

# Significant misconduct risks to good government

11 November 2024



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## INTRODUCTION

- [1] On 7 July 2022, Ms Sanja Spasojevic, a former electorate officer for then Deputy Premier and Member for Kwinana, the Hon. Roger Cook MLA, gave evidence under oath to the Public Service Appeal Board. Ms Spasojevic's evidence formed part of a bitter and public dispute between Ms Spasojevic and her ultimate employer, the Speaker of the Legislative Assembly (the Speaker).<sup>1</sup> Ms Spasojevic appealed to the Public Service Appeal Board against the Speaker's decision to dismiss her.<sup>2</sup>
- [2] During the course of her evidence, Ms Spasojevic said two startling things.
- [3] The first, was that during the coronavirus pandemic, she was explicitly tasked by Mr Cook with fast-tracking the Good to Go (G2G) pass applications of Labor Business Roundtable members and their families to facilitate their travel into and out of Western Australia.<sup>3</sup>
- [4] The second, was that electorate office staff provided to Members of Parliament (MPs) often performed party-political work during the hours they were publicly paid as electorate officers.<sup>4</sup> Electorate officer roles are taxpayer funded. Electorate officers are not permitted to engage in party-political activities or be involved in electioneering during paid working hours.<sup>5</sup> Their time while at work is a government resource.
- [5] An MP is entitled to two full-time equivalent electorate officers.<sup>6</sup> There are 95 MPs in Western Australia. As a result, there are about 190 full-time equivalent electorate officers. If most of those electorate officers spent even a fraction of their working hours on electioneering, that would equate to hundreds of hours per week spent on persuading voters to vote for their MP.

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<sup>1</sup> See for example Briana Shepherd, *Sacking of former staffer in WA Deputy Premier Roger Cook's electorate office to be investigated*, ABC (online, 7 March 2021) < Sacking of former staffer in WA Deputy Premier Roger Cook's electorate office to be investigated - ABC News>; Hamish Hastie, *'Loyal obedient employee' or 'liar'? Roger Cook's sacked staffer still wants job back*, WAToday (online, 5 December 2022) <'Loyal obedient employee' or 'liar'? Roger Cook's sacked staffer still wants job back (watoday.com.au)>.

<sup>2</sup> *Sanja Spasojevic v Speaker of the Legislative Assembly* [2023] WAIRC 00001.

<sup>3</sup> 01918-2022-0059 - Transcript of *Sanja Spasojevic v Speaker of the Legislative Assembly* [2022] WAIRC 00166, 7 July 2022, p 235.

<sup>4</sup> 01918-2022-0059 - Transcript of *Sanja Spasojevic v Speaker of the Legislative Assembly* [2022] WAIRC 00166, 7 July 2022, p 217, p 240 and p 254. Electorate Officer is a generic title and includes the roles of both Electorate Officers and Research Officers.

<sup>5</sup> 01918-2022-433074 - Department of the Premier and Cabinet *Parliamentary Electorate Officers Code of Conduct*, 24 September 2021, 01918-2022-433246 - Email from Dymphna Finch, Senior Project Officer, Executive Services at the Department of Premier and Cabinet titled *State General Election - Parliamentary Electorate Offices - Guidelines for Members and Staff*.

<sup>6</sup> 01918-2022-433251 - Parliamentary Electorate Office Handbook, August 2022, Department of Premier and Cabinet, p 9.



- [6] If those hundreds of hours a week of party-political work took place each week in the lead up to an election, that would equate to thousands of hours of publicly funded campaigning. Those efforts would directly benefit the private partisan interests of MPs to get re-elected.
- [7] The benefit of this valuable public resource to an incumbent MP is plain to see. The detriment to a MP's political opponent, who has no access to electorate officers, is also clear. It is simply an unfair advantage.
- [8] Elections are indispensable for democracy. They give citizens an opportunity to elect their representatives, hold governments to account and shape policy making. Fairness in an election is essential for maintaining the integrity and credibility of the democratic process.<sup>7</sup>
- [9] The allegation that electorate officers routinely carry out Australian Labor Party (ALP) campaign work during paid office hours is not new. It may be novel in the case of the ALP Western Australian Branch (WA Labor), but it is an accusation that has been frequently levelled at the Victorian branch of the ALP.
- [10] There are three reports from two of the Commission's partner agencies in Victoria that investigated the issue of the misuse of electorate officers for party-political purposes.
- [11] The first report is the result of a 2015 investigation by the Victorian Ombudsman (VO) that resulted in the 2018 tabling of the highly publicised *Investigation of a Matter Referred from the Legislative Council on 25 November 2015* (the 'red shirts report').<sup>8</sup> The second is the 2020 investigation conducted jointly by the VO and the Independent Broad-based Anti-Corruption Commission (IBAC), named Operation Watts. The investigation resulted in the 2022 tabling of the *Joint report on Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities*.<sup>9</sup> The third report is the 2022 report of the VO, *Investigation of a Matter Referred from the Legislative Council on 9 February 2022*.<sup>10</sup>

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<sup>7</sup> Toby S. James and Holly Ann Garnett (2025, in development) *What is Electoral Integrity? Reconceptualising Election Quality in an Age of Complexity* (Cambridge University Press), publication referred to on the *Electoral Integrity Project* (Web page) < <http://www.electoralintegrityproject.com>>.

<sup>8</sup> Victorian Ombudsman, *Investigation of a Matter Referred from the Legislative Council on 25 November 2015*, March 2018.

<sup>9</sup> Victorian Ombudsman and Independent Broad-based Anti-Corruption Commission special report, *Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities*, July 2022.

<sup>10</sup> Victorian Ombudsman, *Investigation of a Matter Referred from the Legislative Council on 9 February 2022 Part 1*, 28 July 2022.

- [12] On 8 July 2022, the Commission received a notification from the Hon. Mia Davies MLA, then Leader of the Opposition and the Nationals WA, regarding Ms Spasojevic's evidence about 'fast-tracking' G2G pass applications for WA Labor donors.<sup>11</sup> After assessing the matter and the Public Service Appeal Board (PSAB) proceedings in full, the Commission also made its own proposition that serious misconduct has or may have occurred with respect to the misuse of electorate officers.<sup>12</sup> The Commission formed Operation Godrevy to investigate.
- [13] The Commission is empowered to investigate serious misconduct. Serious misconduct is defined in the *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 4. To constitute serious misconduct under s 4(a) or (b), a public officer must have acted or failed to act corruptly. Corruption has been held to include conduct that involves moral impropriety in public administration, or some perversion of the proper performance of the duties of office.<sup>13</sup> A misuse of power for private purposes is corrupt when the power is exercised not in good faith for public purposes, but for an improper personal purpose.
- [14] The scope of the Commission's investigation was to form opinions as to whether any public officer engaged in serious misconduct by corruptly taking advantage of their office or employment to obtain a benefit for themselves, or for any other person, including a political party organisation or political party donors.
- [15] In all investigations, the Commission obtains relevant records compulsorily under statutory powers by serving notices to produce records (NPRs). As part of Operation Godrevy, the Commission served NPRs on the Department of Premier and Cabinet (DPC). These NPRs sought access to historical records stored by DPC.
- [16] The Commission does not have jurisdiction to investigate the conduct of MPs where the conduct is concerned with, or connected with, proceedings in Parliament.<sup>14</sup> Following the method to determine parliamentary privilege outlined by Hall J in *The President of the Legislative Council of Western Australia v Corruption and Crime Commission [No 2]* [2021] WASC

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<sup>11</sup> *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 25.

<sup>12</sup> A proposition may be based on the Commission's own experience and knowledge, or assessment of a received matter, and independently of any allegation reported to it under the CCM Act s 26. In order to make a proposition, the Commission's practice is to require that there must be reasonable grounds for believing that serious misconduct has occurred.

<sup>13</sup> *Independent Commission against Corruption v Cunneen* (2015) 256 CLR 1 at [76] per Gageler J, *State of Western Australia v Burke* (No 3) [2010] WASC 110 at [74].

<sup>14</sup> To do so would be to question or impeach proceedings in Parliament in a place out of Parliament, contrary to Article 9 of the *Bill of Rights* (UK): *The President of the Legislative Council of Western Australia v Corruption and Crime Commission [No 2]* [2021] WASC 223 per Hall J at [9].

223, the Legislative Assembly required DPC to produce all documents captured by the NPRs to the Assembly to make that determination.<sup>15</sup>

- [17] While necessary, the progression of the Commission's inquiry was significantly impeded by this protracted process. The Commission and DPC are in the process of discussing how a protocol may deal with the issue of NPRs and parliamentary privilege more efficiently and effectively.
- [18] The Commission issued a number of NPRs to individuals and to WA Labor. Notices to Produce Information were issued to DPC and the Western Australia Police Force (WA Police).<sup>16</sup> A number of witnesses, including Ms Spasojevic, former and current electorate officers and former and current employees of WA Labor, were examined under oath or affirmation.
- [19] The Commission analysed the information gathered by the investigation. The Commission carefully assessed the evidence of all witnesses who gave evidence. In dismissing Ms Spasojevic's appeal, the PSAB found that Ms Spasojevic had acted dishonestly with respect to her leave entitlements.<sup>17</sup> The PSAB made findings that adversely reflect upon Ms Spasojevic's credibility.<sup>18</sup> As a result, the Commission scrutinised her evidence in particular with great care.
- [20] Having done so, in the Commission's assessment, there is no evidence that any MPs or their electorate officers attempted to use their public position to expedite or procure a G2G pass for any corrupt or improper purpose.
- [21] The Commission has formed no opinion of serious misconduct with respect to this allegation.
- [22] With respect to the misuse of electorate officers, the Commission's investigation revealed examples of electorate officers campaigning during the hours they were paid to perform electorate officer duties. However, those electorate officers maintained that they made up that time by performing electorate officer work outside of standard hours.
- [23] Having considered the totality of the evidence, in the Commission's opinion, it is reasonable to assume that the majority of electorate officers undertake party-political work or active campaigning for their MP.
- [24] WA Labor regularly offers electorate officers a range of training sessions largely devoted to effective campaigning. They are strongly encouraged to

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<sup>15</sup> *The President of the Legislative Council of Western Australia v Corruption and Crime Commission [No 2]* [2021] WASC 223 per Hall J at [16]-[18].

<sup>16</sup> CCM Act s 94.

<sup>17</sup> *Sanja Spasojevic v Speaker of the Legislative Assembly* 2023 WAIRC 00001 at [275].

<sup>18</sup> *Sanja Spasojevic v Speaker of the Legislative Assembly* 2023 WAIRC 00001 at [174], [215] and [239].

attend. Many of the campaign managers for WA Labor candidates are electorate officers.<sup>19</sup> Many had involvement with, or commitment to, the ALP prior to their employment as an electorate officer. The practical reality is that an electorate officer's job is tied to the success of their MP candidate in an election.

- [25] The Commission considers it likely that many of the electorate officers who undertake party-political work or active campaigning devote time during their paid working hours to do so. They do so either in their capacity as a volunteer, intending to 'make up' their electorate officer time, or while ostensibly performing their electorate officer duties.
- [26] There was no time recording procedure implemented in any of the electorate offices that the Commission investigated.
- [27] The lack of time recording made it impossible for the Commission to identify what was and was not being done on the public purse. There is no evidence to contradict the explanation given by the witnesses that they made up for time spent campaigning by performing their public duties outside office hours.
- [28] As was the case for IBAC and the VO in Operation Watts, the absence of accurate documentation of hours worked made it impracticable to verify claims that party-political work during office hours was made up for by public duties performed outside those hours.<sup>20</sup> As the Operation Watts report noted, 'such explanations can easily be advanced without fear of contradiction if there is no transparency and accountability for such claim.'<sup>21</sup>
- [29] Having considered the evidence, the Commission finds itself in the same position as the VO in the red shirts report, and IBAC and the VO in Operation Watts. The Commission is not able to be positively satisfied in either the affirmative or the negative that the electorate officers are routinely undertaking party-political work or active campaigning for their MP during times they are paid as electorate officers. This cannot be ruled out, but nor can it be satisfactorily proven.
- [30] Therefore, the Commission has formed no opinion of serious misconduct with respect to this allegation.

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<sup>19</sup> D Cann transcript, private examination, 15 August 2023, p 17.

<sup>20</sup> Victorian Ombudsman and Independent Broad-based Anti-corruption Commission special report, *Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities*, July 2022, p 85.

<sup>21</sup> Victorian Ombudsman and Independent Broad-based Anti-corruption Commission special report, *Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities*, July 2022, n 26, p 84.

- [31] Electorate officers report to the relevant MP as their line manager, who in turn reports to the Speaker as the employing authority.<sup>22</sup> DPC's Parliamentary Electorate Office Handbook specifies that an MP may approve flexible working arrangements.<sup>23</sup> The evidence suggests that MPs are frequently absent from their electorate offices, owing to their duties and involvement in the business of Parliament. Electorate officers are generally required to work autonomously without their MPs direct supervision. Without a time recording system, an MP's decision to allow flexibility is based on trust.
- [32] It is the experience of this Commission that systems based on trust alone are vulnerable to exploitation. Owing to their unique position within the public service and the political context of their role, that risk of exploitation includes the risk that electorate officers will be directed by MPs or pressured by WA Labor to undertake party-political activities during work time.
- [33] In the Commission's opinion, if an MP does not utilise a time recording system in their electorate office, their failure to do so is a serious misconduct risk. As line managers, MPs cannot adequately or accountably supervise their electorate officers without one. That includes ensuring that electorate officers, who are often required to work after hours, are afforded their rights and entitlements.
- [34] The Commission **recommends** that as part of its responsibility for administering the employment entitlements for electorate officers, DPC implement a time recording procedure for MPs to use in each electorate office. The Commission also **recommends** that DPC make it unmistakably clear in its Parliamentary Electorate Office Handbook that it does not permit electorate officers to engage in party-political work, including campaigning and training to campaign, during electorate office hours.
- [35] The Commission further **recommends** that as part of the computing equipment and software DPC provides to MPs for use in their electorate offices, DPC provides those offices with a data management system for the purpose of constituent management.

