



22 June 2017

Ms Angela Smith  
President  
Police Federation of Australia-Australian Federal Police Association Branch  
afpa@afpa.org.au

Cc: Mr Mark Burgess, Chief Executive Officer, Police Federation of Australia

Dear Ms Smith

**Organisation must respond to the post-election report of the Australian Electoral Commission: E2016/234**

On 25/05/2017 the Registered Organisations Commission (the ROC) received a post election report from the Australian Electoral Commission (AEC) for election E2016/234 dated 25/05/2017. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The report identifies rules that were difficult to interpret or apply, in particular rules 73(c)(ii), 73(c), 73(c)(x), 73(g) and 73(i). This letter serves as a reminder of the obligations imposed on the organisation or branch as a consequence of the AEC's report. If a response has already been sent to the AEC and made available to all members please disregard this letter.

**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 regs 141(4) and (5)).

**A written response must be provided to the AEC**

A written response must be provided to the AEC within 30 days of receipt of the report. The organisation's response must include whether the organisation or branch intends to take action and if so what action the organisation or branch intends to take (s198(2)).

**Extract of report must be made available to members**

The organisation or branch must make the section of the report relating to the difficult rules available to its members (s198(3)). This extract from the report must be made available to the members before or at the same time as the organisation's response is made available to members.

**Written response must be made available to members**

A copy of the organisation's response to the AEC must be made available to members either:

- within 30 days after the response is given to the AEC, or
- published in the next edition of the organisation or branch journal (s198(5))

Subsection 198(6) and regulation 142 prescribe ways in which the relevant extract and the copy of the response can be made available to members. These do not limit the ways in which they can be made available to members. The organisation will comply if it does all of the following:-

- publish the report extract and the copy of the response in the next edition of the organisation or branch's journal; and
- 
- within 30 days of giving the response to the AEC:
  - lodges with the ROC a copy of the relevant extract and response, together with a declaration that a copy will be provided to any member who so requests; and
  - give notice in the next edition of the organisation or branch's journal, or an appropriate newspaper, that a copy of the relevant extract and response are available on request to each member free of charge; and
- publish the relevant extract on the website within 14 days after receiving the report, and publish the response on the website within 14 days of giving the response to the AEC (reg 142(2)).

### **Penalties may apply**

If the organisation or branch does not:

- respond to the AEC within 30 days,
- make the extract of the report relating to the rules available to members no later than the organisation's response is made available to members, or
- make the organisation's response available to members within 30 days or in the next edition of the journal,

the organisation may face penalties under the RO Act. Each requirement listed above is a civil penalty provision that may result in fines for the organisation

As noted above, if the response and report have already been made available to members and the AEC, please disregard this letter. If you have any questions in relation to these obligations please contact the ROC for assistance by email to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

### **If the organisation or branch decides to alter its rules in response to the AEC's report**

If the organisation or branch decides to alter its rules in response to the AEC's report, the ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

**Christine Hibberd**

**Registered Organisations Commission**



31 May 2017

Ms Renee Damasena

Assistant Director – Industrial and Commercial Elections NSW State Office  
Australian Electoral Commission  
Level 10 59 Goulbourn Street  
Haymarket NSW 2000

Renee.Damasena@aec.gov.au

Dear Ms Damasena,

### Post-Election Report E2016/234

I refer to your post-election report dated 25 May 2017 (“the 2017 Report”).

I am aware that the AFPA is required to give a written response to the 2017 Report within 30 days of receipt of it, in accordance with Section 198 of the Fair Work (Registered Organisations) Act 2009 (‘the RO Act’).

I will ensure that the 2017 Report and the AFPA’s response herein to that Report (and earlier reports referred to below) will be provided to members by publication on the AFPA website for a minimum period of three months from the date of this letter. Additionally, a copy of the Report and response will be made available to the Registered Organisations Commissioner.

The 2017 Report alerts our Association to a number of matters relating to one of the rules under which this election was conducted, namely then Rule numbered 73.

