

**Investigation of a matter referred from the  
Legislative Council on 25 November 2015**

**March 2018**

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**The Victorian Ombudsman respectfully acknowledges the Traditional Owners of the lands throughout Victoria and pays respect to them, their culture and their Elders past, present and future.**

# Letter to the Legislative Council and the Legislative Assembly

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To

**The Honourable the President of the Legislative Council**

and

**The Honourable the Speaker of the Legislative Assembly**

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973* (Vic), I present to Parliament my *Investigation of a matter referred from the Legislative Council on 25 November 2015*.

A handwritten signature in black ink, appearing to read 'Deborah Glass', with a stylized flourish at the end.

Deborah Glass OBE

**Ombudsman**

21 March 2018

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# Foreword

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This investigation arose from a referral by Parliament, only the fourth such case in the 45-year history of the Ombudsman's Office. It is occasionally the role of Parliament's Ombudsman to become involved in an investigation that is inherently political. And so it was in this case. Non-ALP members in the Legislative Council used their majority to pass a resolution that I investigate whether ALP Members of Parliament misused their staff budget entitlements prior to the 2014 state election, contrary to Parliament's Members' Guide.

Neither I, nor any of the investigators working on this case, has any political affiliation. Our task was to get to the truth of the matter – were entitlements misused? If so, what happened and who was responsible?

Answering this has been like trying to complete a jigsaw puzzle from which, at the outset, you are not sure how many pieces are astray and whether you will have enough to see the image. In the end, although some pieces are missing because of claims of parliamentary privilege and exclusive cognisance, or simply loss of memory as some witnesses asserted, a clear picture emerged.

It was a picture of a well-organised campaign by the ALP to recruit and deploy full-time field organisers in the run-up to the 2014 Victorian state election, of which 21 were employed part-time as electorate officers and paid some \$388,000 out of parliamentary funds. A few did, indeed, do electorate officer work and many claimed it was impossible to distinguish between the roles.

I make no criticism of the campaign or the field organisers. But while some electorate officer work was done for some Members of Parliament, the arrangement to employ field organisers as electorate officers was an artifice to secure partial payment for the campaign out of parliamentary funds, and was wrong.

The evidence before us is that MPs who participated in the arrangement and signed time-sheets believed it was legitimate and that they were contributing to an approved pooling arrangement. But while they received little or no personal benefit from the use of parliamentary funds for campaigning purposes, which almost invariably benefited the election prospects of others, 21 Members of the 57th Parliament breached the Members' Guide.

The principal architect of the arrangement was the former Leader of the Opposition in the Legislative Council, the Hon John Lenders. While he too derived no personal benefit from the campaign as he was, in any event, retiring, he carries the greatest share of responsibility for breaches of the Guide. There is undoubtedly a blurred line between permissible and impermissible uses of parliamentary funds, and what is or is not political activity prohibited by the Guide. But in seeking to maximise the use of resources available to the Party, Mr Lenders crossed the line.

The ALP was, of course, the principal beneficiary of these funds. While I do not make formal recommendations to non-public bodies, I consider that public confidence would be well served by them paying the money back. I am pleased that following a review of the conclusions of the draft report, they have offered to do so.

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During the investigation we heard many views about the impracticality of the ‘party or political’ restriction in the Members’ Guide, its lack of visibility or enforceability, and different interpretations of pooling arrangements. Field organisers were not, in fact, paid from pooled funds, but the fact that such arrangements existed created confusion. I believe these factors contributed to the environment in which these breaches occurred, and while I commend the reforms that have been made or proposed since these events in 2014, more needs to be done.

I must finally reflect on the litigation that delayed this investigation for over a year. Successive courts confirmed that the Ombudsman has jurisdiction to investigate members of Parliament when Parliament itself makes the referral. I do not criticise the legal proceedings, which I initiated, and which eventually provided much-needed clarity to an issue that has caused controversy over the past decade.

But while the question of jurisdiction delayed the investigation, the Legislative Assembly’s assertion of exclusive cognisance – in effect that I cannot investigate members of the Assembly – was detrimental to it. I did not regard the scope of my investigation to be limited to the Legislative Council, but I decided not to test my view in the courts; enough time and public money had been spent on legal proceedings, and I could still investigate the matter by focusing on Council members. But this limited my use of coercive powers. While I can draw cogent conclusions from the evidence available, there are gaps in the evidence of which Parliament should be aware.

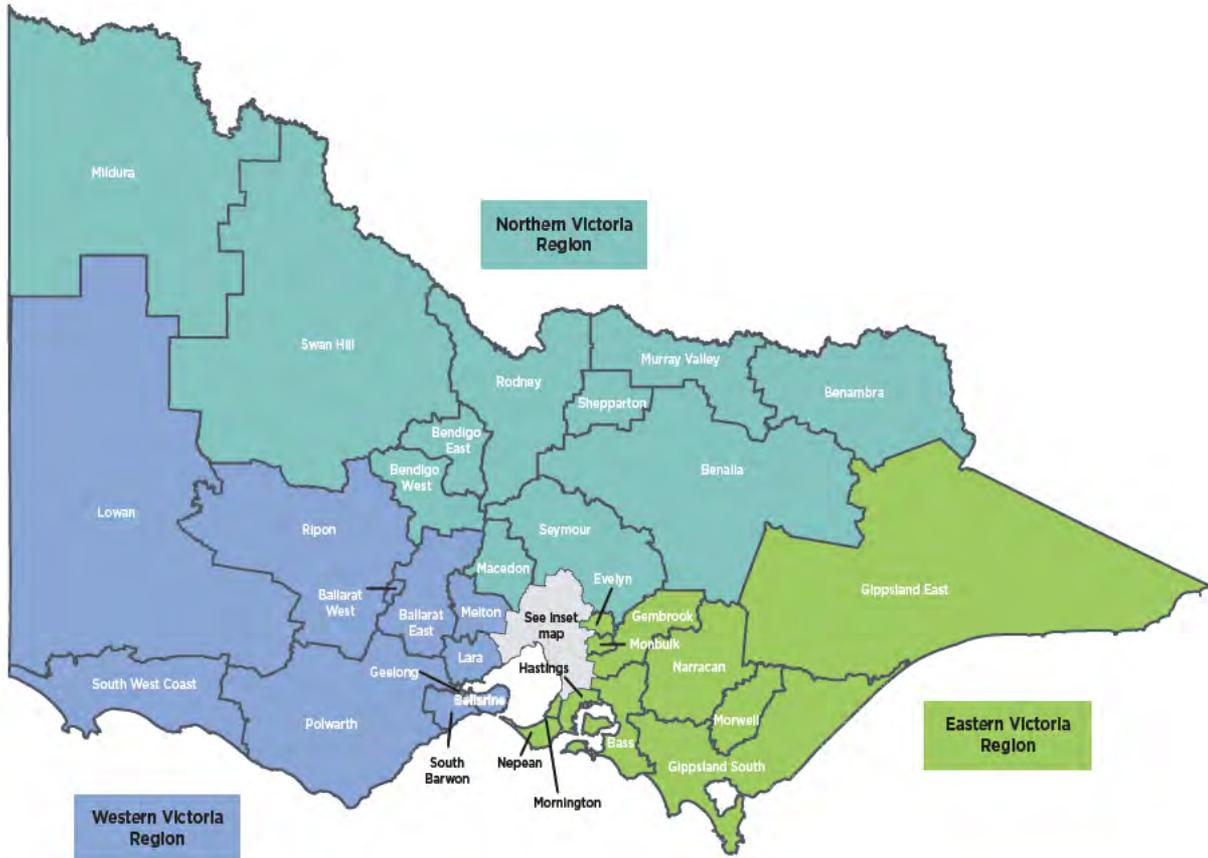
Trust in our politicians is declining, and risks diminishing further with allegations of misuse of public funds. The reputation of Parliament would be greatly enhanced if an independent agency was clearly empowered to deal with such matters. Whatever Parliament’s future intentions regarding the Ombudsman’s jurisdiction, the public debate in this case confirms the importance of having an independent body, able to investigate allegations without fear or favour – and to give short shrift to the spurious – when its own members’ integrity is called into question.