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<sup>22</sup> 01918-2022-0102 - Department of Premier and Cabinet, Job Description Form dated 1 July 2018 - Electorate Officer, p 1.

<sup>23</sup> 01918-2022-432979 - Department of Premier and Cabinet, Parliamentary Electorate Office Handbook, March 2020, p 6.

## CHAPTER ONE

*'...when I testified, I had not in any sense thought that it would cause what it did with the G2G. I actually thought the campaigning would be...an issue.'*

- Sanja Spasojevic

### The G2G Pass Application Process

- [36] In response to the coronavirus pandemic, Western Australia's interstate travel restrictions began on 5 April 2020 with the *Quarantine (Closing the Border) Directions* and ended on 3 March 2022 with the *COVID Border Opening (Consequential Revocations) Directions*. Western Australia's intrastate travel restrictions began on 31 March 2020 with the *Prohibition on Regional Travel Directions* and ended on 28 May 2020 with the *Revocation (Prohibition on Regional Travel (No 2)) Directions*.<sup>24</sup>
- [37] The G2G pass application system was released to the public on 20 April 2020 to manage compliance with Western Australia's border restrictions.<sup>25</sup> Anyone aged 16 years and above travelling intrastate, or leaving from or arriving in Western Australia from overseas or interstate was required to complete a G2G pass application. Submitting an application involved setting up an account on the G2G pass website and completing the online registration form.
- [38] Intrastate G2G pass processing was administered by the WA Police Force with the assistance of the Department of Transport. Interstate and international G2G pass administration was the sole responsibility of the WA Police Force. During the pandemic, more than 2.6 million G2G pass applications were managed by the WA Police Force as part of Operation Tide.<sup>26</sup>
- [39] The WA Police Force applied a triage system to assessing applications. The level of triage of applications varied depending upon the risk associated with the location the applicant was travelling to or from. Areas of high and extreme risk required in-depth assessment of the application and supporting evidence. For applicants entering Western Australia from lower risk jurisdictions, the level of justification and supporting

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<sup>24</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 1.

<sup>25</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 1.

<sup>26</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 1.

documentation required was reduced. In some cases, automated approvals were generated.<sup>27</sup> When triaging applications to establish priority for assessment, members of the WA Police Force focused on intended travel dates, applications with high impact, such as those within the 'compassionate' category, the purpose of travel and the intended destination.<sup>28</sup>

- [40] Email contact points were designated within Operation Tide to provide an avenue for members of the community and industry to ask questions, seek clarification and seek escalation of their application. These email accounts were constantly monitored, and escalation and response protocols were implemented.<sup>29</sup>

## Requests to Fast-Track G2G Pass Applications

- [41] During her evidence to the PSAB, Ms Spasojevic stated that once Mr Cook's electorate office was closed to the public in accordance with pandemic restrictions, Mr Cook's 'specific words' to her were to 'Sit tight, answer your phone. I want you on the G2G applications for the Labor Business Roundtable members.'<sup>30</sup>

- [42] Ms Spasojevic detailed that:<sup>31</sup>

*Roger asked me to specifically take care of G2G applications for the Labor Business Roundtable members which were platinum, gold and silver. They were to be fast-tracked and I had a Ministerial contact in the Police Minister's office, Michelle Roberts. I was to contact her directly and have our business Labor Roundtable members fast-tracked and their family members so they could come in and out of the State on business and their families could - so they wouldn't be affected by what was going on with the pandemic.*

- [43] The Labor Business Roundtable (LBR) is the fundraising arm of WA Labor.<sup>32</sup> Upon payment of an annual fee, LBR members are invited to functions at which Cabinet Ministers are in attendance.<sup>33</sup> The annual fee varies according to the different tiers of membership.<sup>34</sup>

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<sup>27</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 4.

<sup>28</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 4.

<sup>29</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 4.

<sup>30</sup> 01918-2022-0059 - Transcript of *Sanja Spasojevic v Speaker of the Legislative Assembly* [2022] WAIRC 00166, 7 July 2022, p 232.

<sup>31</sup> 01918-2022-0059 - Transcript of *Sanja Spasojevic v Speaker of the Legislative Assembly* [2022] WAIRC 00166, 7 July 2022, p 235.

<sup>32</sup> 01918-2022-0094 - J Plummer transcript, private examination, 29 March 2023, p 6.

<sup>33</sup> 01918-2022-0094 - J Plummer transcript, private examination, 29 March 2023, p 9-10.

<sup>34</sup> 01918-2022-0094 - J Plummer transcript, private examination, 29 March 2023, p 7-8.

- [44] In her evidence to the Commission, Ms Spasojevic clarified that Mr Cook did not tell her to procure or facilitate any particular outcome for LBR members, WA Labor donors or their families. Her evidence to the Commission was that Mr Cook said:<sup>35</sup>

*"Look, Sanja, just sit tight. Answer your phone". I don't know if he mentioned emails. He goes, "There's going to be a lot of queries in regards to the G2G applications and exemptions and so forth". And, "Help Klara [Andric] out"...he said that there was a lot of uncertainty and that no doubt there would be a lot of the members that would need to travel for business and other reasons. And that I should help Klara out. And if there were any issues, then I could go to him or Neil, who was the Chief of Staff at the time.*

- [45] Ms Andric was the Director of the LBR during the pandemic up until June 2021.<sup>36</sup> Ms Spasojevic's recollection was that LBR members contacted Ms Andric for assistance with G2G applications.<sup>37</sup>

- [46] Later in her evidence Ms Spasojevic clarified that Mr Cook did not go into any detail about what he wanted her to do to 'help Klara out'.<sup>38</sup> What she said did occur on occasions was that Ms Andric provided her with the names of individuals who needed assistance with G2G applications, and details of their circumstances:<sup>39</sup>

*She would tell me the person's name and the situation. And where they were from, like - and what tier - this didn't really mean too much to me. Some of the situations were genuinely sad. Like, someone - they had real issues. One was in regards to a sick family member in - interstate and the children needed someone. I think the mother or the father was unwell. There were genuine ones that were sad. But she would just tell me and that would be - and another one was a wife was stuck overseas.*

- [47] Ms Spasojevic then contacted Mr Shane Hill, a liaison officer in the Ministerial office of the Minister for Police, the Hon. Michelle Roberts MLA, and provided him with those details:<sup>40</sup>

*That would just be basically me saying, "Shane, I have this query from so and so about the G2G application". And it wouldn't really be much detail. And I assume he would write it down.*

- [48] Ms Spasojevic was not aware of what Mr Hill did with the information that she provided and she was not aware of what happened to the G2G applications of those individuals.<sup>41</sup> Ms Spasojevic could not recall on how

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<sup>35</sup> S Spasojevic transcript, private examination, 12 August 2022, p 38-39.

<sup>36</sup> 01918-2022-0094 - J Plummer transcript, private examination, 29 March 2023, p 5 and p 11.

<sup>37</sup> S Spasojevic transcript, private examination, 12 August 2022, p 39.

<sup>38</sup> S Spasojevic transcript, private examination, 12 August 2022, p 40.

<sup>39</sup> S Spasojevic transcript, private examination, 12 August 2022, p 43.

<sup>40</sup> S Spasojevic transcript, private examination, 12 August 2022, p 51.

<sup>41</sup> S Spasojevic transcript, private examination, 12 August 2022, p 54.



many occasions she passed on details to Mr Hill, but that it 'would definitely be less than 20'.<sup>42</sup>

- [49] Ms Spasojevic could not recall Mr Cook ever providing her with a name to pass on or asking her 'specifically to intervene'.<sup>43</sup> While she thought that Mr Cook said 'fast-track', Mr Cook did not tell her that he wanted any particular outcome for the applications of LBR members. Ms Spasojevic surmised in evidence that:<sup>44</sup>

*I think that was just implied. Or maybe that was just my interpretation of it. That he implied that they would be - there would be uncertainty that people would be put out and he didn't want the members being put out, I guess. Maybe that was just my implication, I don't - or my understanding of it at the time.*

- [50] Ms Spasojevic ultimately conceded that she did not know in what way 'assistance was offered to' LBR members, and that she did not know 'exactly whether we intervened or if I intervened'.<sup>45</sup> Ms Spasojevic expressed surprise that her evidence to the PSAB caused 'what it did with the G2G'.

- [51] Former electorate officer A gave evidence to the Commission. She was an electorate officer during the pandemic.

- [52] Former electorate officer A said that employees of WA Labor wanted her to fast-track the G2G applications of LBR members. However, she 'did not understand how we could even fast-track a system - I don't know'.<sup>46</sup> Electorate officer A's evidence was that she received requests to 'fast-track the G2G process' from constituents, from employees of WA Labor regarding LBR members and from people associated with her MP.<sup>47</sup>

- [53] Former electorate officer A told the Commission that all she did in response to those requests was 'just send them off to Michelle Roberts' office'.<sup>48</sup> She did that by sending an email to Ms Roberts' DPC email address.<sup>49</sup>

- [54] Despite that, former electorate officer A was of the view, at least in her MP's office, requests from LBR members were given preference.<sup>50</sup>

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<sup>42</sup> S Spasojevic transcript, private examination, 12 August 2022, p 43.

<sup>43</sup> S Spasojevic transcript, private examination, 12 August 2022, p 50.

<sup>44</sup> S Spasojevic transcript, private examination, 12 August 2022, p 66.

<sup>45</sup> S Spasojevic transcript, private examination, 12 August 2022, p 75.

<sup>46</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 72.

<sup>47</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 73.

<sup>48</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 73.

<sup>49</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 74.

<sup>50</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 74-75.

*That preference was us putting down what we were doing and actually ensuring we were making follow-up calls and monitoring where their application was going.*

- [55] There are no records before the Commission evidencing an electorate officer dealing with a G2G pass application. There is, however, evidence before the Commission of the ministerial staff of particular MPs assisting individuals to understand or access the G2G pass process.<sup>51</sup>
- [56] For example, the Commission's holdings include an email sent on 9 October 2020 from Mr Cook's Executive Officer to his Chief of Staff and a Senior Policy Advisor, titled *Returning Terminally Ill Patient Needs Exemption*.<sup>52</sup> In that email, Mr Cook's Executive Officer indicated that she forwarded an email from a constituent seeking advice as to whether a G2G pass application made by a terminally ill man could be fast-tracked to the Department of Health for urgent advice.
- [57] It is possible that either the constituent or the terminally ill man were LBR members or donors to the WA Labor Party. Importantly, the email chain itself contains no reference to that information. As a result, in this example and the others in the Commission's possession, there is no indication or evidence that assistance was provided to a constituent by ministerial staff on the basis of their status as an LBR member or WA Labor donor.

## **The WA Police Force's Response to those Requests**

- [58] In its response to the Commission, the WA Police Force noted that during the pandemic, 'members of the community, industry and private enterprise regularly contacted State and Commonwealth Ministers and their officers in relation to COVID-19 issues concerning them'.<sup>53</sup> Many people made contact for the purposes of requesting assistance with the approval or prioritisation of their G2G application for a multitude of reasons. Those reasons included imminent travel, matters of compassion and professional necessity.<sup>54</sup>
- [59] The WA Police Force explained that the queries and concerns that were raised with MPs and their officers were then:<sup>55</sup>

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<sup>51</sup> For example, 01918-2022-284311 - Email from Mr Cook's Principal Policy Advisor to his Chief of Staff, titled *Dr [name] - seeking assistance*, dated 20 October 2021.

<sup>52</sup> 01918-2022-85270 - Email from Mr Cook's Executive Officer to his Chief of Staff and Senior Policy Advisor, titled *Returning Terminally Ill Patient Needs Exemption*, dated 9 October 2020.

<sup>53</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 5.

<sup>54</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 7.

<sup>55</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 5.

*... directed to WA Police Force either via the Office of the Commissioner of Police, or through contact with the police. A large amount of correspondence and queries related to individuals and industry bodies seeking assistance from public authorities, agencies, ministers and their staff to support their applications for travel within or into Western Australia... A Ministerial Liaison Team was established within Operation Tide to deal with the large volume of correspondence. During the pandemic, WA Police Force Operation Tide recorded more than 5,400 ministerial files.*

[60] Importantly, the WA Police Force informed the Commission that:<sup>56</sup>

*Requests from any public authority, agency, and/or public officer, including but not limited to Members of Parliament and/or their staff, were treated in the same manner as correspondence received from a member of the community. The circumstances were assessed to determine if travel was in alignment with relevant Directions.*

[61] There is no evidence before the Commission that the WA Police Force prioritised any person's G2G application because of their status as an LBR member or WA Labor donor.

[62] The Commission's investigation has not revealed any evidence that any MPs or their electorate officers attempted to use their public position to expedite G2G pass applications for any corrupt or improper purpose.

[63] There is no evidence that the WA Police Force preferentially treated any of the applications referred to them by MPs or their staff on the basis of the applicant's status as an LBR member or WA Labor donor.