I also take this opportunity to note that previously you have made recommendations in relation to various rules of the AFPA in Reports on other AFPA elections in 2016, being reports respectively dated 1 June 2016, 24 June 2016 and 7 November 2016. The rules subject to comment were then rules 66 (b), 90 (a), 96 (c), 96 (e), 96 (f) and 114.

As you are aware from the AFPA’s letters to you in response to each of those earlier Reports in 2016, the AFPA has recently undertaken a complete revision of its entire Rule book. That exercise provided the AFPA with a convenient opportunity to consider all of your recommended alterations to the Rules in those previous reports, but of course the new Rule book was adopted before the 2017 Report was received.

Mr Murray Furlong, Delegate of the General Manager Fair Work Commission, certified the new Rule book for the AFPA on 25 May 2017. The new Rule book incorporates all of the recommendations made in your previous reports in 2016. Furthermore, the new Rule book incorporates alterations that implement most but not all of the recommendations in the 2017 Report. Those recommendations from that Report that have not been implemented (namely previous Rules 73 (c) (i) and (ii) and 73 (g), now found in Rule 94) will be considered by the AFPA when it next needs to undertake rule alterations.



**AFPA**  
Australian Federal  
Police Association

Yours Sincerely,

Adrian Smith,  
Branch Secretary/Treasurer

25 May 2017

# Post-election Report

**E2016/234**

**Police Federation of Australia**

**Australian Federal Police Branch**

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## Election(s) Covered in this Report

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Election Decision No/s: E2016/234

### Rules

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Rules used for the election: 200V: Incorporates alterations of 23/12/2016 [R2016/283]  
Part D – Australian Federal Police Association Branch

Rules difficult to apply/interpret: See *Other Matters* below

Module Rule reference (if any): See *Other Matters* below

### Roll of Voters

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Total number of voters on the Roll: 46

Number of apparent workplace addresses: 8

Number of non-current addresses: Nil

Other matters pertaining to the roll of voters: Nil

### Irregularities

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

Other irregularities identified, and action taken: Nil

## Other Matters

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### *Rule 73 (c) (ii) Manner of Election*

The part of this rule dealing with the re-opening of nominations is inefficient. It is proposed that the rule be changed to “re-call for nominations for offices where there are insufficient nominations received”.

This allows that Returning Officer to:

- Send a Nominations Received report at the end of the closing of nominations identifying which offices may be contested/uncontested,
- Check and confirm validity and eligibility of candidates and nominations
- Declare uncontested offices at the meeting (or prior if preferred), and
- Re-call for nominations where there are insufficient number of nominees at the meeting, allowing another opportunity for members to nominate.

Other considerations to include in 73 (c) are:

- Rules pertaining to the withdrawal of nominations. It is recommended that candidates can withdraw up to the commencement of the meeting, this provides a 7 day consideration period.
- When recalling for nominations, the Branch should determine in the rules whether the Returning Officer recalls the whole office or part of the office. For example, if there are 6 vacancies for Executive Members and 5 candidates have already nominated, does the Returning Officer only open the 1 position or all 6 positions (which may impact on the balloting process and what is contested)?
- The Election Notice in 73 (c) (i) must state, that where there are insufficient nominations, the Returning Officer will re-call nominations at the meeting. This is important as there is insufficient time between the closing of nominations and the meeting to publish another notice re-calling for nominations.

### *Rule 73 (c) (x) Manner of Election*

This rule may not always be possible where there are absent vote applications and the counting of ballot papers must occur after the meeting. This rule should be deleted.

### *Rule 73 (g) Scrutineers*

It is recommended that “before the closing of nominations” is deleted from the rule allowing candidates to appoint scrutineers. It is not yet known whether the election is contested at the stage of nomination. Further, allowing candidates to appoint scrutineers at any time during the election would add to the integrity of the election process and provide flexibility for candidates when scrutineers are not available for certain activities of the election.

### *Rule 73 (i) Proxy Voting*

This rule references Rule 87 (c) which states in part (ii), failing such appointment his/her vote or votes may be exercised on his/her behalf by any other delegate (if any) representing the same members of the Branch. This is problematic as there may be multiple delegate of the same branch and therefore a question of who will be entitled to exercise the vote. Secondly, it compromises the secrecy and integrity of the election. Whilst 87 (c) (ii) may work for the Branch’s other business and motions, it should not be applied for an election. Rule 73 (i) should further state “with the exception of 87 (c) (ii) which does not apply to elections”.