Deborah Glass  
**Ombudsman**

## Victorian state electoral boundaries prior to the 2014 election

Legislative Council Regions shown as shaded areas

Legislative Assembly Districts shown as subordinate divisions



# Executive summary

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## The Referral and police enquiries

1. On 25 November 2015, the Legislative Council of the Parliament of Victoria passed the following resolution:

That, pursuant to section 16 of the *Ombudsman Act 1973*, this House refers the following matter to the Ombudsman for investigation and report:

- (1) Allegations that ALP members of the Victorian Parliament misused members' staff budget entitlements, against the provisions of the Parliament of Victoria *Members Guide*, that is, 'Electorate officers are employees of the Parliament of Victoria, and are directly accountable to the member in whose electorate office they work... These positions are provided to support the member in their parliamentary and electorate duties. The Parliament does not fund positions to support the member's political or party duties'; and
- (2) Any other breach of applicable policies, laws or codes in relation to these allegations.

2. The background to the Referral involved allegations, widely reported in the media, that parliamentary funds had been misused to partially fund the Australian Labor Party's Community Action Network campaign for the November 2014 state election. Electorate Officers were alleged to have been used to recruit, train, and direct volunteer campaigners to door knock, telephone voters, and attend street stalls to persuade voters in favour of ALP candidates for the 2014 election.

3. These allegations had also been referred to Victoria Police in September 2015. While the *Ombudsman Act 1973* (Vic) requires me to investigate and report 'forthwith' on matters referred from the Parliament, it also requires me not to perform my functions if doing so would prejudice a criminal investigation. I consulted with Victoria Police, which requested that my investigation remain on hold while its enquiries were progressing. On 8 June 2016, Victoria Police advised me that its review of the allegations had concluded and it would not take further action.

## Litigation and claims of exclusive cognisance

4. My jurisdiction to investigate these allegations was questioned during the Legislative Council's debate about the Referral. On receiving the Referral, I wrote to the Government to express the opinion that I did have jurisdiction. The Government responded by confirming its view that the Ombudsman did not have jurisdiction, providing advice from the Solicitor-General to that effect. To settle the matter, and to avoid spending public money unnecessarily, I applied to the Supreme Court of Victoria to determine my jurisdiction.
5. I invited any parties affected by the Referral to apply to the Court to join the proceedings, making clear that I would remain neutral. The President of the Legislative Council and the Attorney-General applied to join the proceedings, which were heard in May 2016.

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6. In August 2016 the Supreme Court determined that I did have jurisdiction to investigate the Referral. The Attorney-General appealed this decision; this was dismissed by the Court of Appeal in December 2016. The Attorney-General then sought leave to appeal to the High Court of Australia, raising the issue of whether an Ombudsman's investigation would interfere with the doctrine of 'exclusive cognisance', which refers to the 'exclusive right of each House to manage its own affairs without interference from the other'.
  7. In February 2017, the Legislative Assembly passed a resolution asserting its privileges with respect to the doctrine of exclusive cognisance in relation to the investigation. The effect of that resolution, as advised to me, was that:

current and former Members and staff of the Legislative Assembly will not be available to participate in a matter that is the subject of a referral from the Legislative Council.
  8. While the High Court appeal was pending, I decided that, considering the Court of Appeal decision and the need to avoid delay if jurisdiction were confirmed, the investigation should commence, without the exercise of coercive powers (such as issuing a witness summons).
  9. In April 2017, the High Court dismissed the Attorney-General's application for special leave. The interview phase of the investigation then started, although the assertion of exclusive cognisance by the Legislative Assembly was a limiting factor. While I took the view that to limit my investigation as proposed in the Legislative Assembly's resolution would be to thwart the clear intention of Parliament in section 16 of the Ombudsman Act, I decided not to seek to test my view in the courts. I considered that enough public money had been spent on legal proceedings, and that it was possible to investigate the matter by focusing on Members of the Legislative Council.
  10. The effect of this was that Members of the Legislative Assembly and most of their staff declined to cooperate with the investigation. I chose not to exercise coercive powers in relation to them, preferring to complete the investigation in as timely a manner as possible and to refer any gaps in the evidence to Parliament.

## The Community Action Network

11. The Community Action Network had its origins in, among other things, the grassroots activism used by the United States presidential campaign of Barack Obama in 2012. The Network's intention was to organise 'thousands of volunteers' into a network of people who would persuade voters to vote Labor. The Victorian branch of the ALP trialled a Community Action Network strategy for the 2013 federal election, and adopted a similar approach for the Victorian state election.

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12. Recruitment for Field Organisers for the state campaign began in November 2013, and the ALP made offers of employment in December 2013. The role was to be a full-time, fixed-term position from 3 March to 29 November 2014.
  13. Some 25 to 30 Field Organisers and a number of Regional Field Directors attended Field Organiser training at ALP premises in the first week of March 2014. The training schedule on the first day included an address by the Hon John Lenders MLC, then the Leader of the Opposition in the Legislative Council. Mr Lenders informed the Field Organisers that most of them would also be employed by the Parliament of Victoria as Electorate Officers on a casual basis. This was the first time the Field Organisers had been made aware of this arrangement.
  14. The investigation heard that the Field Organisers' reactions to the announcement varied from acceptance to disquiet. While not all of them could recall the discussion, several confirmed that Mr Lenders was asked 'if it was legal' and that he replied that it was, but that they should keep quiet about the pay arrangements. Mr Lenders told the investigation that he recalled advising the Field Organisers not to speak publicly about the arrangements, explaining that his concern was not about the lawfulness of the activity, but to avoid 'the arrangements [becoming] ... a political issue'.
  15. Mr Lenders said he told the group that they should delineate their work so that they performed Field Organiser duties at times paid by the ALP, and Electorate Officer duties at times recorded on Electorate Officer time-sheets. None of the Field Organisers could recall this.
  16. At the training, Mr Lenders was accompanied by a member of his staff, who provided the Field Organisers with documentation to facilitate their employment as casual Electorate Officers, including folders of partially completed time-sheets. The pre-filled sections of the time-sheets recorded that work was performed from 9:00 am to 5:00 pm each Wednesday and Thursday and that the 'Reason for payment' was 'Additional capacity required for electorate duties'. Field Organisers were asked to sign their names, leaving the dates of signature blank. The sections requiring a Member of Parliament's name and signature were also left blank.
  17. The week's training focused solely on the role and expectations of a Field Organiser during the four phases of the Community Action Network campaign: recruiting volunteers, training volunteers about conducting 'persuasion conversations', 'voter persuasion', and 'winning the vote'. There was no training regarding the duties and responsibilities of an Electorate Officer or guidance about performing those duties.
- ### The '60:40 split'
18. In 2014, ALP Members of Parliament contributed to an approved Electorate Officer pooling arrangement (ALP staff pool) administered by the Department of Parliamentary Services (DPS). Mr Lenders told the investigation that the employment of Field Organisers as Electorate Officers was initially designed as an expansion of this pool, using contributions from Members' Electorate Office and Communication Budgets.

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19. In early 2014 Mr Lenders and DPS had discussions about this possibility, during which DPS advised Mr Lenders that the ALP staff pool could not be expanded in the manner proposed to employ additional casual Electorate Officers. Having been advised of this, Mr Lenders did not consult DPS, or the Presiding Officers of the Parliament, about the arrangement that eventuated. This arrangement was not an extension of the ALP staff pool, but involved the use of individual Members' Electorate Office and Communication Budgets to engage Field Organisers as casual Electorate Officers.
  20. The roles of a Field Organiser employed by a political party and an Electorate Officer employed by the Parliament are plainly different. However, there is some crossover in their duties, particularly in research and community engagement. The essence of the arrangement was that for two days a week, Field Organiser work would be characterised as Electorate Officer work: 'conducting research and seeking community attitudes and views'.
  21. This pay arrangement - referred to as the '60:40 split' - was conceived by Mr Lenders in consultation with the ALP Campaign Committee.
  22. The legitimacy of the 60:40 split depended on those involved being clearly instructed to perform Electorate Officer duties on the dates they were paid out of parliamentary funds. For at least 18 Field Organisers who were paid as casual Electorate Officers, this separation of roles did not happen in practice.
  23. Mr Lenders told the investigation that in practice his design 'morphed' into one where employees did not perform Electorate Officer work at the times and dates on their pre-filled DPS time-sheets.