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<sup>56</sup> 01918-2022-0086 - Response of Commissioner of Police, Mr Col Blanch, to the Commission's CCM Act s 94 notice, p 5.

## CHAPTER TWO

*'Know Your Role - MPs...Don't bullshit your staff (or yourself) about the employment relationship: They work for you.'*

*Slide in WA Labor & Premier's Office Regional Training Day*

### The Employment of Electorate Officers

- [64] In Western Australia, the appointment of electorate staff is governed by the *Parliamentary and Electorate Staff (Employment) Act 1992*, the *Electorate and Research Employees CSA Agreement 2021*, the *Electorate Officers Award 1986* and a contract of employment.<sup>57</sup> Under that Act, the President of the Legislative Council is the employer of electorate officers for members of the Legislative Council.<sup>58</sup> The Speaker is the employing authority of electorate officers for members of the Legislative Assembly.<sup>59</sup>
- [65] Both the President of the Legislative Council and the Speaker have delegated to the Director General of DPC responsibility for administering the employment entitlements of electorate officers.<sup>60</sup> That delegation allows the Director General to enter into a contract of employment with electorate staff and to manage the administrative processes. The Director General makes a recommendation to the President regarding the engagement of electorate officers.
- [66] The end result of this scheme is that the administration of electorate officer's leave entitlements and salaries is undertaken by DPC, but otherwise, staff are answerable to their respective MP.
- [67] DPC has told the Commission that it is made clear to all MPs that they are expected and required to manage the day-to-day operations of their respective electorate offices, including electorate staff. DPC offers assistance to members.<sup>61</sup>
- [68] DPC does not have practical oversight of the electorate officers' performance. DPC has told the Commission that upon commencement, all

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<sup>57</sup> Both electorate officers and research officers are employed under the *Parliamentary and Electorate Staff (Employment) Act 1992*. The terms 'electorate officer' and 'research officer' are generally used interchangeably. Where the Commission has used the term electorate officer throughout this report, it applies equally to research officers.

<sup>58</sup> *Parliamentary and Electorate Staff (Employment) Act 1992* s 4(1).

<sup>59</sup> *Parliamentary and Electorate Staff (Employment) Act 1992* s 4(2).

<sup>60</sup> As authorised by the *Parliamentary and Electorate Staff (Employment) Act 1992* ss 6(1)(b) and 6(2)(b), 01918-2022-433251 - Parliamentary Electorate Office Handbook, August 2022, Department of Premier and Cabinet, p. 9.

<sup>61</sup> Corruption and Crime Commission, *Report on allowances and management of electorate offices*, 28 November 2020, p 6, para [37].

MPs are provided with a copy of the Parliamentary Offices Handbook. The Handbook is a set of best practice guidelines addressing obligations and responsibilities concerning management of staff.<sup>62</sup>

- [69] Former strategic advisor to Premier McGowan, Mr Mark Reed, gave evidence to the Commission. In his evidence, Mr Reed noted that the employment relationship is complicated, and that as a result, MPs and electorate officers are at times not 'clear on who is responsible for their employment, or who manages them'.<sup>63</sup>
- [70] As a result, as part of a session he provided to regional MPs during a Regional Training Day held at Dumas House in September 2021, Mr Reed presented a slide to MPs identifying their 'quasi-employer/office leader role'.<sup>64</sup> He reminded MPs not to 'bullshit your staff (or yourself) about the employment relationship: They work for you'.<sup>65</sup>

### **The Parliamentary Electorate Officer Role**

- [71] An electorate officer's primary role is to be the point of contact between MPs and their constituents.<sup>66</sup> The position's responsibilities include assisting constituents, providing advocacy, liaising with government agencies, Ministerial officers and other MPs. Electorate officers are provided to MPs by the State Government to ensure that MPs are accessible and responsive to the needs and concerns of their constituents.
- [72] Full-time hours for electorate officers are 37.5 hours per week.<sup>67</sup>
- [73] For the purposes of its investigation into Operation Betelgeuse and its *Report on electorate allowances and management of electorate offices* tabled in Parliament in 2020, the Commission examined seven former electorate office employees concerning their role and office administrative processes.<sup>68</sup>
- [74] The Commission found a wide disparity in how electorate offices were managed. Expectations differed as to performance, duties undertaken,

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<sup>62</sup> Corruption and Crime Commission, *Report on allowances and management of electorate offices*, 28 November 2020, p 7, para [46].

<sup>63</sup> M Reed transcript, private examination, 21 August 2023, p 63.

<sup>64</sup> M Reed transcript, private examination, 21 August 2023, p 63.

<sup>65</sup> 01918-2022-41999 - slides for Regional Training Day - September 2021, WA Labor & Premier's Office, p 50.

<sup>66</sup> 01918-2022-0102 - Department of Premier and Cabinet, Job Description Form dated 1 July 2018 - Electorate Officer, p 1.

<sup>67</sup> 01918-2022-433251 - Parliamentary Electorate Office Handbook, August 2022, Department of Premier and Cabinet, p. 11.

<sup>68</sup> Corruption and Crime Commission, *Report on allowances and management of electorate offices*, 28 November 2020.

access to electoral office allowance monies, knowledge of their MP's daily activities and involvement in the business of Parliament.

- [75] The Commission concluded that oversight of electorate officers by MPs can be patchy, with no one taking any active role in setting work expectations or accounting for standards of performance within individual electorate offices.
- [76] As a result, amongst others, the Commission found this arrangement gave rise to two serious misconduct risks: that electorate officers' performance was largely unsupervised; and the absence of a Code of Conduct for electorate officers.
- [77] Following the Commission's report, in September 2021, the President of the Legislative Council and the Speaker introduced a Code of Conduct for Parliamentary Electorate Office employees, including electorate officers.<sup>69</sup> The Code of Conduct outlines the standard of behaviour expected of all Parliamentary Electorate Office employees.
- [78] The Code of Conduct specifies that electorate officers must 'appropriately declare and manage any conflicts of interest and disclose any relevant external activities to the Member.'<sup>70</sup> The Code of Conduct requires electorate officers to ask themselves: have I ensured that my political activities do not potentially, actually or by perception interfere with the integrity and obligations required of my role? And: am I using DPC resources responsibly and without personal or financial gain?<sup>71</sup>
- [79] The Code of Conduct is a step in the right direction. Nonetheless, the Commission's investigation into Operation Godrevy revealed that electorate officers remain largely unsupervised by DPC. In the Commission's opinion, the serious misconduct risk with respect to the lack of supervision of electorate officers remains.

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<sup>69</sup> 01918-2022-433074 - Department of the Premier and Cabinet *Parliamentary Electorate Officers Code of Conduct*, 24 September 2021.

<sup>70</sup> 01918-2022-433074 - Department of the Premier and Cabinet *Parliamentary Electorate Officers Code of Conduct*, 24 September 2021.

<sup>71</sup> 01918-2022-433074 - Department of the Premier and Cabinet *Parliamentary Electorate Officers Code of Conduct*, 24 September 2021.

## CHAPTER THREE

*'We track goals using software called Klipfolio, that links to Campaign Central – which is why EVERYTHING must be recorded in Campaign Central.'*

*WA Labor Activate Field Organisers Course Training Manual*

### Campaign Central

- [80] Australia's major political parties operate powerful databases using information contained on the electoral roll about every Australian voter. Raw data on each constituent is provided by the Australian Electoral Commission (AEC). Political parties then attempt to build a profile of those individuals, including their political leanings.
- [81] The database used by the ALP is Campaign Central. It is a web-based platform developed by Magenta Linas Software.<sup>72</sup> The AEC provides an electronic copy of the electoral roll to registered political parties and MPs.<sup>73</sup> The *Commonwealth Electoral Act 1918* (Cth) s 91A(2) permits political parties to use that information for any purpose in connection with an election. This raw data is supplemented on the databases with additional fields in relation to voting preferences and issues of interest, which are 'tagged' against each constituent when such information is obtained.<sup>74</sup>
- [82] Identifying voting preferences and issues of interest is undeniably a valuable asset to a political party. This information is most valuable in marginal seats. As WA Labor highlights in its Activate Field Organisers Course Training Manual, in the context of explaining its Individually Targeted Relationship Campaigning model:<sup>75</sup>
- ...data collection and polling is crucial right up until the very end of the campaign, because the model can (and does!) change and improve with every piece of information put into our Campaign Central database.*
- [83] The Commission heard evidence that in the context of WA Labor, Campaign Central serves two purposes. It is a constituent management system, and a campaigning tool.<sup>76</sup>

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<sup>72</sup> 01918-2022-0086 - Email from ALP National Secretariat and Magenta Linas Software, 23 August 2019 12:43 pm - Shape the Future of Campaign Central.

<sup>73</sup> *Commonwealth Electoral Act 1918* (Cth) s 90B.

<sup>74</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 19, S Spasojevic transcript, private examination, 12 August 2022, p 8.

<sup>75</sup> 01918-2022-6703 - WA Labor Activate Field Organisers Course Training Manual, p 135.

<sup>76</sup> D Cann transcript, private examination, 15 August 2023, p 53.

- [84] As an electorate management tool, electorate officers are trained by WA Labor to record correspondence and any interaction with a constituent in Campaign Central.<sup>77</sup> It is used as a database to store and collate details, records and information about constituents, particularly those obtained as a result of contact made by that constituent.<sup>78</sup>
- [85] DPC does not provide a database for electorate officers to use for the purposes of their work.
- [86] As former Electorate Officer C explained:<sup>79</sup>
- ... if we didn't have Campaign Central, we would need a version provided by the State, because there is no way to collate all your constituency, and we don't have that. As far as I'm aware, I've never been shown one, a DPC one of how you're meant to contact constituents.... There is nowhere for me to put that information, write to someone, get information back, store it so that I can get back in contact with him. There is no way for us to keep that data.*
- [87] The former and current electorate officers who gave evidence to the Commission were divided in their opinion as to the utility of Campaign Central for electorate management purposes.
- [88] Former Electorate Officers B, C and D all used Campaign Central daily and found it useful for their role.<sup>80</sup>
- [89] Ms Spasojevic was of the view that 'the point' of Campaign Central was to 'expand as much as possible' on the information held by WA Labor on each person in the electorate.<sup>81</sup> Former Electorate Officer A's evidence was that Campaign Central is 'for 100% campaigning'.<sup>82</sup> She recalled 'a few situations - I would say three in total' during which she found Campaign Central to be of assistance in her role as an electorate officer.<sup>83</sup>
- [90] There is undoubtedly utility in electorate officers having access to a database to record the contact details of constituents and community groups and store correspondence. Nonetheless, in the Commission's opinion, that is not the primary purpose for which electorate officers are encouraged by WA Labor to use Campaign Central. Its name betrays its true purpose. It is a powerful election campaigning tool.

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<sup>77</sup> B Oswald transcript, private examination, 14 August 2023, p 30.

<sup>78</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 43.

<sup>79</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 16.

<sup>80</sup> Electorate officer B transcript, private examination, 28 March 2023, p 38, Former electorate officer C transcript, private examination, 30 March 2023, p 16, Former electorate officer D transcript, private examination, 30 November 2023, p 15.

<sup>81</sup> S Spasojevic transcript, private examination, 12 August 2022, p 6-7.

<sup>82</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 45.

<sup>83</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 45.



- [91] Campaign Central's utility as an engine for electioneering grows in proportion to the amount of data it holds. As WA Labor puts it simply in its Activate Field Organisers Course Training Manual, 'the more data we have, the more we know about voters, what they care about and how to contact them'.<sup>84</sup>
- [92] The Manual highlights that the data is used in its Individually Targeted Relationship Campaigning model 'to determine who is both an undecided voter and likely to be persuaded to vote Labor'.<sup>85</sup> The model is 'then used to inform the lists created in campaign central. It is used to create high persuasion call lists, targeted doorknocking lists, as well as direct mail lists and digital advertising targeting'.<sup>86</sup>
- [93] Former State Secretary for WA Labor and Campaign Director Mr Tim Picton gave evidence to the Commission. Mr Picton said that he used Campaign Central for the purposes of his role. He used it for 'election campaigning'.<sup>87</sup> Mr Picton's evidence was that the entering of data into Campaign Central was oversights or monitored by his Assistant State Secretary Ms Ellie Whiteaker, or another member of the WA Labor Local Campaigns Team.<sup>88</sup>
- [94] Former Assistant State Secretary (and current State Secretary) for WA Labor Ms Whiteaker, confirmed in her evidence to the Commission that WA Labor tracked data being entered into Campaign Central, primarily contact information.<sup>89</sup> She told the Commission that Campaign Central was used to create lists and scripts for the purposes of door knocking and 'phone banking', a process by which voters are contacted directly by phone to discuss their concerns and voting intentions.<sup>90</sup> It also has a 'metric tracking function' that Ms Whiteaker used to track how many conversations with voters an MP has had.<sup>91</sup>
- [95] The value to a political party of the data contained within Campaign Central is incontrovertible. So too is the fact that the process of gathering that data is time consuming. It relies upon human capital. In his evidence to the Commission, former WA Labor Campaign Organiser Mr David Cann explained that the responsibility for entering data into Campaign Central

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<sup>84</sup> 01918-2022-6703 - WA Labor Activate Field Organisers Course Training Manual, p 187.

<sup>85</sup> 01918-2022-6703 - WA Labor Activate Field Organisers Course Training Manual, p 135.

<sup>86</sup> 01918-2022-6703 - WA Labor Activate Field Organisers Course Training Manual, p 135.

<sup>87</sup> T Picton transcript, private examination, 23 August 2023, p 21.

