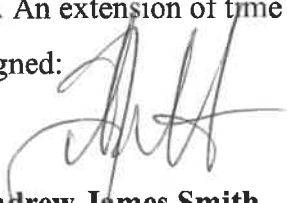
1. I am authorised to sign this statement containing prescribed information for CPSU/SPSF Group WAPOU Branch.
2. The following information is lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).
3. The elections that are required are set out in the table in Annexure A (attached).
4. No rule alterations are pending that will impact the election.
5. Election to the office of delegate to Branch Council are held every four years in accordance with Rule 23 Schedule B of Chapter C of the CPSU Rules (which is the Branch rules for the WAPOU Branch) and Rule 19.1(iii) of Chapter C of the CPSU Rules.
6. Under Rule 8.3 of Schedule B of Chapter C, Branch Council delegates elected by each Sub-Branch shall be elected every four years with Northern Region Sub-Branches elections and elections for Sub-Branches other than Northern Region Sub-Branches being held separately in alternative even years.
7. 2020 is a year in which Northern Region Sub-Branches elect Branch Council delegates in accordance with Rule 8.3
8. For the Delegate to Branch Council positions the electorate is all financial members of each Subbranch (rules 6.2(b), 8.1 and 8.3) - below is a list of the Northern Sub Branches. This list identifies the total number of financial members as at the end of the quarter of the year preceding the calling of elections and therefore the number of delegates for each sub-branch.

Bandyup (2)	133	Eastern Goldfields (2)	165	Hakea (5)	465
Broome (1)	52	Greenough (2)	147	Roebourne (1)	86
West Kimberley (2)	108				

- a. Delegates to Branch Council elected by each Sub-Branch on the basis of one delegate for each hundred financial members or part thereof [Chapter C, Schedule B, Rule 6.2(b)]
 - b. The information for calculating the formula is provided for in Chapter C, Schedule B, Rule 8.1 which provides that “for the purpose of determining the number of delegates to be elected in accordance with sub-rule 6.2(b)..., the number shall be determined in accordance with the number of financial members in each sub-Branch at the end of the quarter for the year preceding calling for nominations for election to the Branch Council.”
9. Chapter C of the CPSU rules prescribes that nominations for these offices are required to be open for 14 days [Rule 19.1(a)] and “the elections should be conducted so that the result is declared not earlier than 1 May and not later than 30 June in an election year”. [see Rule 19.1(a)(iii)]
10. This statement IS NOT lodged at least 2 months before nominations open for the election(s) in Annexure A. The reason it is lodged after the prescribed time is:
- a. The Branch Secretary was mistaken in his belief that the COVID 19 lock down protocols of the AEC regarding the delay in the conduct of elections impacted on his obligation to lodge the Notice.

11. An extension of time request was lodged on Monday 18 May 2020.

Signed:


Andrew James Smith
Branch Secretary
WAPOU Branch, CPSU(SPSF)
Dated: Monday, 18 May 2020

Annexure A

- Elections that are required (2 pages)

Branch	Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
WAPOU Branch (B)	Delegate to Branch Council	2	Direct Voting System	Scheduled	Bandyup - Sub Branch (rules 6.2(b) and 8.1)
WAPOU Branch (C)	Delegate to Branch Council	1	Direct Voting System	Scheduled	Broome - Sub Branch (rules 6.2(b) and 8.1)
WAPOU Branch (B)	Delegate to Branch Council	2	Direct Voting System	Scheduled	Eastern Goldfields - Sub Branch (rules 6.2(b) and 8.1)
WAPOU Branch (C)	Delegate to Branch Council	2	Direct Voting System	Scheduled	Greenough - Sub Branch (rules 6.2(b) and 8.1)
WAPOU Branch (B)	Delegate to Branch Council	5	Direct Voting System	Scheduled	Hakea - Sub Branch (rules 6.2(b) and 8.1)
WAPOU Branch (B)	Delegate to Branch Council	1	Direct Voting System	Scheduled	Roebourne - Sub Branch (rules 6.2(b) and 8.1)

WAPOU Branch (B)	Delegate to Branch Council	2	Direct Voting System	Scheduled	West Kimberley - Sub Branch (rules 6.2(b) and 8.1)
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- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	<i>To be determined by returning officer, at the earliest permissible date (Rule 19.1 of Chapter C of the CPSU Rules)</i>	Not Applicable
Nominations CLOSE	<i>To be determined by returning officer, at 12 noon, on the earliest permissible date (Rule 19.1 of Chapter C of the CPSU Rules)</i>	Not Applicable
Roll of Voters cut off date	As directed by the Returning Officer under Rule 25.1(c), of Chapter C of the CPSU Rules)	Not Applicable

NOTES: For insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as ‘To be determined by the returning officer’. This also applies where rules are silent as to the nominated dates.

If the nomination dates are ‘To be Determined by the Returning Officer’, but your organisation has a *preference*, please state ‘To be Determined by Returning Officer’ and clearly indicate that your nominated date is a preference.

If the P.I. includes a position that is not an office, please refer to our template [Prescribed information for the election of officer and non-officer positions](#).