## The involvement of Members of Parliament

24. Around the time of Mr Lenders' discussions with DPS, he approached ALP Members of Parliament to propose that they use a portion of their entitlements to fund a casual Electorate Officer position for the field campaign in the 2014 election. Members who provided information to the investigation differed as to whether Mr Lenders had explained that there would be a delineation between the times the nominated persons would perform Electorate Officer work and Field Organiser work. They agreed that he did, however, explain that the arrangement was a legitimate use of Members' entitlements.
25. Not all the ALP Members of the 57th Parliament agreed to participate in the 60:40 split arrangement. Of the 23 who did, including Mr Lenders himself, fourteen were Members of the Legislative Council, and nine were Members of the Legislative Assembly. Eight of the Members were retiring at the dissolution of the 57th Parliament.
26. Participating Members were uniformly unaware of the Field Organisers' typical daily schedule. During 2014, most participating Members had limited contact with the persons they had nominated as their Electorate Officers, and neither those Members nor their staff directed their day-to-day work activities.
27. Periodically, until the end of October 2014 (in some cases concluding earlier), each participating Member signed time-sheets certifying that the nominated persons worked for them as casual Electorate Officers on the times and days that had been pre-filled on the time-sheets.

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28. There were a few exceptions to the above: in one instance there was clear evidence of a demarcation, and in three other instances a demarcation was claimed, with varying degrees of evidence provided to support this.

## **The work of Field Organisers/ Electorate Officers**

29. The week after the training in early March, each Field Organiser started working to recruit Community Action Network volunteers in a Legislative Assembly district that the ALP had identified as important to win at the November election.

30. Twenty-one of the Field Organisers who attended the training were employed as casual Electorate Officers. Of these, five worked for more than one Member of Parliament at different times. In most cases, Field Organisers were paid by DPS for two days' work per week as an Electorate Officer and by the ALP for three days' work per week as a Field Organiser from the start of March to the end of October 2014.

31. The Field Organisers' day-to-day duties were tasked by the Community Action Network Regional Field Director assigned by the ALP to manage them. They reported their performance metrics to their respective Field Director each weekday. Their core hours of work were from noon to 8:30 pm on Tuesday to Friday and from 9:00 am to 6:00 pm on Saturday. Their work followed the four phases of the Community Action Network campaign, designed to recruit and train volunteers, persuade voters and 'win the vote'.

32. Field Organisers employed as casual Electorate Officers had varying amounts of contact with their nominating Member, ranging from none to moderate. It is apparent that most contact with and tasking from their nominating Member was incidental to their core role as Field Organisers, which was to report daily to ALP headquarters and meet campaign targets. In one of the four instances when a demarcation was claimed, the Field Organiser involved was told by the ALP's campaign leadership that he was spending too much time on his Electorate Officer duties.

33. The time-sheets obtained by the investigation, which are not a complete record of payments as a result of the Legislative Assembly's claim of exclusive cognisance, indicate that 23 current and former Members of Parliament authorised payments for which an estimated \$387,842 was paid out of parliamentary funds. This figure includes an amount the investigation was unable to quantify where Electorate Officer work was legitimately done for a small number of Members, and excludes an amount unable to be quantified relating to Field Organisers employed as Electorate Officers after the initial cohort. This estimate will require confirmation by DPS, which holds complete records.

Estimated dollar value of hours certified as Electorate Officer work for Field Organisers  
(3 March – 29 November 2014)\*



 Member of the Legislative Council (57th Parliament)

 Member of the Legislative Assembly (57th Parliament)

\*see notes, page 65

Total estimate  
**\$387,842**

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## The Members' Guide

34. The Parliament of Victoria Members' Guide provides guidance on the responsibilities and obligations of Members of Parliament. It is approved by both the President of the Legislative Council and the Speaker of the Legislative Assembly.
35. The Guide provides that Members' staff budgets can fund the employment of additional Electorate Officers to assist them in their parliamentary and electorate duties. It prohibits the use of Electorate Officers to support Members in their political or party duties. It also prohibits the transfer of Members' Electorate Office and Communication Budget between Members, and the use of a retiring Member's budget to communicate on behalf of a new candidate.
36. The Guide makes Members of Parliament personally responsible for ensuring that all expenditure from their Electorate Office and Communication Budget is lawful, and that the funds have been used for parliamentary or electorate purposes. It also advises that 'it may be in the Member's interest to satisfy themselves that expenditure is publicly defensible'.

## Did these activities breach the Members' Guide?

37. The plain objective of the Community Action Network campaign, for which Field Organisers were recruited, was to assist ALP candidates to win government in the 58<sup>th</sup> Parliament. This role was the sole or principal focus of most, albeit not all, of the Field Organisers employed as casual Electorate Officers, even on the dates on which they claimed to have worked as Electorate Officers. Field Organiser duties were given priority, and performance against prescribed targets was monitored by ALP campaign management each workday throughout the campaign.
38. On any reading, the use of Electorate Officers by Members of the 57<sup>th</sup> Parliament to campaign for the election of candidates to the 58<sup>th</sup> Parliament is party-political activity. In the absence of a clear demarcation between the roles, it stretches credulity for Field Organiser work to be considered work supporting the parliamentary or electorate duties of a Member of the 57<sup>th</sup> Parliament.
39. Field Organisers and ALP Members of Parliament alike defended the arrangement on the basis that the work overlapped and was useful to the nominating Member. The evidence showed that there was, for the most part, no practical demarcation between time claimed as Electorate Officer work and what was, on any interpretation, electoral campaigning. Field Organisers employed as casual Electorate Officers in 2014 worked at the direction of ALP election campaign staff, and were expected to do so on a full-time basis. Most Field Organisers did not observe any delineation between their work activities in each role.

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40. In these circumstances, the 60:40 split was an artifice to secure partial payment for Field Organisers out of parliamentary funds.
  41. Mr Lenders claimed that his design 'morphed' into something that was not intended, but it appears that there was no attempt at the outset to separate the roles. Field Organisers received no training in Electorate Officer work at the training week; most did not receive the Electorate Officer handbook at any time during 2014; and most never used the parliamentary email system.
  42. The evidence of the Field Organisers themselves was that it was 'a bit odd' to be told on the first day of work that they were going to be employed for two days a week in a job for which they didn't apply and about which they shouldn't tell anyone.
  43. Nor was the 60:40 split arrangement articulated to DPS, which administered the ALP staff pool, or approved by the Presiding Officers of the Parliament.
  44. The evidence before the investigation suggests that Members had been assured by Mr Lenders that this was a legitimate use of their staffing entitlements, and they believed they were contributing to a DPS-approved pooling arrangement. However, the arrangement contravened the Members' Guide in the following respects.