<sup>88</sup> T Picton transcript, private examination, 23 August 2023, p 21.

<sup>89</sup> E Whiteaker transcript, private examination, 27 November 2023, p 51.

<sup>90</sup> E Whiteaker transcript, private examination, 27 November 2023, p 52, Former electorate officer A transcript, private examination, 27 March 2023, p 23.

<sup>91</sup> E Whiteaker transcript, private examination, 27 November 2023, p 51.

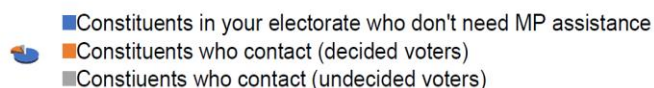
rested with volunteers who were issued with a login, state and federal electorate officers and all MPs, both state and federal.<sup>92</sup>

- [96] State electorate officers and MPs are within the jurisdiction of this Commission. They are public officers. The question for the Commission is, are those public officers spending large periods of time updating a database that benefits WA Labor, while being paid with public monies?
- [97] Mr Cann agreed in evidence that WA Labor strongly encouraged electorate officers to enter as much data as possible into Campaign Central.<sup>93</sup> Mr Cann's evidence was that entering the data would 'make sense for constituent management.'<sup>94</sup> While it may be good practice, in the Commission's view, positive constituent management is not the primary reason for WA Labor's encouragement.
- [98] As WA Labor proclaimed in a slide shown at a training course delivered in September 2021 for regional MPs and their electorate officers, attended by Mr Picton and Mr Cann:<sup>95</sup>

### **You will not get re-elected by resolving Constituent issues**

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**You've got to do it – and it is important work, but remember:**



- [99] WA Labor's Director of Local Campaigns and Data Mr Brock Oswald gave evidence to the Commission. Mr Oswald explained to the Commission that when he was employed as a campaign organiser for WA Labor in 2021, data collection targets were set for MPs.<sup>96</sup> Similarly, Ms Whiteaker told the Commission that targets or 'goals' for data collection, such as the collecting of new email addresses to store in Campaign Central, were set by WA Labor for electorate officers.<sup>97</sup>

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<sup>92</sup> D Cann transcript, private examination, 15 August 2023, p 17.

<sup>93</sup> D Cann transcript, private examination, 15 August 2023, p 53.

<sup>94</sup> D Cann transcript, private examination, 15 August 2023, p 53.

<sup>95</sup> 019818-2022-41999 - WA Labor Regional Training Day - September 2021 - WA Labor & Premier's Office, D Cann transcript, private examination, 15 August 2023, p 46, M Reed transcript, private examination, 21 August 2023, p 60,

<sup>96</sup> B Oswald transcript, private examination, 14 August 2023, p 23.

<sup>97</sup> E Whiteaker transcript, private examination, 27 November 2023, p 23.

[100] Ms Whiteaker and her Team at WA Labor would monitor, or 'keep an eye on how' electorate officers 'were tracking towards those goals' using Campaign Central.<sup>98</sup> In its Activate Field Organisers Course Training Manual, WA Labor confirms that it tracks:<sup>99</sup>

*...goals using software called Klipfolio, that links to Campaign Central – which is why EVERYTHING must be recorded in Campaign Central. This includes all events, volunteers scheduled as well as conversations and data.*

[101] Ms Whiteaker, like Mr Cann, was at pains to impress upon the Commission that 'strongly encouraging' electorate officers to enter data into Campaign Central was for the purpose of 'communicating the work of the government to voters and constituents', as opposed to campaigning for votes.<sup>100</sup>

[102] The distinction is a highly technical one. The WA Labor Rules and Constitution lists the objectives of WA Labor. The first objective listed is 'At Western Australian elections, to promote our preselected candidates for election to the Parliament of Western Australia.'<sup>101</sup> WA Labor is a political party. It is to be expected that its primary aim is to campaign for its candidates. Nonetheless, the community is entitled to expect that the WA Labor party will not apply public resources to the pursuit of that aim.

[103] The Commission's investigation revealed extensive evidence of WA Labor urging electorate officers to enter data into Campaign Central. Nonetheless, employees of WA Labor are not public officers within the jurisdiction of this Commission. The Commission's investigation did not yield examples of pressure to populate Campaign Central being applied directly by MPs to electorate officers.

[104] If MPs, or any other public officers within DPC, use electorate officers for the private purpose of mining data from constituents to generate campaign models and lists, that is likely to constitute serious misconduct.

[105] In the Commission's opinion, the way in which Campaign Central functions and the purposes for which WA Labor uses that database is a serious misconduct risk.

[106] Campaign Central poses a risk that public officers will corruptly take advantage of WA Labor's incumbency to use public funds to populate Campaign Central for the purpose of heightening their electoral advantage.

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<sup>98</sup> E Whiteaker transcript, private examination, 27 November 2023, p 24.

<sup>99</sup> 01918-2022-6703 - WA Labor Activate Field Organisers Course Training Manual, p 217.

<sup>100</sup> E Whiteaker transcript, private examination, 27 November 2023, p 23.

<sup>101</sup> 01918-2022-0072 - 2021 WA Labor Rules and Constitution, p 3, para 1.3.1.

- [107] As part of the suite of furniture and equipment that DPC allocates to MPs for the purposes of setting up their parliamentary electorate offices, computing equipment and software are provided.<sup>102</sup>
- [108] As part of that software, the Commission recommends the DPC provide electorate offices with a data management system for the purpose of constituency management. Such a data management system administered and maintained by the DPC would ensure the continuity and integrity of the data obtained, particularly upon the occurrence of a change of Government.

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<sup>102</sup> 01918-2022-432979 - Department of Premier and Cabinet, Parliamentary Electorate Office Handbook, March 2020, p 31.

## CHAPTER FOUR

*'...those trainings were always booked out, so I think the seats sat about 20 seats per training per subject, so they would do five to six different trainings a week. That's at least 20 EOs out on one day at all times.'*

*Former Electorate Officer A*

### Training

- [109] The primary focus of Mr Cann's role as campaign organiser for WA Labor between 2015 and 2022 was campaigning.<sup>103</sup> His responsibilities included creating and running 'a training program for all WA Labor electorate officers, campaign managers and staff.'<sup>104</sup> While implementing the training program was part of Mr Cann's role, responsibility for the training program rested with the Assistant State Secretary, which between May 2018 and July 2022, was Ms Whiteaker.<sup>105</sup>
- [110] As part of the training program, monthly training calendars were developed by WA Labor and emailed to all state and federal electorate officers as part of a 'campaign bulletin'.<sup>106</sup> Training sessions were held in person at WA Labor's offices, called 'Party Office', in East Perth, online and at electorate offices when electorate officers requested it.<sup>107</sup> Mr Cann's preference was that training be attended in person.<sup>108</sup>
- [111] Mr Cann told the Commission that WA Labor provided a training program to electorate officers because 'state electorate officers don't receive proper training from DPC. We had to fill that gap'. Mr Cann's evidence was that WA Labor trained electorate officers in running their electorate offices and campaigning for re-election.<sup>109</sup>
- [112] Similarly, Ms Whiteaker told the Commission that WA Labor runs a training program for electorate officers 'so that they are highly skilled, that they feel confident, that they can do the best for their community that they assist and serve, and the best for their member of Parliament'.<sup>110</sup> As to whether part of the purpose of providing the training program is because

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<sup>103</sup> D Cann transcript, private examination, 15 August 2023, p 17.

<sup>104</sup> 01918-2022-21260 - ALP WA Branch Position Description and Workplan - State Organiser David Cann.

<sup>105</sup> T Picton transcript, private examination, 23 August 2023, p 15, E Whiteaker transcript, private examination, 27 November 2023, p 3.

<sup>106</sup> E Whiteaker transcript, private examination, 27 November 2023, p 27.

<sup>107</sup> D Cann transcript, private examination, 15 August 2023, p 18.

<sup>108</sup> D Cann transcript, private examination, 15 August 2023, p 32.

<sup>109</sup> D Cann transcript, private examination, 15 August 2023, p 18.

<sup>110</sup> E Whiteaker transcript, private examination, 27 November 2023, p 25.

electorate officers campaign for their MPs from time to time, Ms Whiteaker said.<sup>111</sup>

*...we provide training for electorate officers. We also provide campaign training that sometimes those electorate officers may have attended in their capacity as a volunteer on an election campaign, which may or may not have been for the member that they are employed by.*

[113] Ms Whiteaker confirmed that her expectation was that where electorate officers attended training related to campaigning, they would do so in their capacity as a volunteer, not as an electorate officer.<sup>112</sup>

[114] Mr Picton's evidence on this point was more candid. As to why WA Labor was providing training for electorate officers, Mr Picton said it was 'because electorate officers would, in some circumstances, campaign for the election of their member of Parliament.'<sup>113</sup>

### **The August 2020 Training Calendar**

[115] The training calendar for August 2020 is an example of the training calendars sent out by email on a monthly basis. It was sent by email from Mr Cann to all electorate officers on 31 July 2020:<sup>114</sup>

#### TRAINING CALENDAR AUGUST 2020

These training sessions will be in-person (at Party Office, Level 1, 22 Eastbrook Tce, East Perth) and conducted online.

As always, we strongly recommend you attend these trainings in-person if you are in a Metropolitan office. As the election comes closer, the hands on activities that we do in these trainings are integral to your preparations for the campaign.

Regional offices should contact me if they would like Party Office to organise a trip to go to their offices and run a training program.

It's important that you RSVP to these trainings.

Please email all RSVPs to [david.cann@walabor.org.au](mailto:david.cann@walabor.org.au)

Elevate Campaign Managers Course  
Friday 27 Aug - Sunday 29 Aug (9am - 5pm)

[116] Following on from the details of the three day Elevate Campaign Managers Course are the details of a further eight training sessions, including a second three-day course which, like the Elevate Campaign Managers Course, ran from Friday to Sunday, from 09:00 am to 05:00 pm.

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<sup>111</sup> E Whiteaker transcript, private examination, 27 November 2023, p 26.

<sup>112</sup> E Whiteaker transcript, private examination, 27 November 2023, p 26.

<sup>113</sup> T Picton transcript, private examination, 23 August 2023, p 15.

<sup>114</sup> 01918-2022-751560 - Email from David Cann to electorate officer B, *Campaign Bulletin: Recovery plan field scripts, training calendar, clearance process*, dated 31 July 2020.

[117] All of the training sessions were conducted either entirely or partly during the working week in business hours.

[118] The seven single session training courses in August 2020 were:<sup>115</sup>

1. *Developing a Personal Story: how to develop your candidate's and your own personal story for use in local campaigning and field organising contexts* - Wednesday 5 August at 01:00 pm.
2. *Understanding the Template Campaign Plan: understanding the template campaign pack and how it can be adapted to fit in with your local campaign strategy* - Friday 7 August 2020 at 01:00 pm.
3. *Strategic Messaging: will provide campaigns with guidance on how to integrate their strategy into their campaign messaging* - Wednesday 12 August 2020 at 01:00 pm.
4. *Online to Field Organising: will provide campaigns with a framework on how to recruit and turn online supporters into volunteers* - Friday 14 August 2020 at 01:00 pm.
5. *Campaign Budgeting and Financial Management: how to properly budget and manage your local campaign account throughout the election campaign* - Wednesday 19 August 2020 at 01:00 pm.
6. *Field Feedback: the specifics of the new feedback process that all local campaigns will be implementing for the 2021 State election* - Friday 21 August 2020 at 01:00 pm.
7. *Digital Advertising: everything you need to know about paid digital advertising for the 2021 State election.*

[119] Ms Whiteaker's evidence with respect to the August 2020 training calendar sessions was that 'all of those would have been related to campaigning'.<sup>116</sup> Mr Picton's equivocal view was that the August 2020 sessions were 'not necessarily, but primarily' directly related to campaigning.<sup>117</sup>

[120] As Ms Whiteaker accepted, it is manifest from the description of the August 2020 training sessions that they are all directly relevant to campaigning. While they may teach skills that are incidentally beneficial to the electorate officers' role of assisting constituents and providing advocacy, that is not their purpose.

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<sup>115</sup> 01918-2022-751560 - Email from David Cann to electorate officer B, *Campaign Bulletin: Recovery plan field scripts, training calendar, clearance process*, dated 31 July 2020, p 1-2

<sup>116</sup> E Whiteaker transcript, private examination, 27 November 2023, p 29.

<sup>117</sup> T Picton transcript, private examination, 23 August 2023, p 16.

- [121] In a slide created for a training session on Getting Started in your Electorate Office delivered to electorate officers by Ms Whiteaker in April 2021, as to how to achieve the aims of an electorate office, WA Labor noted:<sup>118</sup>



- [122] The three dot points or explanations why WA Labor ran over 300 hours of training for electorate officers between 2017 and 2021, are all related to campaigning. Mr Picton agreed in evidence that an inference to be drawn from that slide is that the primary reason that WA Labor ran a training program for electorate officers was because it helps WA Labor MPs get re-elected.<sup>119</sup>
- [123] In an enterprising answer to a question as to whether the three reasons are related to campaigning, Ms Whiteaker said:<sup>120</sup>

*I would say they are related to campaigning in that I'd – and I really don't say this to be cute about it, although I understand that it may come across in that way. Everything they – that they do in many ways is – it is political, I mean, they're politicians, it's inherent in the role I suppose, and so, it's a challenging distinction to make. But I guess we use that term "campaigning" in a separate way to "electioneering" is perhaps a good way to define it.*

## Typical Monthly Training Calendars

- [124] In the Commission's assessment, the August 2020 training calendar is an example of a typical monthly training calendar. Ms Whiteaker's evidence was that because WA Labor was 'ramping up our campaign work' in the lead up to the March 2021 State election, in her view the August 2020

<sup>118</sup> 01918-2022-350861 - slides for Getting Started in your Electorate Office - 6 April, WA Labor, p 7, E Whiteaker transcript, private examination, 27 November 2023, p 38.