# Attachments

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- 1) Declaration of results for all Offices

Renee Damasena  
Returning Officer  
25 May 2017

**Police Federation of Australia  
Australian Federal Police Association Branch**

**Election of Officers**

**Declaration of Results for Contested and Uncontested Offices**

**E2016/234**

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.

**Officers of the Federation**

Total number of names on the roll of voters	46
Ballot papers issued	36
Replacement ballot papers issued	0
<b>Total Ballot Papers Issued</b>	<b>36</b>
Ballot papers / envelopes returned for scrutiny	35
Less ballot papers / envelopes rejected at preliminary scrutiny	0
Adjusting balance	0
<b>Total Ballot Papers Admitted to Scrutiny</b>	<b>35</b>
Percentage of ballot papers returned to number issued	97%
Ballot papers returned as unclaimed mail	0
Ballot papers not returned	1

**Branch National President**

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
CRAFT, Adrian Michael	6	6
SMITH, Angela	29	29
Exhausted Votes		0
Loss/Gain by Fraction		0
Total votes	35	35
Formal ballot papers	35	35
Informal ballot papers	0	0

I declare Angela Smith elected.

### Branch National Executive Members (6)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
MOKRIJ, Kate	6	6
YOUNG, Kylie	35	35
CESHIRE, James	35	35
HENDERSON, Scott	34	34
HARRIS, Steven Noel	35	35
CARUANA, Alex Borg	33	33
PANNELL, Vincent John	32	32
SMITH, Adrian	Elected to higher office	
Exhausted Votes		0
Loss/Gain by Fraction		0
Total votes	210	210
Formal ballot papers	35	35
Informal ballot papers	0	0

I declare Alex Borg Caruana, James Cheshire, Steven Noel Harris, Scott Henderson, Vincent John Pannell and Kylie Young elected.

### Branch National Vice President

#### Candidates

COOPER, Graeme

I declare Graeme Cooper elected.  
Declared at the Branch National Council Meeting, 22 March 2017.

### Branch Secretary/Treasurer

#### Candidates

SMITH, Adrian

I declare Adrian Smith elected.  
Declared at the Branch National Council Meeting, 22 March 2017.



Renee Damasena  
Returning Officer  
Australian Electoral Commission  
12 April 2017



## DECISION

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

### **Police Federation of Australia** (E2016/234)

MR ENRIGHT

MELBOURNE, 11 JANUARY 2017

*Arrangement for conduct of election.*

**[1]** On 15 November 2016 the Australian Federal Police Association Branch of the Police Federation of Australia (the Branch) lodged prescribed information in relation to an election in the Fair Work Commission.

**[2]** On 23 December 2016 I certified alterations to the rules of the Branch. Amongst other things, those alterations altered the structure of the Branch by abolishing an office that would have otherwise been due for election, creating two new offices and renaming a number of other offices.

**[3]** Consistent with the changes to the Branch's structure, the Branch lodged amending prescribed information on 3 January 2017. That proscribed information sought the arrangement of an election for the following offices:

Branch National President  
Branch National Vice President  
Branch Secretary/Treasurer  
Branch National Executive Members (6).

[4] 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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# Australian Federal Police Association

Protecting, representing and caring for our members every day.

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General Manager  
Fair Work Australia  
GPO Box 1994  
Melbourne Vic 3000

Wednesday 4 January 2017

Dear Sir,

## STATEMENT AND NOTICE OF PRESCRIBED INFORMATION UNDER REGULATION 138

I, Angela Smith, Branch National President of the Australian Federal Police Association Branch of the Police Federation of Australia, make the following statement:

I am the Branch National President of the Australian Federal Police Association Branch of the Police Federation of Australia; and

I am authorised to lodge the following prescribed information concerning forthcoming elections in the Australian Federal Police Association Branch of the Police Federation of Australia; and

I confirm I provide a statement of prescribed information as required under Regulation 138 on 15 November 2016.