Clause 9 of the Members' Guide prohibits the use of Electorate Officers for the Member's 'political or party duties'

45. Nineteen ALP Members of the 57<sup>th</sup> Parliament breached this provision by employing 18 Field Organisers as casual Electorate Officers, whose time-sheets indicated they were performing Electorate Officer duties when they were in fact engaging in political or party activities on those dates. These Members were:

**Legislative Assembly (57<sup>th</sup> Parliament)**

Beattie, Elizabeth  
Carbines, Anthony  
D'Ambrosio, Liliana  
Eren, John  
Helper, Jochen  
Pakula, Martin  
Pandazopoulos, John  
Thomson, Marsha

**Legislative Council (57<sup>th</sup> Parliament)**

Broad, Candy  
Elasmar, Nazih  
Jennings, Gavin  
Leane, Shaun  
Lenders, John  
Lewis, Margaret  
Mikakos, Jenny  
Somyurek, Adem  
Tarlamis, Lee  
Tee, Brian  
Viney, Matthew

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Clause 8 of the Members' Guide requires Members to certify that funds have been used for parliamentary or electorate purposes

46. It may be true, as many witnesses asserted, that inaccurate time recording is accepted practice across many industries. However, this does not absolve the Members of Parliament of their personal responsibilities in relation to the stewardship of public funds, in signing time-sheets to authorise payments. The time-sheets contain a certification requiring the Member of Parliament to certify the details as correct.
47. The evidence indicates that the Members listed above breached this provision of the Guide. In respect of time-sheets for the training week, Johan Scheffer, former Member for Eastern Victoria Region, and the Hon Gayle Tierney MLC, Member for Western Victoria Region, also breached this provision of the Guide.

Clause 8 of the Members' Guide prohibits transfers of the Electorate Office and Communication Budget

48. Where Field Organisers were assigned to districts where the ALP candidate for election was a sitting Member of Parliament but not the Member signing their time-sheets, the Field Organisers' work was paid for in part from another Member's Electorate Office and Communication Budget. This breach applied to the following Members:

**Legislative Assembly (57<sup>th</sup> Parliament)**

D'Ambrosio, Liliana  
Eren, John  
Helper, Jochen  
Pandazopoulos, John  
Thomson, Marsha

**Legislative Council (57<sup>th</sup> Parliament)**

Broad, Candy  
Elasmar, Nazih  
Lewis, Margaret  
Mikakos, Jenny  
Somyurek, Adem

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49. Eight Members of Parliament signed time-sheets authorising payments to eight Field Organisers assigned to work in Legislative Assembly districts where the candidate for election in 2014 was not a sitting Member of Parliament. These Members were:

**Legislative Assembly (57th Parliament)**

Beattie, Elizabeth  
Pakula, Martin

**Legislative Council (57th Parliament)**

Jennings, Gavin  
Leane, Shaun  
Lenders, John  
Tarlamis, Lee  
Tee Brian  
Viney, Matthew

Clause 8.2.2 of the Members' Guide prohibits the use of a retiring Member of Parliament's budget to communicate on behalf of a new candidate

50. Between March and November 2014, seven retiring Members authorised payments in circumstances where those Field Organisers were not performing duties for their nominating Member. These now-retired Members were:

**Legislative Assembly (57<sup>th</sup> Parliament)**

Beattie, Elizabeth  
Helper, Jochen  
Pandazopoulos, John

**Legislative Council (57<sup>th</sup> Parliament)**

Broad, Candy  
Lenders, John  
Lewis, Margaret  
Viney, Matthew

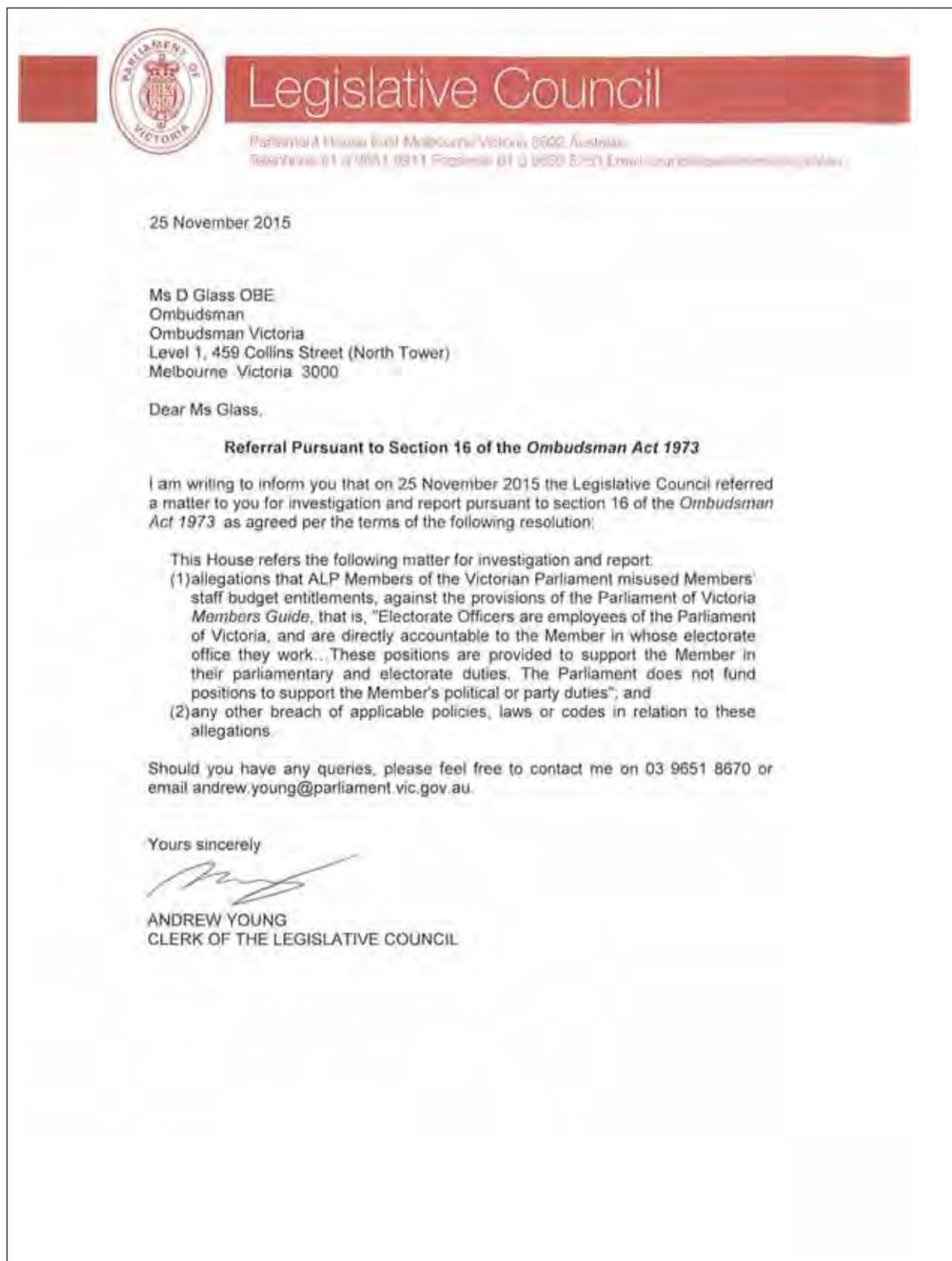
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## Conclusions

51. The vast majority of Field Organisers and Members of Parliament interviewed by the investigation said that Electorate Officer work was inherently political, and that the Members' Guide's direction that Electorate Officers should not engage in political activity was difficult – if not impossible – to satisfy. I accept this argument, but I believe a distinction can be drawn between political activity, which would encompass much traditional Electorate Officer work, and party-specific activity, which would not.
52. The other argument that surfaced regularly during our investigation was that this was simply an extension of an existing, approved pooling arrangement, and that 'they all do it'. It was not, and other political parties did not have similar arrangements. But the fact that approved pooling arrangements had existed for decades certainly muddied the waters, and Members signing up to the arrangements not unreasonably thought they were on familiar ground.
53. The Members of Parliament who signed time-sheets authorising payments to Field Organisers derived little or no personal benefit from the use of parliamentary funds for campaigning purposes, which almost invariably benefited the election prospects of others. These Members appear to have parted with a portion of their Electorate Office and Communication Budgets, in the mistaken belief that it was legitimate. They did not check with DPS or consult the Members' Guide.
54. Nor did Mr Lenders derive any personal benefit. However, he carries the greatest share of responsibility for these breaches of the Members' Guide. As a senior Member of Parliament, a former Minister and Treasurer, and Leader of the Government in the Legislative Council, his involvement would have been instrumental in giving credibility to the arrangement. There is undoubtedly a blurred line between permissible and impermissible uses of parliamentary funds, but in seeking to maximise the resources available to the ALP for the 2014 campaign, Mr Lenders crossed the line.
55. Recent reforms, such as the proposed introduction of the Parliamentary Integrity Adviser and bills currently before the Parliament, will go some way to preventing similar misuses of Electorate Officers. However, these reforms will not fill all the gaps identified by this investigation. Further reform is needed to give the public confidence that public funds could not be used in this manner in future.
56. The Members' Guide is not an enforceable document; it provides 'guidance' which, it would appear, few Members have even read. While ignorance of the law is no excuse, the question must be asked: how relevant and useful is this guidance, if it is poorly understood and widely ignored?
57. The Members' Guide needs not only to be revised, but more effectively embedded in Members' consciousness. The use of pooling arrangements should be reviewed. And stronger, independent investigation and enforcement powers are needed to respond to alleged breaches.