<sup>119</sup> T Picton transcript, private examination, 23 August 2023, p 17-18.

<sup>120</sup> E Whiteaker transcript, private examination, 27 November 2023, p 40.



calendar, 'would have been a busier time period for that campaign training, than other times of the election cycle.'<sup>121</sup>

- [125] While Ms Whiteaker told the Commission that the 'closer to an election campaign, our focus would be much more campaign heavy', the training calendar for July to August 2021, just after WA Labor had convincingly won the 2021 State election, is also 'campaign heavy'.<sup>122</sup>
- [126] Of the 12 training sessions offered to electorate officers over that period, Ms Whiteaker's evidence was that one session was not campaign related, being 'media training'.<sup>123</sup> Four sessions, namely training in Campaign Central, 'digital bootcamp', 'local commitment campaign training and community engagement' and 'Facebook ad creation', Ms Whiteaker said were relevant to both electorate officer work and campaigning.<sup>124</sup>
- [127] Ms Whiteaker conceded that the remaining seven sessions, including the 'elevate campaign managers course for federal campaign teams', 'activate field organisers course for federal campaign teams', 'WA Labor finance systems training', 'volunteer recruitment and retention training', 'writing campaign material', 'fundraising training' and 'how to take campaign photos and videos', were training sessions for the purposes of campaigning.<sup>125</sup>
- [128] The total number of hours of training offered to electorate officers for July to August 2021 was 67 hours, equivalent to about eight hours per week. All 67 hours of that training were provided during office hours.<sup>126</sup> It is reasonable to assume that, unless electorate officers had taken leave to attend training, they attended that training while they were being publicly paid.
- [129] Of the 18 remaining monthly training calendars in the possession of the Commission that fall between 2018 and 2022, in the Commission's assessment, the majority of the training sessions offered relate to campaigning or electioneering. For example, the calendar for October 2019 to December 2019 includes sessions on 'organising around local issues', 'fundraising and organising events' and 'Facebook advertising'.<sup>127</sup>

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<sup>121</sup> E Whiteaker transcript, private examination, 27 November 2023, p 29.

<sup>122</sup> E Whiteaker transcript, private examination, 27 November 2023, p 30; 01918-2022-975726 - Email from David Cann to former electorate officer C, *Campaign Bulletin: Training calendar July - August 2021*, dated 25 June 2021.

<sup>123</sup> E Whiteaker transcript, private examination, 27 November 2023, p 32.

<sup>124</sup> E Whiteaker transcript, private examination, 27 November 2023, p 31-33.

<sup>125</sup> E Whiteaker transcript, private examination, 27 November 2023, p 31-33.

<sup>126</sup> 01918-2022-975726 - Email from David Cann to former electorate officer C, *Campaign Bulletin: Training calendar July - August 2021*, dated 25 June 2021.

<sup>127</sup> 01918-2022-1058181 - Email from David Cann to former electorate officer C, *Campaign Bulletin: Staff changes, Training calendar*, dated 14 October 2019.

The June 2020 calendar includes training on 'fundraising ideas', 'how to write campaign emails', 'understanding the template campaign plan', and a half day session on 'finance training'.<sup>128</sup> The calendar for September to October 2021 includes 'activate field organisers training', 'how to roll out a budget mini-campaign', 'how to run a good door knock' and 'how to support your Federal campaign'.<sup>129</sup>

- [130] In the Commission's opinion, as Mr Cann suggested, the training offered to electorate officers by DPC was lacking. Of the current and former electorate officers who gave evidence before the Commission, former electorate officers A and D received no training from DPC over four years. Electorate officer B attended one seminar provided by DPC in six years, while former electorate officer C went to a single DPC conference over that same period.<sup>130</sup>
- [131] It is reasonable for WA Labor to, as Mr Cann put it, 'fill that gap' with its training program as it relates to professional development.<sup>131</sup> There are undoubtedly training sessions included in the WA Labor training calendars that are devoted to the core capabilities of an electorate officer. Examples include the 'Excel, Word and internet skills' training and the 'technical skills for electorate officers' sessions. However, in the Commission's opinion, the preponderance of sessions are developed by WA Labor and offered to electorate officers for the purpose of increasing their capacity to persuade voters to vote for WA Labor MPs.

## Attendance

- [132] It is self-evident that not every electorate officer would attend every training session offered. Many training sessions are repeated from month to month, and on occasions the same session is offered multiple times per month. Campaign Central training is an example. In July to August 2021 Campaign Central training was offered every Thursday at 10:30 am.<sup>132</sup>
- [133] Nonetheless, Ms Spasojevic told the Commission that pressure was applied by WA Labor to attend training.<sup>133</sup>

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<sup>128</sup> 01918-2022-751609 - Email from David Cann to electorate officer B, *Campaign Bulletin: Training calendar for June & slack for local campaigns*, dated 25 May 2020.

<sup>129</sup> 01918-2022-751617 - Email from David Cann to electorate officer B, *Campaign Bulletin: Training calendar September - October 2021*, dated 23 August 2021.

<sup>130</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 49; electorate officer B transcript, private examination, 28 March 2023, p 29; former electorate officer C transcript, private examination, 30 March 2023, p 34; Former electorate officer D transcript, private examination, 30 November 2023, p 6.

<sup>131</sup> D Cann transcript, private examination, 15 August 2023, p 18.

<sup>132</sup> D Cann transcript, private examination, 15 August 2023, p 41.

<sup>133</sup> S Spasojevic transcript, private examination, 12 August 2022, p 58.

*If you didn't attend, it was seen negatively. So what I would do is, I would log in and do the start - this was during work hours, and I had a lot of work, so then I would just put it on mute, and I was there, but I wasn't really - and a lot of this was just media training.*

[134] Former electorate officer A's evidence was that there was 'lots and lots of training' that could be done at Party Office, and that WA Labor's expectation was that electorate officers would attend some of the training.<sup>134</sup> Former electorate officer A told the Commission that 'In fact - we were always being scolded' by Ms Whiteaker 'because we didn't attend. We actually couldn't attend, nor did we really want to.'<sup>135</sup>

[135] Former electorate officer A's recollection was that while she did not always attend the training because she worked in a regional electorate office and training was 'always during work hours, which made it impossible to attend', many electorate officers did attend:<sup>136</sup>

*...those trainings were always booked out, so I think the seats sat about 20 seats per training per subject, so they would do five to six different trainings a week. That's at least 20 EOs out on one day at all times.*

[136] Mr Cann's evidence was that while the room used at Party Office for training had a capacity of about 30 people, 'there would never be more than 10 to 20 people in that room.'<sup>137</sup>

[137] Electorate officer B recalled there was training offered that related to campaigning, but that she 'wasn't interested in' it because she was an electorate officer in a safe seat.<sup>138</sup> She said that she didn't do 'those kinds of trainings. There must be a question for some other offices, but not particularly for me and for us.' When discussing fundraising training that was offered from 10:00 am to 12:00 pm on a Thursday, electorate officer B posed the question:<sup>139</sup>

*Why are they offering us something like this? Why are they offering me this training from 10 to 12 to do it? You know, yes, I would, but it's my choice if I want to spend from six to eight in the evening - for that training, or Saturday training, you know what I mean?*

[138] When asked whether she had ever questioned anyone as to why training relating to campaigning is provided during the workday? Electorate officer B responded 'No. Who should I ask? Who? I'm just an electorate officer in one of the offices.'<sup>140</sup>

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<sup>134</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 55.

<sup>135</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 55.

<sup>136</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 56.

<sup>137</sup> D Cann transcript, private examination, 15 August 2023, p 18.

<sup>138</sup> Electorate officer B transcript, private examination, 28 March 2023, p 49-50.

<sup>139</sup> Electorate officer B transcript, private examination, 28 March 2023, p 52.

<sup>140</sup> Electorate officer B transcript, private examination, 28 March 2023, p 52.

[139] Former electorate officer C's evidence was that there was training offered 'specifically designed to help you as an electorate officer' and there was training offered that related to campaigning. She was of the view that the training related to campaigning would be 'helpful for someone who works in an electorate office, but it's also helpful for volunteers across the board.'<sup>141</sup> As to whether it was appropriate to take leave to attend training sessions devoted to electioneering, former electorate officer C told the Commission that it 'was something that we determined in the office.'<sup>142</sup>

[140] Former electorate officer D explained in evidence that he never took leave to attend training.<sup>143</sup>

*...because, we just assumed it was training for the purposes – the same way that if I was working on a refinery it would be done on safety training or something like that. It was to do with the work that we were doing.*

[141] The Commission's investigation has not uncovered any training material presented by WA Labor to electorate officers identifying for them which training was being offered to them to attend in their capacity as a volunteer.

#### **Fundraising - a case study**

[142] Ms Whiteaker told the Commission that fundraising 'is a really clear' example of a campaigning activity that is not related to electorate office work.<sup>144</sup> Ms Whiteaker said that 'we were always very clear that electorate office staff shouldn't spend their working time arranging fundraisers - in any way'.<sup>145</sup> Ms Whiteaker was 'fairly certain' she would have 'included it in a presentation, as one of the very early slides'.<sup>146</sup> The Commission's investigation has not yielded a single slide in any presentation to that effect. That crucial information does not appear in the slides that form the Getting Started in your Electorate Office training or the Electorate Office Fundamentals presentations.<sup>147</sup>

[143] Despite fundraising being a 'really clear' example of an activity that electorate officers are not permitted to do during their working hours, WA Labor offered electorate officers training during business hours on fundraising. For example, training that was expressly about fundraising was offered on Friday 8 November 2019 at 01:00 pm, Friday 5 June 2020

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<sup>141</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 33.

<sup>142</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 34.

<sup>143</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 23.

<sup>144</sup> E Whiteaker transcript, private examination, 27 November 2023, p 19.

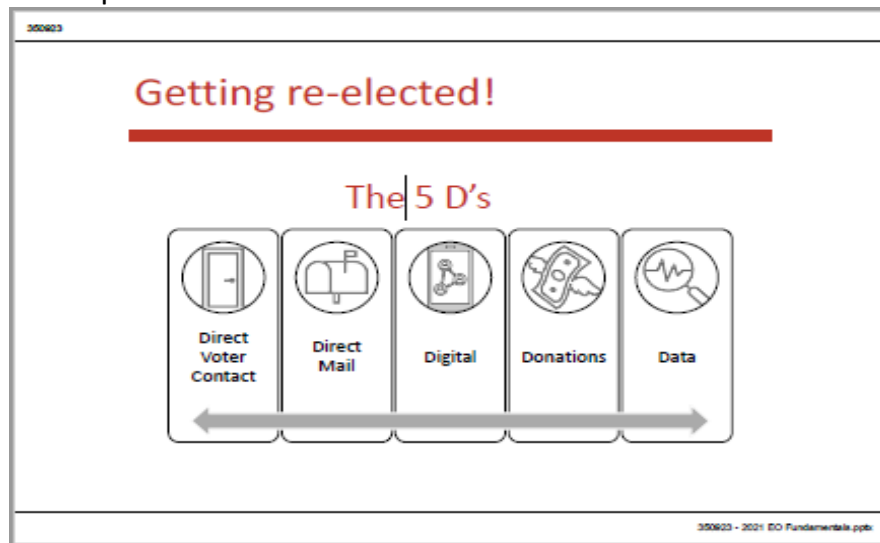
<sup>145</sup> E Whiteaker transcript, private examination, 27 November 2023, p 19.

<sup>146</sup> E Whiteaker transcript, private examination, 27 November 2023, p 19.

<sup>147</sup> 01918-2022-350861 - slides for Getting Started in your Electorate Office - 6 April, WA Labor; 01918-2022-350923 - 2021 Electorate Office Fundamentals - WA Labor.

at 01:00 pm, Tuesday 10 August 2021 from 10:30 am to 12:30 pm, and Tuesday 26 October 2021 from 10:30 am to 12:30 pm.<sup>148</sup>

- [144] Ms Whiteaker and other WA Labor employees delivered training to electorate officers on Electorate Office Fundamentals.<sup>149</sup> The training was delivered for the purposes of assisting electorate officers to understand their role in an electorate office, their priorities and how to establish processes.<sup>150</sup>
- [145] Part of that training explains that the 'most important' work that electorate officers perform is:<sup>151</sup>



- [146] Mr Cann told the Commission that the '5 D's' are principles for 'success in campaigning. If you're doing these five D's then you'll probably be re-elected or have a very good chance at re-election'.<sup>152</sup> In the slide that expands upon the 'Donations' component of the 5 D's, WA Labor described the composition of a winning fundraising strategy.
- [147] When asked why WA Labor was training electorate officers in the 5 D's, Ms Whiteaker's evidence was that:<sup>153</sup>

<sup>148</sup> 01918-2022-751319 - Email from David Cann to electorate officer B, *Campaign Bulletin: Facebook Advertising Training this Friday*, dated 30 October 2019; 01918-2022-751413 - Email from David Cann to electorate officer B, *Campaign Bulletin: Fundraising Ideas Training Tomorrow 1PM*, dated 4 June 2020; 01918-2022-751231 - Email from David Cann to electorate officer B, *Campaign Bulletin: Campaign Central Training \*Thurs 22 July\**, dated 20 July 2021, 01918-2022-751617 - Email from David Cann to electorate officer B, *Campaign Bulletin: Training Calendar September - October 2021*, dated 23 August 2021,

<sup>149</sup> E Whiteaker transcript, private examination, 27 November 2023, p 35.