At that time the Australian Federal Police Association Branch of the Police Federation of Australia conducted a Special National Council meeting on Thursday 24 November 2016 to consider changes to a number of Branch rules including Rule 66(a).

These changes were endorsed and subsequently certified by the Acting General Manager of the Fair Work Commission on 23 December 2016.

I confirm that the following information in Annexure A is being lodged under Section 189(1) of the Act incorporating the new offices.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Angela Smith', with a large, stylized flourish at the end.

Angela Smith  
Branch National President



# Australian Federal Police Association

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## Annexure A

Name of Offices requiring election is as follows:

- (i) Branch National President
- (ii) Branch National Vice President
- (iii) Branch Secretary Treasurer
- (iv) Six Branch National Executive Members

Reason for elections

The term of the current offices are due to expire in the normal course of events.

The electorate for the collegiate electoral system that will be used to conduct the election is the members of the Branch National Council Rule 73(a)(i) & 73(a)(ii)

Roll of Voters: Members of the Branch National Council

Nominations Open: Friday 20 January 2017 (60 days prior to the commencement of the 2017 biennial Branch National Council)

Nominations Close: Tuesday 14 March 2017 (7 days prior to the commencement of the 2017 biennial Branch National Council)

Roll of Voters: The rules are silent in this regard.

Contact: Graeme Cooper, [Graeme.cooper@afpa.org.au](mailto:Graeme.cooper@afpa.org.au) ph 02 6285 1677



# Australian Federal Police Association

Protecting, representing and caring for our members every day.

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General Manager  
Fair Work Australia  
GPO Box 1994  
Melbourne Vic 3000

Tuesday 15 November 2016

Dear Sir,

## STATEMENT AND NOTICE OF PRESCRIBED INFORMATION UNDER REGULATION 138

I, Angela Smith, Branch National President of the Australian Federal Police Association Branch of the Police Federation of Australia, make the following statement:

I am the Branch National President of the Australian Federal Police Association Branch of the Police Federation of Australia;

I am authorised to lodge the following prescribed information concerning forthcoming election in the Australian Federal Police Association Branch of the Police Federation of Australia; and

I confirm that the following information in Annexure A is being lodged under Section 189(1) of the Act.

The Australian Federal Police Association Branch of the Police Federation of Australia is conducting a Special National Council meeting on Thursday 24 November 2016 to consider changes to a number of Branch rules including Rule 66 (a).

In the event the rule changes are approved and subsequently registered the offices in Annexure A will be replaced with offices in Annexure B.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Angela Smith', written in a cursive style.

Angela Smith  
Branch National President





# Australian Federal Police Association

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## Annexure A

Name of Offices requiring election is as follows:

- (i) the Branch National President;
- (ii) the Branch Chief Executive Officer;
- (iii) the Branch Vice President AFP ACT Operations Portfolio;
- (iv) the Branch Vice President AFP Chief Operating Officer Portfolio;
- (v) the Branch Vice President AFP Close Operations Portfolio;
- (vi) the Branch Vice President AFP Executive & AFPA Associate Portfolio;
- (vii) the Branch Vice President AFP National Security Portfolio; and
- (viii) the Branch Vice President AFP Operations Portfolio.

Reason for elections

The term of the offices are due to expire in the normal course of events;

The electorate for the collegiate electoral system that will be used to conduct the election is the members of the Branch National Council Rule 73(a)(i) & 73(a)(ii)

Roll of Voters: Members of the Branch National Council

Nominations Open: Friday 20 January 2017 (60 days prior to the commencement of the 2017 biennial Branch National Council)

Nominations Close: Tuesday 14 March 2017 (7 days prior to the commencement of the 2017 biennial Branch National Council)

Roll of Voters: The rules are silent in this regard.

Contact: Graeme Cooper, [Graeme.cooper@afpa.org.au](mailto:Graeme.cooper@afpa.org.au) ph 02 6285 1677



# Australian Federal Police Association

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## Annexure B

- (i) Branch National President
- (ii) Branch National Vice President
- (iii) Branch Secretary Treasurer
- (iv) 6 Branch National Executive Members