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## Letter of Referral from the Legislative Council 25 November 2015



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## Chapter 1.

# Scope and methodology of the investigation

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The investigation had some unusual challenges that affected both when and how it was conducted. This chapter looks at the impact of these external events on the conduct of the investigation, including the earlier referral of the allegations by the Leader of the Opposition to Victoria Police, the legal proceedings in relation to the Ombudsman's jurisdiction to investigate Members of Parliament, and the assertion by the Legislative Assembly of 'exclusive cognisance' – in effect seeking to limit the investigation to Members of the Legislative Council. This is followed by an outline of the investigation's approach through each phase.

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## The question of jurisdiction

### Referral from the Legislative Council and clarification of jurisdiction

58. When the matter was referred by the Legislative Council on 25 November 2015, it was only the fourth referral from Parliament under section 16 of the Ombudsman Act in the then 42-year history of the Ombudsman's Office. The previous cases were during the term of my predecessor.
59. It was immediately apparent from the debate in the Council before the Referral that the Ombudsman's jurisdiction to investigate Members of Parliament was in dispute.
60. I wrote to the Special Minister of State on 1 December 2015, noting the Government's view that I did not have jurisdiction:

I write to advise that I consider I do have jurisdiction in this matter. I observed in the report I tabled in Parliament on 25 November on another matter, that election matters are usually outside my jurisdiction, which is about the administration of government rather than the actions of elected officials – except in two circumstances: a protected disclosure complaint referred by IBAC, or a referral from Parliament itself.

I note that there have been two previous referrals under section 16: from the Legislative Council in December 2008, and from the Legislative Council Standing Committee on Finance and Public Administration in June 2010.<sup>1</sup> Both investigations involved interviewing Members of Parliament and their staff. No questions were raised about the Ombudsman's jurisdiction following the first referral. In the second, the then Attorney-General queried the Ombudsman's jurisdiction to investigate the actions of ministers. The then Ombudsman asserted that he had jurisdiction and this was not, ultimately, challenged.

I have no reason to form a different view. It is of course open to any affected party who questions my jurisdiction to apply to the Supreme Court under s. 27 of the Act, for a determination on that question.

61. The Special Minister of State replied to me on 14 December 2015:

Thank you for your letter dated 1 December 2015 indicating your view that you have jurisdiction to investigate the matters referred to you by Parliament on 25 November 2015.

As you note, the Government's view is that your Office does not have jurisdiction to investigate the matters in the referral. The Government's position is informed by legal advice provided by the Solicitor-General. I enclose this advice for your reference.

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<sup>1</sup> Subsequent to this letter the investigation identified a further referral under s 16: from the Legal and Social Issues Committee of the Legislative Council in March 2012.

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62. The Minister's letter enclosed legal advice obtained some months previously that had not hitherto been provided to my office. Having considered the advice, it was plain that my options were to accept it and decline the Referral; reject it and invite affected persons to challenge my jurisdiction in the Supreme Court; or to go myself to the Supreme Court to seek a determination.
63. I chose the last course, inviting any parties affected by the Referral to apply to the Court to join the proceedings, and making it clear that I would remain neutral. The President of the Legislative Council and the Attorney-General applied in February and March 2016 to join the proceedings, which were heard over a day and a half in May 2016.
64. The Supreme Court affirmed in a judgment on 26 August 2016 that I did have jurisdiction to investigate the Referral. The Government appealed this decision to the Court of Appeal, which unanimously dismissed the appeal on 9 December 2016. The Government then sought leave to appeal to the High Court of Australia. On 5 April 2017, the High Court dismissed the Government's application for special leave.

### **Police enquiries and commencement of investigation**

65. In September 2015, some two months prior to the referral, the Leader of the Opposition had referred the matter subject to the Referral to Victoria Police. On 26 November 2016, the day after receiving the Referral, I therefore wrote to the Chief Commissioner, Victoria Police:
- to consult as to whether an Ombudsman investigation would prejudice any criminal proceedings or criminal investigations (as provided for by section 13AB of the Ombudsman Act).
66. The Chief Commissioner replied on 9 December 2015 that Victoria Police 'is presently assessing a referral of an alleged electoral funding fraud involving the Victorian ALP' and requesting that the Ombudsman not proceed with a separate investigation at this stage, 'pending the outcome of our assessment'.
67. My investigation, which had formally commenced on 26 November 2015, was therefore held in abeyance until Victoria Police notified me on 8 June 2016 that:
- Victoria Police have assessed the claims made by The Hon. Matthew Guy MP and has not identified evidence to prove any criminal offence. No further action is proposed.

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68. By this time, the question of my jurisdiction was before the Courts, a question not resolved until 5 April 2017.
69. Between the Supreme Court decision on 26 August 2016 and the High Court decision on 5 April 2017, taking any steps in the investigation involved a delicate balancing act. On 22 September 2016, the acting Attorney-General, in communicating to me the Government's intention to appeal, wrote:

Despite the commencement of the appeal proceedings, the Government acknowledges that it is open to your office to commence investigating the matters referred by the Legislative Council and will not seek to prevent your office from doing so.

70. While this may have been the Government's intention, the position would not bind individual Members of Parliament whose conduct would be scrutinised. I anticipated those Members would be likely to seek to resist any use of coercive powers while the question of my jurisdiction was before the courts. I was also mindful that it would not be a good use of public funds to establish a full-sized investigation team while my jurisdiction remained in question. On the other hand, delay is inimical to an investigation and, at the least, I was concerned to secure and preserve evidence.

71. In September 2016 I began the process of obtaining and analysing the material that Victoria Police had obtained in its enquiries. Following discussions with Victoria Police I issued a summons for this material on 18 October 2016; it was provided in tranches in November and December 2016.
72. After the Court of Appeal decision in December 2016, a year after the Referral, I took the view that the public interest balance was in favour of proceeding with the investigation. A team of four Ombudsman investigators began working in January 2017, assisted by the Hon Murray Kellam AO, QC, who worked with me and the team as Strategic Adviser.

### **Parliamentary privilege and exclusive cognisance**

73. Arguments in relation to parliamentary privilege were first raised during the legal proceedings about my jurisdiction. However, no detailed consideration of how parliamentary privilege might apply to the Ombudsman's investigation was given during the litigation. Rather, the Hon Justice Cavanough in the Supreme Court observed that it is a matter for the Legislative Assembly to assert a privilege or immunity, not the Court.<sup>2</sup>

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<sup>2</sup> *Glass v President of the Legislative Council & Anor* ([2016] VSC 507 [22.2]) (Cavanough J).

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74. On 15 December 2016, after the Court of Appeal decision but before the question of jurisdiction was resolved by the High Court, the Hon Jacinta Allan MP, as Leader of the Assembly, wrote to me:

Although the terms of the referral are vague in several material aspects, it does seem to assert that the referral is purported to have application to Members of the Legislative Assembly.