<sup>150</sup> 01918-2022-350923 - 2021 Electorate Office Fundamentals - WA Labor, p 4.

<sup>151</sup> 01918-2022-350923 - 2021 Electorate Office Fundamentals - WA Labor, p 60 -61.

<sup>152</sup> D Cann transcript, private examination, 15 August 2023, p 56.

<sup>153</sup> E Whiteaker transcript, private examination, 27 November 2023, p 41.

*...there's a couple of purposes. The first is that – these are all things that they would have an interest in, I suppose, because they're members of a political party and this is the work of a political party. Some of them would do this work in their own time, as volunteers for the Labor Party, prior to being employed by electorate officers, while being employed as electorate officers, and post in many – I would say probably most cases.*

- [148] Neither of those purposes relate to the duties of an electorate officer. Ms Whiteaker argued that when delivering this training, the WA Labor employee would likely have told the electorate officers that it is the MPs' responsibility as a candidate to fundraise, not the electorate officers.<sup>154</sup> There is no evidence before the Commission as to whether or not that occurred.
- [149] The training offered by WA Labor to electorate officers that relates to fundraising gives rise to the risk that the distinction between electorate officer work and electioneering will become blurred. Electorate officers were offered training in fundraising as part of a training calendar that included training sessions relevant to their duties. At times, that fundraising training was part of a session that was ostensibly about their public officer role. That training was offered during business hours. Electorate officers were encouraged by WA Labor, and often by their MPs, to attend.
- [150] The risk of an unclear demarcation between campaigning and public duty includes the risk that electorate officers, like former electorate officer D, will assume that training relating to electioneering can be attended during electorate office hours without making up that time.

## The Risks

- [151] Ms Whiteaker's expectation was that where electorate officers attend training that is related to campaigning, they would do so in their capacity as a volunteer.<sup>155</sup> There is no evidence before the Commission of any electorate officer taking leave of any kind to attend training as a volunteer.
- [152] If Ms Whiteaker's expectation was realised, many electorate officers would spend hours of their paid working time over the course of a month volunteering. Time spent volunteering during business hours must be made up by working an equivalent number of hours outside normal working hours. Without a time recording system in place at an electorate office, the Commission is prevented from making any assessment as to whether or not that occurred.

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<sup>154</sup> E Whiteaker transcript, private examination, 27 November 2023, p 41.

<sup>155</sup> E Whiteaker transcript, private examination, 27 November 2023, p 26.

- [153] If Ms Whiteaker's expectation was not met and former electorate officer A's estimate was correct, there were 'at least 20' electorate officers attending training most days of the week whilst being paid as electorate officers. While not all of that training related to campaigning, much of it did.
- [154] To answer the question posed by electorate officer B, why was WA Labor offering training relating to electioneering during business hours? In the Commission's opinion, it is reasonable to assume that the answer to that question is because that is when electorate officers are likely to attend.
- [155] If, as WA Labor trained electorate officers as part of its Getting Started in your Electorate Office session, electorate offices are 'the single biggest reason why a local member can get re-elected', it is axiomatic that WA Labor's aims are best served by electorate officers that are skilled campaigners.<sup>156</sup>
- [156] There is a clear positive correlation between the number of electorate officers that are trained in electioneering and the prospect of MPs being re-elected. In the Commission's opinion, the volume of training offered by WA Labor to State electorate officers during business hours that is primarily related to electioneering is a serious misconduct risk.
- [157] It is a risk that considerable public resources of electorate officers' time will be diverted from serving their constituents, to training them to achieve the party-political gain of their MP's re-election.

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<sup>156</sup> 01918-2022-350861 - slides for Getting Started in your Electorate Office - 6 April, WA Labor, p 24.

## CHAPTER FIVE

*'... if we lose the seat, I lose my job. And I'd just bought a house so I was going to do anything I could do help [MP] get re-elected so I had a job'*

*Former Electorate Officer D*

### Campaigning

- [158] In its Code of Conduct for electorate officers, DPC asks those officers to ensure, amongst others, two things. First, that their political activities do not potentially, actually or by perception interfere with the obligations required of their role. Second, that they are not using DPC resources irresponsibly or for personal gain.<sup>157</sup>
- [159] The Code of Conduct does not expressly prohibit electorate officers from campaigning. Nonetheless, seeking votes for an MP during an electorate officer's working hours is an example of a political activity that at least by perception interferes with the duty to assist all constituents, regardless of their voting intentions. To use their time to persuade voters is the use of a DPC resource for a political party's gain.
- [160] In the lead up to either a State or Federal election, DPC issues electorate officers with a clearer warning. For example, before the March 2021 State General Election, DPC issued a reminder by way of email that 'electorate staff are not to engage in party political activities or be involved in electioneering during paid working hours.'<sup>158</sup>
- [161] This prohibition against electorate officers engaging in campaigning during their paid working hours is not referred to in the *Electorate and Research Employees CSA Agreement 2021* or DPC's Parliamentary Electorate Office Handbook.<sup>159</sup>
- [162] While it is only expressly referred to in writing by DPC in the lead up to an election, all but one of the witnesses who appeared before the Commission were aware that electorate officers are not permitted to campaign during the hours that they are paid to work as electorate

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<sup>157</sup> 01918-2022-433074 - Department of the Premier and Cabinet *Parliamentary Electorate Officers Code of Conduct*, 24 September 2021.

<sup>158</sup> 01918-2022-433246 - Email from Dympna Finch, Senior Project Officer, Executive Services at the Department of Premier and Cabinet titled *State General Election - Parliamentary Electorate Offices - Guidelines for Members and Staff*.

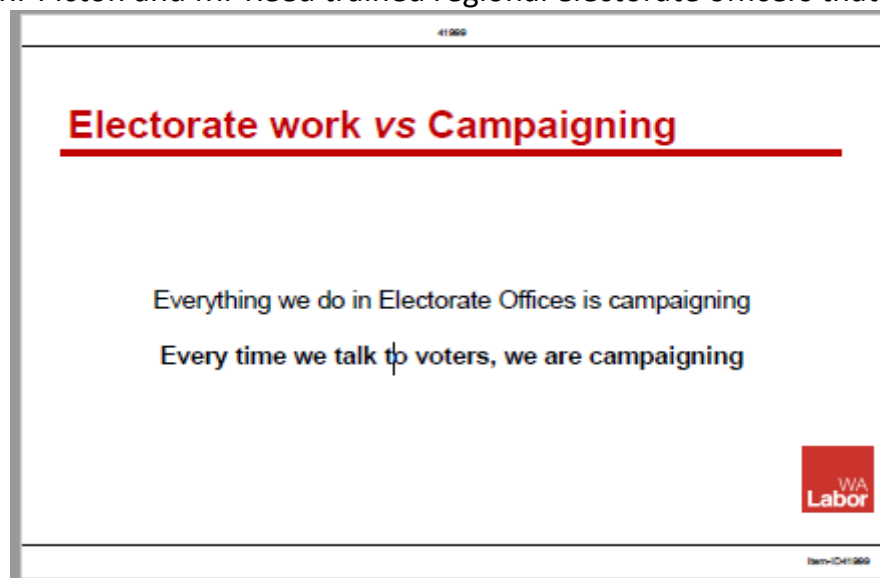
<sup>159</sup> 01918-2022-432979 - Department of Premier and Cabinet, *Parliamentary Electorate Office Handbook*, March 2020.



officers. The exception, somewhat alarmingly, was Mr Picton. Despite being State Secretary and Campaign Director for WA Labor, Mr Picton told the Commission that his understanding about the rules around electorate officers performing work relating to campaigning or party-political activity was 'very, very limited'.<sup>160</sup> Mr Picton's evidence was that he doesn't 'recall ever thinking that it was an issue, I don't recall ever thinking about it.'<sup>161</sup>

[163] Ms Whiteaker couldn't recall having a specific conversation with Mr Picton about electorate officers not being permitted to campaign during paid working hours, but she was 'sure we would have though, at various points. I mean, I can't recall an example of a conversation we would have had, but I'm sure we would have.'<sup>162</sup>

[164] Despite the prohibition on campaigning during paid working hours, as part of the Regional Training Day held at Dumas House in September 2021, Mr Picton and Mr Reed trained regional electorate officers that:<sup>163</sup>



### **Continuous Campaigning**

[165] This concept forms part of WA Labor's 'continuous campaigning' approach to local campaigns.<sup>164</sup> Under the approach, volunteers, WA Labor employees and others involved in campaigns undertake regular activities involving direct voter contact, such as door knocking and 'phone banking', the term for making telephone calls to voters.<sup>165</sup>

<sup>160</sup> T Picton transcript, private examination, 23 August 2023, p 14.

<sup>161</sup> T Picton transcript, private examination, 23 August 2023, p 14.

<sup>162</sup> E Whiteaker transcript, private examination, 27 November 2023, p 18.

<sup>163</sup> 01918-2022-41999 - slides for Regional Training Day - September 2021, WA Labor & Premier's Office, p 28.

<sup>164</sup> 01918-2022-0072 - 2021 WA Labor Rules and Constitution, p 30, para 10.5.1.

<sup>165</sup> B Oswald transcript, private examination, 14 August 2023, p 19-20.

- [166] WA Labor offers training to electorate officers in continuous campaigning. For example, in the State electorate officer training calendar for Tuesday 4 October 2022, a session is offered from 10:00 am to 12:00 pm on continuous campaigning, to 'go through the skills required to run an effective continuous campaign to assist in your re-election.'<sup>166</sup> Similarly, continuous campaigning is taught by WA Labor as part of its Getting Started in your Electorate Office training session. In a slide showing 'What we will cover today', the third topic to be covered is 'continuous campaigning'.<sup>167</sup>
- [167] Former electorate officer C, Mr Cann and Ms Whiteaker argued that while WA Labor offered and delivered training in continuous campaigning to electorate officers, WA Labor used the term 'campaign' in that context to mean 'communicate', as opposed to 'electioneering'.
- [168] The definition of the term 'campaign' was a theme throughout many of the examinations. In her evidence to the Commission, former electorate officer C posed the question, 'what's considered as campaigning? Because campaigning is also working within the community and doing community work.'<sup>168</sup>
- [169] When asked whether she had ever done any campaigning for her MP during the hours she was paid as an electorate officer, former electorate officer C answered:<sup>169</sup>
- It goes back to what you define as campaigning. I would say no, I was representing the Member. I was working for the Member. I was representing him. So.*
- [170] With respect to continuous campaigning, former electorate officer C again said that, 'So we call it campaigning, but what I would say is it's making sure that your Member has continual momentum in their constituency and is across issues that are going on.'<sup>170</sup>
- [171] Mr Cann would not be drawn on his definition of campaigning because of his firm view that, 'it's too broad for me to define what campaigning is because I believe that all work that an electorate officer does is campaigning.'<sup>171</sup> Mr Cann holds that view because electorate officers are

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<sup>166</sup> 01919-2022-0178 - State EO Training Calendar, D Cann transcript, private examination, 15 August 2023, p 43.

<sup>167</sup> 01918-2022-350861 - slides for Getting Started in your Electorate Office - 6 April, WA Labor, p 3.

<sup>168</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 13.

<sup>169</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 20.

<sup>170</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 32.

<sup>171</sup> D Cann transcript, private examination, 15 August 2023, p 20.

'employed by a Labor Member of Parliament, so anything they do in their role is campaigning because they are employed by a Labor Member of Parliament.'<sup>172</sup> By contrast, Mr Cann defined 'electioneering' to mean 'door knocking, phone banking, sending mail', although he conceded that '...you could call it campaigning.'<sup>173</sup>

[172] For Ms Whiteaker, the definition of campaigning is 'murky':<sup>174</sup>

*So in our work I suppose we use the term 'campaign' in a whole range of different scenarios. So yes, there's an election campaign where you're asking for people's votes, but much like in you know, even the corporate sector or other community organisations, we also use the term "campaigning" I suppose in terms of communicating, something to a group of people...I suppose that we use the term "campaign" in that context, in a much more general sense, not asking for someone's vote but communicating the work of the government, to voters, and to constituents.*

[173] Ms Whiteaker ultimately settled on telling the Commission that 'we use the term 'campaigning in a separate way to electioneering, is perhaps a good way to define it.'<sup>175</sup>

[174] Mr Picton was more definitive. For him, electioneering means 'campaigning'.<sup>176</sup> Similarly, Mr Reed understood the term 'campaigning' to mean 'running a political campaign' in the 'sense that campaigning is asking for a vote'.<sup>177</sup> Mr Oswald's evidence was that a 'continuous campaign' involves regular door knocking and phone banking 'involving direct voter contact'.<sup>178</sup>

[175] In the Commission's opinion, distinguishing between electioneering and campaigning is semantics. During the hours that they are paid to work as electorate officers, electorate officers are not permitted to engage in activities specifically directed at encouraging or persuading voters to vote for a particular person or party. Whether those activities are termed electioneering or campaigning is not relevant. The purpose for which those activities are engaged in by electorate officers during their working hours is key.

[176] If electorate officers are communicating with voters for the purpose of encouraging them to vote for their MP, they are campaigning.

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<sup>172</sup> D Cann transcript, private examination, 15 August 2023, p 20.

<sup>173</sup> D Cann transcript, private examination, 15 August 2023, p 49.