To the extent that it does so, the referral by the Legislative Council interferes with the principle of exclusive cognisance, which refers to the “exclusive right of each House to manage its own affairs without interference from the other or from outside Parliament” (see *Regina v Chaytor* [2011] 1 AC 684 at 712 [63]-[64]). That principle is a longstanding and well-established principle. As observed in Blackstone’s Commentaries on the Laws of England, 17 ed (1814) at p 175:

...the whole of the law and custom of Parliament has its origins from this one maxim: ‘that whatever matter arises concerning either House of Parliament, ought to be examined, discussed, and adjudged in that House to which it relates and not elsewhere’.

The principle of exclusive cognisance has been applied and endorsed by the Supreme Court of Victoria in the context of the Parliament of Victoria (see *Ellis v Atkinson* [1998] 3 VR 175 and *O’Sullivan v Andrews and Anor* [2016] VSC 560).

On the basis of that principle, I write to advise that while you will be afforded every reasonable assistance in discharging your obligations, current and former Members and staff of the Legislative Assembly will not be available to participate in a matter that is the subject of a referral from the Legislative Council.

75. This was followed on 9 February 2017, the week that Parliament resumed after the summer break, by a Resolution of the Legislative Assembly regarding exclusive cognisance. The Resolution relevantly:

asserts the rights and privileges of the Legislative Assembly with respect to exclusive cognisance regarding members of the Legislative Assembly in relation to the matter referred to the Ombudsman by the Legislative Council on 25 November 2015, meaning that the Legislative Council’s Referral to the Ombudsman cannot be taken to apply to current or former members of the Legislative Assembly.

### **Ombudsman’s view on the Legislative Assembly’s assertion of exclusive cognisance**

76. In fulfilling my responsibility to Parliament to investigate the matter referred to me by the Legislative Council, I was obliged to consider whether the terms of reference were legitimately confined by the resolution of the Legislative Assembly.
77. I very carefully considered the Assembly’s Resolution, based as it was on the principle of exclusive cognisance, that is, the ability of each House of Parliament to manage its own affairs exclusively.
78. The authorities, including the *Chaytor* case referred to above, show that exclusive cognisance is part of the protection of parliamentary processes from judicial review or intrusion. The argument for limiting the scope of my investigation appeared to be based on the assertion that my investigation is equivalent to judicial review or intrusion, and that it is in breach of exclusive cognisance because only the House can review how or whether its Members complied with the Members’ Guide.

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79. In the *Chaytor* case, which concerned the susceptibility of a Member of Parliament to prosecution arising from allegations of submitting false claims for expenses to an administrative unit of the House of Commons, the House of Lords dismissed the claims of the Members that the prosecution against them infringed parliamentary privilege. In relation to exclusive cognisance I noted in particular the judgment of Lord Phillips, which observed:
- exclusive cognisance can be waived; and
  - Parliament may by legislation allow courts to encroach on matters falling within its exclusive cognisance, and thereby effectively waive the privilege.<sup>3</sup>
80. In light of the Court of Appeal having held that the Ombudsman has jurisdiction to investigate ‘any matter’ referred by a House or Committee of the Victorian Parliament, which was unambiguously affirmed by the High Court on 5 April 2017, it seemed that the enactment of section 16 of the Ombudsman Act is precisely an encroachment of the type considered by Lord Phillips.
81. In that regard, it is worth emphasising that the Ombudsman is an independent officer of the Victorian Parliament, with my independence enshrined in section 94E of the *Constitution Act 1975* (Vic).
82. When Justice Cavanough decided that I had jurisdiction to investigate the matter referred to me by the Legislative Council, he observed: ‘The provisions plainly envisage, in fact, that the Ombudsman will investigate members of Parliament’ [250]. The outcome of the proceedings does not suggest that my jurisdiction is in any way limited by the principle of exclusive cognisance.
83. If Parliament does not want the Ombudsman to investigate members of one House at the request of the other, or otherwise wants to limit the Ombudsman’s jurisdiction in dealing with a referral from Parliament, that is entirely a matter for Parliament. But it is not a matter solely for one House or the other; the appropriate course for Parliament is to amend section 16 of the Act.
84. In the absence of such an amendment, in my view, to adopt the course proposed in the resolution (that is, to limit my investigation to serving Members of the Council), is to thwart the clear intention of Parliament in section 16 of the Act as affirmed by the High Court.
85. Despite the resolution of the Legislative Assembly, I did not regard the scope of my investigation to be limited by the principle of exclusive cognisance. And while section 16 remains, it is not right for one House of Parliament to seek to thwart the Ombudsman’s jurisdiction on the basis that the Referral was made by another House.

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<sup>3</sup> *Regina v Chaytor* (2011) 1 AC 684 [63], [67–68].

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86. I note in passing that much of the debate in the Assembly when it asserted exclusive cognisance was around the concern that a small number of Members of one House could refer to the Ombudsman an endless stream of matters about the other House, presumably for political point-scoring. At that time, this risk had existed for over 40 years, during which Parliament had made use of the power four times.

### **The effect of assertions of parliamentary privilege and exclusive cognisance on the investigation**

87. The Assembly's assertion of exclusive cognisance – in effect, claiming that my investigation was limited to Members of the Council – did have a significant effect on the investigation.

88. After legal proceedings had concluded in favour of my jurisdiction, I decided not to seek to test my view in relation to exclusive cognisance. I considered that enough public money had been spent on legal proceedings, and it was possible to investigate the matter by focusing on the Council Members. To the extent that non-cooperation of Members of the Assembly was detrimental to the investigation, I intended to publish a report on the evidence available, and refer any gaps in the evidence to Parliament to get its affairs in order.

89. Curiously, while the principles of parliamentary privilege and exclusive cognisance have existed for centuries, no account of them appears to have been taken when the matter was first investigated by Victoria Police in 2015. The documents received from Victoria Police helpfully formed the basis for my team's initial analysis of who was involved and how, including current and former Members of the Assembly and the Council.

90. Getting further information in light of the Assembly's assertion of exclusive cognisance was more problematic. The Secretary of the Department of Parliamentary Services (DPS), who had provided material to the police, felt unable to provide any information to my office in relation to Members of the Assembly, and the provision of any information was somewhat delayed by his concerns about parliamentary privilege and the need to consult with the Presiding Officers of the Parliament.

91. The Assembly's assertion of exclusive cognisance and my decision not to test its validity in the courts also affected my use of coercive powers. I decided not to issue any summonses to Assembly Members, although I was prepared to do so for Electorate Officers/Field Organisers and Members of the Council whom we determined to be relevant to the investigation.

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## Parliamentary privilege

92. When the Hon Telmo Languiller MP, then Speaker of the Legislative Assembly, wrote to me on 9 February 2017 to advise of the Assembly's Resolution, he also stated that where 'someone seeks access to documents ... protected by parliamentary privilege, parliamentary officers dealing with the request must advise the relevant Presiding Officer or, where a Presiding Officer is unavailable, the relevant Clerk or Deputy Clerk'.
93. I responded in March to the new Speaker, the Hon Colin Brooks MP, requesting that he direct me to the source of the obligations referred to in the previous Speaker's letter. I also noted that I was concerned to ensure that parliamentary privilege was correctly observed and requested that if privilege were to be claimed for any document or information, the basis of that claim be articulated. While parliamentary privilege was a valid consideration, it needed to be considered case-by-case.
94. Other than to the police as referred to above, I therefore did not issue a summons to third-party holders of documents such as email service providers, who would not be able to assess a claim of privilege. Where documents and other information were sought from potential witnesses, consent was given to those witnesses to consult as appropriate in relation to privilege.
95. No claims of privilege were made in relation to any document sought by my team.

## The phases of the investigation

### Evidence gathering

96. After the initial phase of evidence gathering from Victoria Police, DPS and open-source material (including social media), the investigation focused on establishing the perspective and actions of the Field Organisers who had been identified as having been paid as Electorate Officers.
97. From photographs and posts on social media and employment records we identified 26 people who attended Field Organiser training, from which we identified a cohort of 21 people engaged as casual Electorate Officers, who commenced in March 2014. Employment records identified 23 Members of Parliament (14 Members of the Legislative Council and 9 Members of the Legislative Assembly) who had nominated them as their Electorate Officers.

### Interviews and use of coercive powers

98. Our approach was to invite cooperation from potential witnesses and subjects. Initially, we directly contacted all former Electorate Officers/Field Organisers to invite them to attend an interview. At that stage, only one former Electorate Officer/Field Organiser agreed to attend.
99. Analysis of materials identified eight other former Electorate Officers/Field Organisers whom investigators wanted to interview. Further approaches were made through their legal representatives and all eight eventually agreed to speak with investigators. While summonses were prepared in a number of these cases, it was not, in the event, necessary to issue them.

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100. From the evidence of these nine witnesses, a broadly consistent picture emerged of Electorate Officer/Field Organiser activities, as set out in this report. We provided this narrative in document form as a Request for Information to the Electorate Officers against whom the account had not been tested, inviting them to confirm or clarify.
101. Following the interviews of the Electorate Officers, we sought to interview three current or former Members of the Council who had employed them, and to explore their understanding of the Members' Guide. For the most part, there was a strong consistency in the evidence, from which a cogent narrative emerged. We felt this could be verified (or otherwise) by the remaining 20 Members of Parliament identified as having authorised payments to the former Electorate Officers/Field Organisers, without the requirement for interview unless they wished.
102. My view of the inapplicability of exclusive cognisance was bolstered by the strongly entwined nature of the relationships emerging from the evidence, that for the most part Electorate Officers/Field Organisers nominated by Members of the Legislative Council were campaigning for Members or candidates of the Legislative Assembly.
103. I therefore wrote to the remaining 20 Members of Parliament on 11 October 2017 to invite them to attend an interview, or to provide a written response to a Request for Information in the form of a statutory declaration. If a particular statement in the Request for Information did not match their recollection of events, they were requested to explain why this was the case and provide investigators with any documents that would assist the investigation.
104. While I was mindful of the assertion of exclusive cognisance, which three Members of the Assembly quoted in response, I was more mindful of the need to provide procedural fairness, as for the reasons described above I intended to provide a report making findings about Members of both Houses.
105. While three Members of Parliament responded to the Request for Information, most did not. I therefore prepared a draft report with provisional conclusions based on the available evidence, and provided redacted extracts to 22 Members of Parliament on 21 and 22 December 2017.<sup>4</sup>
106. In my covering letter to Members of the Assembly, I included my view in relation to exclusive cognisance, the reasons I had not sought to test it in the courts and my intention to include any response they may make in a final report.
107. No Member of the Assembly responded to the draft report. The ALP's legal representative advised on 9 February 2018:
- Insofar as the draft report refers to current or past members of the Legislative Assembly, the position remains that those MPs consider that the Legislative Council is not able to refer matters to the Ombudsman relating to the conduct of members of the Legislative Assembly. Those MPs adopt this position on the basis that they (a) consider that the Ombudsman's inquiry infringes on the doctrine of exclusive cognisance of the Houses of Parliament, and (b) the operation of the resolution adopted by the Legislative Assembly on 9 February 2017.

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<sup>4</sup> Investigators were unable to provide the redacted extracts of the draft report to one Member of Parliament on these dates. This Member of Parliament received the redacted extracts of the draft report on 4 January 2018.

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108. Despite this continued assertion of exclusive cognisance, neither the Members nor their legal representative have addressed the arguments first put to them in October 2017 about why I believe the doctrine does not apply in this case. In the circumstances, this report contains findings about Members of the Legislative Assembly as well as the Legislative Council.

### Establishing the landscape

109. We also interviewed a number of current and former Presiding Officers of the Parliament from both major parties to enquire into Parliament's practices regarding the Members' Guide and its application, and Parliament's employment of Electorate Officers as well as the introduction of section 30(4) of the *Parliamentary Administration Act 2005* (Vic) and its intended impact on the management of Electorate Officers.
110. Three other witnesses who were identified as having significant information relevant to the investigation were also interviewed.
111. Throughout the investigation we were mindful of the ALP's publicly stated claim that all parties engage in pooling, and their process was no different. In view of that, we sought evidence from the leaders of the Liberal, Nationals, Greens, and Labor parliamentary parties at the time of the 2014 election, as to their pooling arrangements, as well as DPS.

112. Former party leaders were invited to provide information relating to their understanding of the application of the Members' Guide and party practices in relation to the employment of Electorate Officers. Two party leaders attended an interview and two declined the investigation's invitation. A Victorian Greens Member of Parliament agreed to be interviewed in place of the 2014 Victorian Greens leader and the Hon John Lenders was nominated as the most appropriate person to provide this information in respect of the ALP.

### Opportunity for response to adverse comments

113. This report contains adverse comments, or material that could be perceived to be adverse, about the following Members of Parliament:

#### Legislative Assembly (57<sup>th</sup> Parliament)

Beattie, Elizabeth  
Carbines, Anthony  
D'Ambrosio, Liliana  
Eren, John  
Helper, Jochen  
Pakula, Martin  
Pandazopoulos, John  
Thomson, Marsha

#### Legislative Council (57<sup>th</sup> Parliament)

Broad, Candy  
Elasmar, Nazih  
Jennings, Gavin  
Leane, Shaun  
Lenders, John  
Lewis, Margaret  
Melhem, Cesar  
Mikakos, Jenny  
Scheffer, Johan  
Somyurek, Adem  
Tarlamis, Lee  
Tee, Brian  
Tierney, Gayle  
Viney, Matthew

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114. In accordance with section 25A(2) of the Ombudsman Act, I advise that all of the above-named individuals were provided with a reasonable opportunity to respond to adverse material in the draft report. Responses were received from:

Jennings, Gavin  
Lenders, John  
Lewis, Margaret  
Melhem, Cesar  
Mikakos, Jenny  
Scheffer, Johan  
Tierney, Gayle.

115. I have fairly set out their responses in this report.

116. In accordance with section 25A(3) of the Ombudsman Act, I advise that any other persons who are or may be identifiable from the information in this report are not the subject of any adverse comment or opinion. Individuals named in this report are either public officials, were performing public duties, were receiving public funds, directed Field Organiser duties or otherwise put their names into the public domain. I am therefore satisfied that:

- it is necessary or desirable in the public interest that the information identifies or may identify those persons included in this report, and
- it will not cause unreasonable damage to those persons' reputation, safety or wellbeing.

117. In reaching the findings in this report, the standard of proof I have applied is the balance of probabilities. In determining whether that standard has been met, I have considered the High Court decision of *Briginshaw v Briginshaw*.<sup>5</sup> Specifically, I have considered the seriousness of the allegations made and the gravity of the consequences that may flow from any adverse finding.