<sup>174</sup> E Whiteaker transcript, private examination, 27 November 2023, p 23.

<sup>175</sup> E Whiteaker transcript, private examination, 27 November 2023, p 40.

<sup>176</sup> T Picton transcript, private examination, 23 August 2023, p 14.

<sup>177</sup> M Reed transcript, private examination, 21 August 2023, p 33 and p 39.

<sup>178</sup> B Oswald transcript, private examination, 14 August 2023, p 19.

## The Hard Lines

- [177] Ms Whiteaker told the Commission that she, Mr Picton and the other WA Labor employees at Party Office:<sup>179</sup>

*... have always been very clear with, electorate officers that their role, as electorate officers is not to campaign; and so that they should not, during their working hours, campaign for their member's re-election.*

- [178] Ms Whiteaker's evidence was that they 'would often have those conversations in the office, about you know, say what the hard lines were around campaigning.'<sup>180</sup>

- [179] As to what those hard lines around campaigning were, Ms Whiteaker provided two examples. The first was that electorate officers should not in any way spend their working time fundraising, the prohibition against which was discussed earlier in this report. The second was that 'we would also, during the campaign period, be really clear that they should not spend their time at work campaigning, you know, asking people for a vote.'<sup>181</sup>

- [180] Ms Whiteaker's evidence was that as part of her role as assistant state secretary for WA Labor, the restriction around campaigning or seeking a vote was communicated to electorate officers through WA Labor's 'comprehensive training program':<sup>182</sup>

*...some of that training would be about campaigning and at the beginning of all of those training sessions, we would be really clear about, the lines I suppose, and that they shouldn't use government resources to campaign.*

- [181] As was the case with the constraints with respect to fundraising, Ms Whiteaker was 'fairly certain' she would have included the prohibition against seeking votes 'in a presentation, as one of the very early slides'.<sup>183</sup> Again, the Commission's investigation has not yielded a single slide in any presentation to that effect. That crucial information does not appear in the slides that form the Getting Started in your Electorate Office training or the Electorate Office Fundamentals presentations.<sup>184</sup>

- [182] However, former electorate officer D did recall it 'being a pretty consistent message' from WA Labor that there was to be no campaigning during paid hours.<sup>185</sup>

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<sup>179</sup> E Whiteaker transcript, private examination, 27 November 2023, p 18.

<sup>180</sup> E Whiteaker transcript, private examination, 27 November 2023, p 18-19.

<sup>181</sup> E Whiteaker transcript, private examination, 27 November 2023, p 19.

<sup>182</sup> E Whiteaker transcript, private examination, 27 November 2023, p 19.

<sup>183</sup> E Whiteaker transcript, private examination, 27 November 2023, p 19.

<sup>184</sup> 01918-2022-350861 - slides for Getting Started in your Electorate Office - 6 April, WA Labor; 01918-2022-350923 - 2021 Electorate Office Fundamentals - WA Labor.

<sup>185</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 10.

## The Reality

[183] Even if the hard line that electorate officers are not permitted to campaign during their paid working hours is communicated to electorate officers by WA Labor, the Commission's investigation revealed evidence of electorate officers being pressured by WA Labor to do so.

[184] Ms Spasojevic gave evidence to the Commission that prior to 2017 when she carried out campaigning activities, she did so on her days off, and she 'felt much more comfortable about it.'<sup>186</sup>

[185] After WA Labor won the 2017 State General Election, Ms Spasojevic felt that:<sup>187</sup>

*...there was a very different spin on it, where it wasn't about - we had gotten into government, so now the point was to stay in government, and the way we stayed in government...was by raising money, and fundraising and campaigning. And that became a huge pressure, I think on a lot of people.*

[186] Ms Spasojevic said that despite the fact that she:<sup>188</sup>

*...liked the actual electorate office work and working with constituents - I didn't really like campaigning. I was not political, and I didn't align myself to any factions, and I refused. And from 2017 onwards, I felt more and more pressure.*

[187] Ms Spasojevic felt that pressure was applied by former electorate officer C and Mr Reed:<sup>189</sup>

*...being the senior officer, I needed to help out and it was always reiterated to us that if we didn't get elected, we wouldn't have a job. If our member didn't get elected, which I understood, in essence. But that's when everything starts getting hazy and blurry of what our job is and what our job isn't.*

[188] Former electorate officer C initially told the Commission that she did not, during her paid work hours, do any campaigning.<sup>190</sup> She later clarified that she had in fact 'been involved on two campaigns' and 'had done work during working hours on those campaigns.'<sup>191</sup>

[189] One of those campaigns involved former electorate officer C working as a field organiser for a six to eight week period, primarily organising volunteers to conduct door knocks and facilitating those door knocks.<sup>192</sup> As to how much of the working day was spent campaigning on this particular

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<sup>186</sup> S Spasojevic transcript, private examination, 12 August 2022, p 17.

<sup>187</sup> S Spasojevic transcript, private examination, 12 August 2022, p 58.

<sup>188</sup> S Spasojevic transcript, private examination, 12 August 2022, p 17-18.

<sup>189</sup> S Spasojevic transcript, private examination, 12 August 2022, p 18 and p 74.

<sup>190</sup> Former electorate officer C transcript, private examination, 30 March 2023, p 20.

<sup>191</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 3.

<sup>192</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 5.

campaign, former electorate officer C recalled that it was 'anywhere from half an hour to maybe two hours' per day.<sup>193</sup>

- [190] For the second campaign, former electorate officer C was campaign manager.<sup>194</sup> The campaign manager role is, 'mainly about managing the candidate and being the support person for the candidate.'<sup>195</sup> Closer to the election, the campaign manager role took up:<sup>196</sup>

*Maybe three, four hours a day but that would be on my own time as well as at the office, because you're doing mail outs, you're organising advertising, by that stage usually the candidate's, pretty broken so you're trying to keep them propped up.*

- [191] As a proportion of her working day that was focused on doing campaign work for either campaign, former electorate officer C said that it could be, 'anywhere from, you know, 10, 20 per cent right up to – if something had happened, it could end up being, you know, 50, 60 per cent maybe.'<sup>197</sup>

- [192] Former electorate officer C gave evidence that while she endeavoured to make up the time she spent campaigning during office hours by working after hours, there was 'no time recording or record keeping'.<sup>198</sup> Former electorate officer C conceded that there was no way for her to be sure that she had worked sufficient additional hours to make up that time.<sup>199</sup>

- [193] Former electorate officer C explained:<sup>200</sup>

*...there would be definitely times when I would've come to work early, because I'd have to leave a bit early to get to the door knock. There'd definitely times that I would've worked through my lunchbreak...in the electorate office you do extra hours outside of your normal working hours. I'm not saying that to justify what I did, I'm just saying that in the context and in the moment I think those things informed why people make some decisions that they make. I'm not trying to justify the situation.*

- [194] Former electorate officer C told the Commission that targets are allocated by WA Labor:<sup>201</sup>

*I don't want to make this sound like a cop out, because, there is pressure to meet targets for everyone; the member, the campaign team, you know, you're on weekly, sometimes daily hook ups to make sure – to check in where you're at.*

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<sup>193</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 8.

<sup>194</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 15.

<sup>195</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 15.

<sup>196</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 19.

<sup>197</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 22.

<sup>198</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 6.

<sup>199</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 6.

<sup>200</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 6.

<sup>201</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 8.

- [195] The degree of pressure applied by WA Labor to campaign depended on the designation of a particular MP's seat as being either marginal or non-marginal. Former electorate officer C told the Commission that:<sup>202</sup>

*...if you're working on a marginal campaign you can imagine that there's a lot more pressure and a lot more, there's a lot more emphasis placed on you to be in contact with Party Office because it's a key seat. If you're in a safe seat – so, I'll take a step back; [MP], he's in a very safe seat, so the amount of pressure on him, on the office about actual campaigning for the Minister is not high because he's very safe. But, if you are someone that's not in a safe seat or you're in a seat that we are trying to gain, then there's a lot more heat on you.*

- [196] Former electorate officer C explained why she performed campaign work during office hours:<sup>203</sup>

*...it's not so much as there's not enough time to do all the work, it's that a lot of things need to happen in real time, so, after hours those things aren't going to get done if they are being done after hours. You're managing a situation a lot of the times, so, it's happening in real time, if that makes sense...Especially at the end of a campaign there generally is not – there is always something to be done.*

- [197] As to whether the WA Labor employees she was dealing with were aware that former electorate officer C was carrying out campaigning activities during her electorate officer hours, former electorate officer C's evidence was that:<sup>204</sup>

*...you're told that campaign work is not meant to be done in the electorate office but you are contacted during electorate office hours. So, it makes it difficult for it not to be – I can't say that you're not told that you're not supposed to do campaign work during office hours, but you're contacted during office hours. That's the plainest I can say it.*

- [198] In former electorate officer A's experience of a different electorate office to former electorate officer C, the practice of campaigning during electorate office hours was far more prevalent. In former electorate officer A's assessment, in the peak campaigning period of six months out from an election, she 'would spend 50 per cent' of her electorate officer time campaigning, and at any other time it would have been 'well-less than 10 per cent'.<sup>205</sup>

- [199] As to what kinds of campaigning activities she engaged in during the hours she was paid as an electorate officer, former electorate officer A said:<sup>206</sup>

*That could be anything, like managing a campaign program, so you're told by the Labor Party and your Member that you need to make a budget for your election*

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<sup>202</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 9.

<sup>203</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 13.

<sup>204</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 13.

<sup>205</sup> Former electorate officer C transcript, private examination, 4 May 2023, p 22.

<sup>206</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 25.

*campaign, and you – to be honest, I just copied the template because it wasn't my thing, I was not in charge of campaigning, however because I was seen as doing the office role, I was seen as managing the money, so I had to give an imaginary budget for campaigning, and keep that budget as well. So things like you would be organising printing of campaign material, doing campaign events, so they would be like, door knocks. You would be doing park events, community face events where you're essentially asking people what would it take for you to vote for this person, or gaining that information on vote intention and putting that then into the Campaign Central database.*

- [200] Like former electorate officer C, former electorate officer A endeavoured to make up the hours spent campaigning by undertaking electorate officer work after hours:<sup>207</sup>

*...you would make up those electoral officer hours simply out of your own time, so that may be 20 hours of your life that you're now having to take out to actually finish your job, and to finish the job, the only reason you do it is because you're so emotionally connected to the community and these people that come into your office distressed for matters that you can help out with, so you are obliged, and if you are a person who has those soft skills, you do that, and you do that in your own time.*

- [201] As to who was directing that campaign activity, former electorate officer A told the Commission that, 'the State Secretary, Assistant State Secretary ... they develop a campaign team very far out from an election, generally three years out of the elections, so they have six months' grace, and then they start working into a campaign.'<sup>208</sup>

- [202] Former electorate officer A said in evidence that she raised her concerns regarding the volume of campaign work that was being performed during electorate officer time, with Ms Whiteaker:<sup>209</sup>

*I dealt directly with Elli Whiteaker, Eleanor Whiteaker, because I'd known her for many years. What I had raised is firstly it's not appropriate, we are here for the constituents, and that is a line that many of us use a lot, our job is for the constituents, if you do a good job at that, you don't need to campaign, you are literally doing the job that you got that role for. However, it falls on deaf ears, and if I was older and my kids weren't younger, I would have left then, because it is immoral, but because my kids were young and I needed to work, I didn't have that luxury. But it was regular, I would regularly raise that issue.*

- [203] Former electorate officer A said that Ms Whiteaker's response to her concerns was 'it is what it is.'<sup>210</sup>

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<sup>207</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 27.

<sup>208</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 26.

<sup>209</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 29-30.

<sup>210</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 30.



[204] Ms Whiteaker denied in evidence that former electorate officer A, or any other electorate officer, had ever discussed concerns with her about campaigning.<sup>211</sup>

[205] Manifestly, both of these statements cannot be true. Having considered the totality of the evidence, the Commission is not able to be satisfied in either the affirmative or the negative that former electorate officer A raised her concerns with Ms Whiteaker about the amount of time she was required to spend campaigning.

[206] Electorate officer B, who worked for an MP in a safe seat, denied that she had or was asked to campaign during business hours. Her evidence was that when she carried out campaigning activities, she did so in a voluntary capacity over and above her electorate officer role.<sup>212</sup> However, electorate officer B noted that:<sup>213</sup>

*I'm doing that not because I want to do it. I know I have to do it if I want to keep my position in the office you know? That must be clear to everyone, you know? It's not that I'm so much for Labor because I support that party and I'm into politics. No, personally I hate politics. But I'm doing that because I know if [her MP] become a [MP] that means that – I still got my job.*

[207] Similarly, former electorate officer D's evidence to the Commission was that while he was the campaign manager for his MP's campaign for re-election in the 2021 State General Election, he did not undertake any campaigning activities during business hours.<sup>214</sup> He told the Commission that he took annual leave to campaign for the final two weeks before the election.<sup>215</sup>

[208] Former electorate officer D accepted in evidence that he would have sent campaign related emails or taken campaign related phone calls during business hours, 'here and there, but it was never like, a dedicated hour or two hours of the day'.<sup>216</sup> While he did not feel pressure from his MP to campaign, the reality was that, 'if we lose the seat, I lose my job. And I'd just bought a house so I was going to do anything I could do help [his MP] get re-elected so I had a job'.<sup>217</sup> His impression was that there was pressure on his MP to meet campaign targets.<sup>218</sup>

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<sup>211</sup> E Whiteaker transcript, private examination, 27 November 2023, p 24.

<sup>212</sup> Electorate officer B transcript, private examination, 28 March 2023, p 28, p 35-36.

<sup>213</sup> Electorate officer B transcript, private examination, 28 March 2023, p 36.

<sup>214</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 14.

<sup>215</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 13.

<sup>216</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 15.

<sup>217</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 19-20.

<sup>218</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 19-20.

- [209] Former electorate officers A and D worked together in the same electorate officer for about two years.<sup>219</sup> Former electorate officer D denied that former electorate officer A spent up to 50 percent of her time in the lead up to the 2021 election campaigning.<sup>220</sup> He told the Commission that he never saw her campaigning during business hours.<sup>221</sup>
- [210] The evidence of former electorate officers A and D as to the degree to which they undertook campaigning activities during electorate office hours is in stark contrast.
- [211] Both former electorate officers A and D told the Commission that they were not required to keep a time sheet or record their hours in any way.<sup>222</sup> Former electorate officer D's recollection was that it 'was very much a - it's like a trust relationship'.<sup>223</sup>
- [212] While former electorate officer A's evidence is more in keeping with that of Ms Spasojevic and former electorate officer C, the absence of formal systems for recording time has made it impossible for the Commission to determine the actual hours during which public duties were performed.
- [213] The circumstances, namely the marginal nature of the seat, the perceived pressure on the MP to meet campaign goals and the detailed descriptions of the campaigning activity provided by former electorate officer A, give rise to a reasonable suspicion that the extent to which electorate officers campaigned during their paid hours was greater than recalled by former electorate officer D. Nonetheless, on the state of the evidence the Commission cannot be satisfied to what degree.

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<sup>219</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 4.

<sup>220</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 20.

<sup>221</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 20.

<sup>222</sup> Former electorate officer A transcript, private examination, 27 March 2023, p 26; Former electorate officer D transcript, private examination, 30 November 2023, p 7.

<sup>223</sup> Former electorate officer D transcript, private examination, 30 November 2023, p 7.

## CHAPTER SIX

*'They obviously are employed by a member of Parliament and would like to see their member of Parliament get re-elected so they can retain their job'*

*Mr Oswald*

### Opinions

- [214] The coronavirus pandemic brought with it a raft of unprecedented measures to restrict travel to and from Western Australia. The G2G pass system was developed by the Western Australian Government as means of controlling access to the State. The community was entitled to expect the G2G pass system would be administered fairly by the WA Labor Government.
- [215] Undeniably, if any of the G2G pass applications of WA Labor donors were treated preferentially purely because of the applicant's status as a donor or LBR member, that would be unjust.
- [216] The Commission accepts Ms Spasojevic's evidence that she played a role in passing on the information of LBR members who had made G2G applications to a contact in the office of the Hon. Michelle Roberts MLA. However, decisions made to expedite, approve or reject G2G pass applications were made by the WA Police Force, or the Department of Transport in the case of intrastate G2G pass applications.
- [217] Having scrutinised Ms Spasojevic's evidence with great care, the Commission accepts her evidence as it related to G2G pass applications and indeed to campaigning. Her evidence on these matters was generally corroborated by either the evidence of other witnesses or documentary evidence. The Commission's investigation did not traverse the conduct that was the subject of the decision of the PSAB.
- [218] While the WA Police Force did have a structure in place for triaging applications to establish priority for assessment, there is no evidence before the Commission that any person's application was prioritised or granted because of their status as a WA Labor party donor or LBR member.
- [219] The Commission heard evidence that some electorate officers were tasked with advocating for the approval or priority treatment of the G2G pass applications of particular individuals. It is not unreasonable to assume that many electorate officers did so. Advocacy and liaising with government agencies is part of their role. It is also not unreasonable to assume that some of those individuals may have been WA Labor donors or LBR members.

- [220] Nonetheless, there is no evidence that any MPs or their electorate officers attempted to use their public position to expedite or procure a G2G pass for any corrupt or improper purpose. There is no evidence that the WA Police Force preferentially treated any of the applications referred to them by MPs or their staff.
- [221] Consequently, the Commission is not satisfied on the balance of probabilities that serious misconduct on the part of any public officer has occurred and has formed no opinion of serious misconduct with respect to this allegation.
- [222] In relation to the allegation with respect to campaigning, the totality of the evidence gathered by the Commission suggests that electorate officers were spending time for which they are employed to do public duties on campaigning activities. That includes attending training provided by WA Labor on electioneering.
- [223] The majority of the former and current electorate officers who gave evidence before the Commission, namely Ms Spasojevic, former electorate officer A and former electorate officer C, conceded in evidence that they campaigned during electorate office hours. Former electorate officer D accepted that he did perform some campaign related work during office hours but said that it was minimal. Electorate officer B was the only witness to deny the practice entirely.
- [224] The electorate officers who accepted that they did campaign during office hours told the Commission that they made up for that work by doing their electorate officer duties outside office hours.
- [225] The majority of electorate officers who appeared before the Commission had involvement with WA Labor or union movements prior to their employment as an electorate officer. Their dedication to WA Labor may explain their motivation to engage in electioneering during their working day, requiring them to make up that time outside of standard hours. For others, the incentive stems from the practical reality that their continued employment as an electorate officer is inexorably linked to the re-election of their MP. As Mr Oswald stated in evidence, 'they obviously are employed by a member of Parliament and would like to see their member of Parliament get re-elected so they can retain their job.'<sup>224</sup>
- [226] None of the electorate officers who appeared before the Commission were required to complete time sheets. The investigation found an absence of formal systems for recording time taken during office hours in lieu of time

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<sup>224</sup> B Oswald transcript, private examination, 14 August 2023, p 67.

worked outside office hours. Working hours were flexible and based on trust.

- [227] The absence of accurate documentation of hours worked made it impossible for the Commission to verify claims that campaigning work during office hours was made up for by public duties performed outside those hours.
- [228] While the Commission accepts that Campaign Central does serve as a database that has constituent management functionality, it is also plainly a powerful campaigning tool. Training electorate officers to continually input data into Campaign Central during their working hours has some benefits for constituents. Nonetheless, that practice also involves a considerable public subsidy of the maintenance and effective operation of WA Labor's political database.
- [229] The Commission suspects that significant amounts of electorate officer's work time in recent years has been diverted from serving constituents to engaging in party-political activities, including campaigning, training to campaign and maintaining Campaign Central. However, there is insufficient evidence before the Commission to find that this allegation of serious misconduct has been proven.
- [230] As was published by *The West Australian* newspaper on 15 October 2024 in an article on page 1 entitled 'Welcome to the Party', a draft copy of this report was provided to WA Labor, DPC and the Premier Roger Cook MLA in accordance with the Commission's procedural fairness obligations.<sup>225</sup>
- [231] The content of that draft was leaked to one or more journalists in contravention of the CCM Act s 151(2). It is possible that the ensuing media articles are similarly in breach of the Act. Punishment for a breach of this section is imprisonment for 3 years and a fine of \$60,000.
- [232] As the Commission publicly stated on 15 October 2024, such a disclosure is not only unlawful. It is very unfair to every person who may be adversely named and whose representations have not yet been considered.
- [233] Representations in response to the draft were provided to the Commission and considered carefully. Where the Commission agrees, the report has been amended.
- [234] As part of its response, Ms Emily Roper, Director General of DPC advised the Commission that DPC acknowledges that within the existing frameworks for the employment of electorate officers there are changes

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<sup>225</sup> Ben Harvey, 'Welcome to the Party', *The West Australian* (Western Australia, 15 October 2024), p 1 and 9.

that can be made in both the short and medium term to address potential areas of risk, to improve governance and oversight and to clarify the administration arrangements that are in place.

- [235] DPC noted that progressing and implementing broader reforms will require the support of the Government and, significantly, the support of the Presiding Officers of Parliament who are ultimately the employer of electorate officers, notwithstanding the delegation structure that is in place. They are also likely to require legislative amendment, and as such do not provide a short-term solution.

## CONCLUSION

- [236] The fundamental theme that is common to both allegations that formed part of Operation Godrevy is the community's faith that its Members of Parliament will not misuse public resources for party-political purposes.
- [237] In the case of the administration of the G2G pass system, in the Commission's opinion, that faith was not misplaced. There is no evidence before the Commission that any public officer, including MPs, electorate officers or the WA Police Force, used their public office for the private and party-political purpose of preferentially treating the G2G pass applications of WA Labor party donors and LBR members.
- [238] With respect to the misuse of electorate officers, the position is less clear.
- [239] Although the Commission's investigation found no evidence of MPs or other public officers directing, encouraging or allowing electorate officers to campaign, there are clear incentives for MPs to do so. It is for that reason that DPC must make it unmistakably clear that it does not permit party-political work, including campaigning and training to campaign, and that, during office hours, staff may only perform work relating to their duties.
- [240] The Commission **recommends** that DPC include that information in the Parliamentary Electorate Office Handbook.
- [241] In her response to the draft of this report, Ms Roper advised the Commission that, once it is laid before Parliament, Ms Roper will ask that an update to the Handbook be drafted to reflect the Commission's recommendation.
- [242] The local nature of electorate office work and the fact that MPs are frequently absent from those offices make it challenging for MPs to manage their electorate officers. As is becoming increasingly common in office-based environments, a degree of flexibility in working hours appears to operate in electorate offices. In the electorate offices the subject of this investigation, if electorate officers were absent from work or attended to personal matters during office hours, their MP trusted them to make up the hours in their own time.
- [243] All of the electorate officers who appeared before the Commission explained that electorate officer hours are long, and generally in excess of the agreed 37.5 hours per week. As Ms Whiteaker told the Commission,

'they're not – they're not 9 to 5 jobs where you work a 38 hour week. I have observed them working you know, long, long hours'.<sup>226</sup>

- [244] Their dedication is not in doubt. Nor is the high level of trust that exists between an MP and their staff. It is a question of misconduct risk.
- [245] It is a risk that as an election looms, particularly in marginal seats, electorate officers will feel pressure to spend their electorate office hours campaigning. That pressure may stem from the electorate officer's concern that if their MP is not re-elected, they will lose their job. Or, it may be directly applied by WA Labor or their MP.
- [246] In the Commission's opinion, WA Labor encourages electorate officers to volunteer and campaign for MPs to the extent that it may be regarded as pressure. That pressure manifests itself in the frequent training offered by WA Labor on campaigning during electorate office time, the campaign targets and goals that it sets and the tracking by WA Labor of those metrics in Campaign Central.
- [247] If many of the approximately 190 full-time equivalent electorate officers do bow to the pressure and spend even a small percentage of their working hours on electioneering, that would equate to hundreds of taxpayer funded hours per week spent on furthering the private interests of a political party.
- [248] The result would be both a misuse of public resources for party-political purposes and a diminishing of the value of political equality through entrenching incumbency.
- [249] That risk may be largely ameliorated by the implementation of a time recording system. A time sheet requiring electorate officers to record their hours of work performing electorate officer duties to be signed by their MP would provide an auditable verification mechanism.
- [250] In the Commission's opinion, if an MP does not utilise a time recording system in their electorate office, their failure to do so is a serious misconduct risk. The Commission **recommends** that as part of its responsibility for administering the employment entitlements for electorate officers, DPC implement a time recording procedure for each electorate office.
- [251] That practice would have the added benefit of assisting MPs and DPC to be aware of the hours of work being performed by their electorate officers so as to better manage their rights and entitlements, such as the relevant occupational health and safety standards and protections.

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<sup>226</sup> E Whiteaker transcript, private examination, 27 November 2023, p 54.



- [252] In relation to this recommendation, Ms Roper advised the Commission that DPC acknowledges the importance of an effective time recording system and will discuss with the Presiding Officers the most appropriate mechanisms by which to reinforce the importance of this in electorate offices, including through the provision of appropriately targeted training, and to ensure enforcement and oversight of compliance.
- [253] In the Commission's opinion, political databases such as Campaign Central pose a risk that public officers will corruptly take advantage of incumbency to use publicly funded positions to populate those databases for party purposes.
- [254] The Commission further **recommends** that as part of the computing equipment and software DPC provides to MPs for use in their electorate offices, DPC provides those offices with a data management system for the purposes of constituent management.
- [255] Such a database would allow electorate officers to record and store a wealth of information about their constituency, that could be accessed and enhanced by each successive MP, regardless of their political affiliation.
- [256] Ms Roper advised the Commission that, while she agrees that there is a need for a robust data management system for constituent management, the precise design of such a system requires detailed analysis of functionality needs and the engagement of the Presiding Officers, as well as specific consideration of how Parliamentary Privilege and other privacy related issues are best managed. It will also ultimately require funding support to achieve.
- [257] Ms Roper explained that DPC has also been developing a refreshed training program for implementation with both electorate officers and MPs, to be delivered following the upcoming state election. DPC will ensure that training maximises opportunities to reinforce the expectations of electorate officers and strengthen governance and integrity measures.
- [258] With the passing of the *Electoral Amendment (Finance and Other Matters) Bill 2023* and the subsequent enactment of the *Electoral Amendment (Finance and Other Matters) Act 2023*, the WA Labor State Government introduced significant reforms to provide greater transparency and accountability of donations to political parties and electoral expenditure caps. These measures will greatly enhance public confidence in the election process.
- [259] In the Commission's opinion, implementing the Commission's recommendations would build upon these important reforms to ensure that the Western Australian electoral system supports a vibrant and fair

democracy. If Government and the Presiding Officers work with DPC to further the steps taken by the Department to give effect to these recommendations, the Commission considers that those actions will mitigate the serious misconduct risks that it has identified.