## Investigation statistics

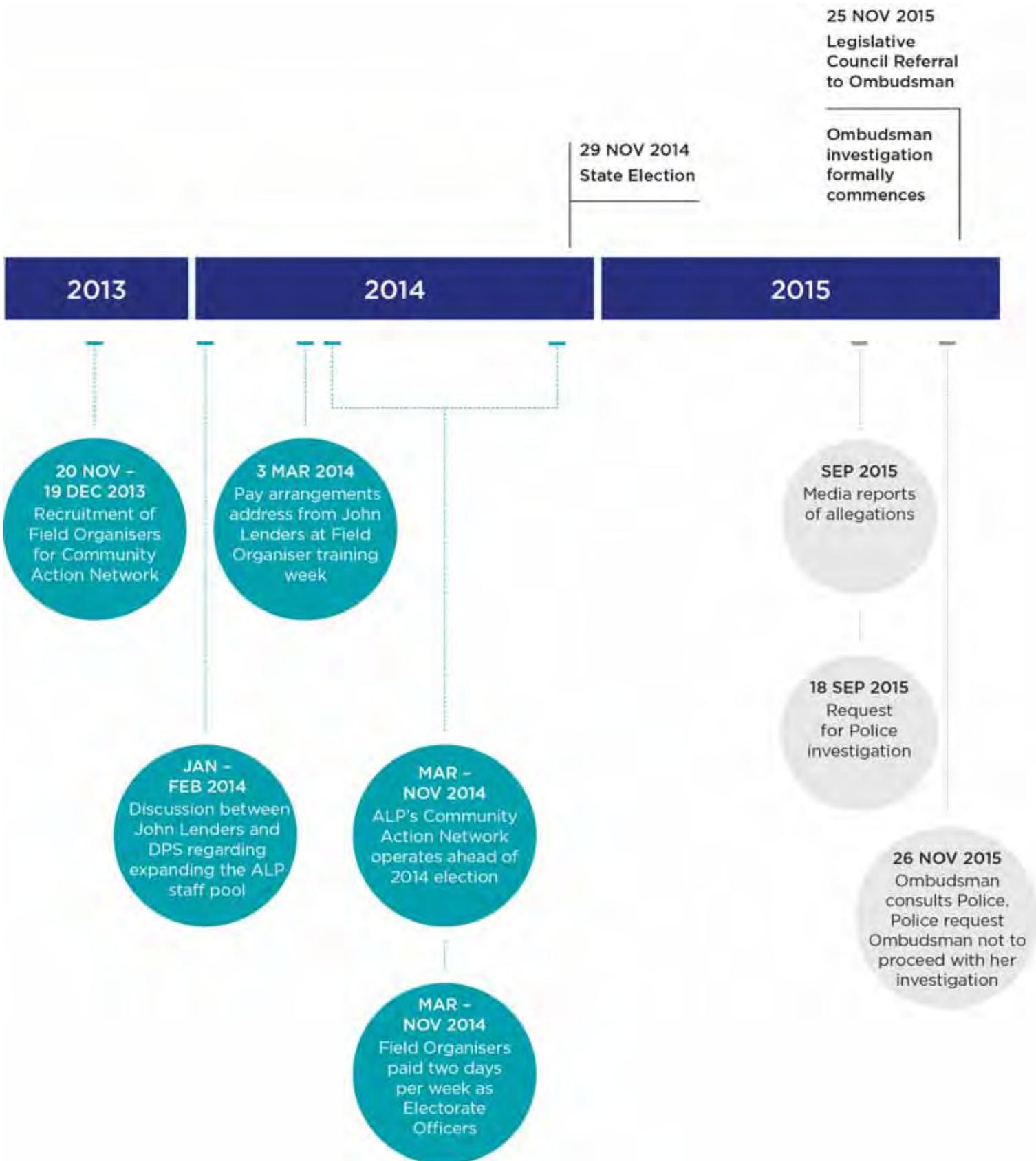
118. During the investigation of the Referral, investigators:

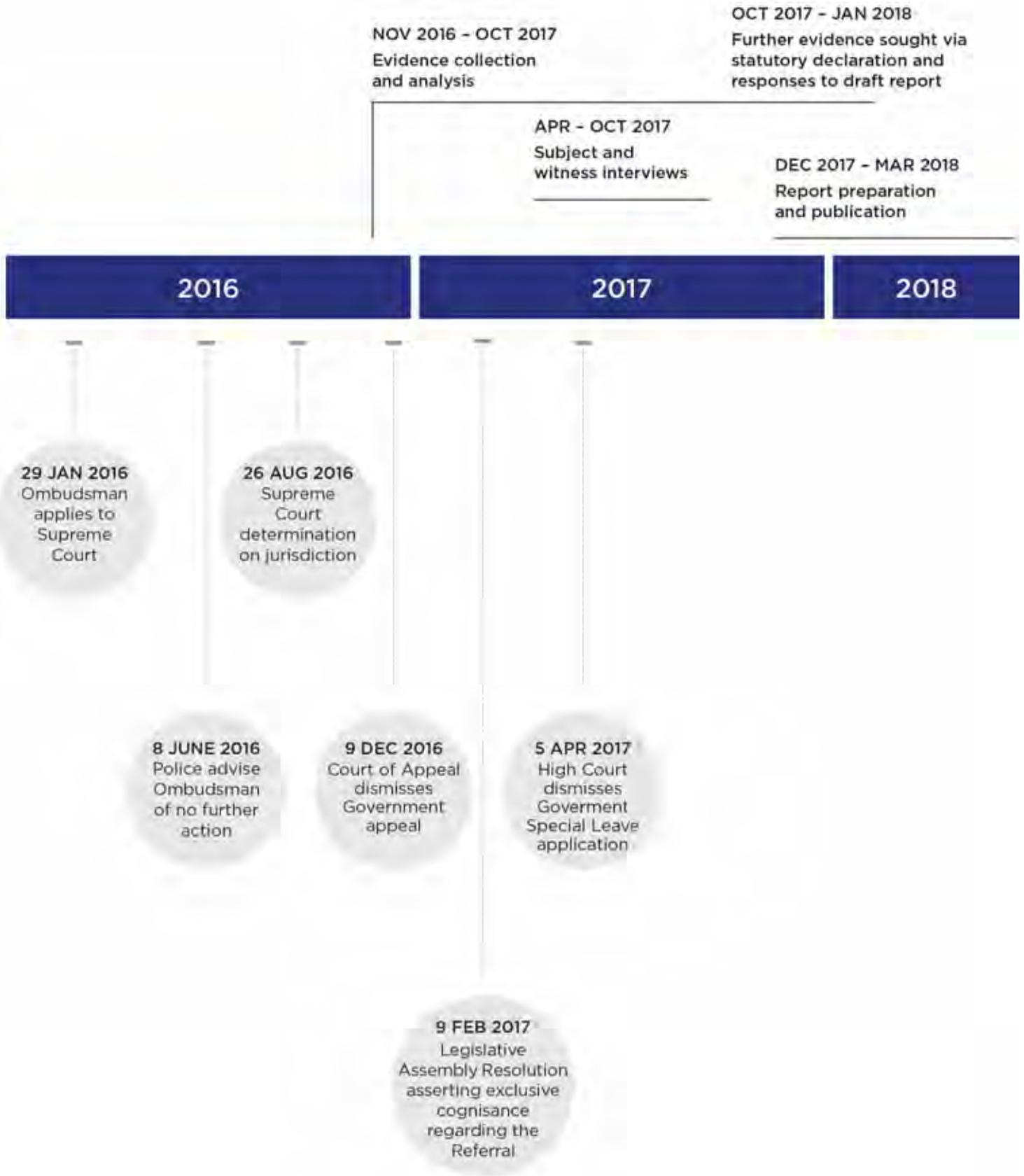
- analysed approximately 90,000 pages of evidence
- interviewed 21 people, totalling 46 hours and over 1100 pages of transcripts. Sworn evidence was provided by all persons interviewed. Lawyers were present for 12 interviews
- issued 35 confidentiality notices to protect the integrity of the investigation
- provided 25 redacted extracts from a draft report to 25 persons for their responses.

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<sup>5</sup> *Briginshaw v Briginshaw* (1938) 60 CLR 336

## Investigation timeline





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## Chapter 2.

# Employment of Field Organisers as Electorate Officers

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The first section of this chapter provides an overview of how the Victorian Branch of the Australian Labor Party recruited and trained Field Organisers for its Community Action Network for the 2014 Victorian election campaign. It describes the work undertaken by Field Organisers and how they were directed. It also refers to Members of Parliament authorising payments to particular Field Organisers for days of work as Electorate Officers. In most cases, these Field Organisers were paid by the ALP for three days' work per week as a Field Organiser and by the Department of Parliamentary Services (DPS) for two days' work per week as an Electorate Officer from March to November 2014.

This pay arrangement – commonly referred to as the '60:40 split' – appears to have been conceived by the Hon John Lenders, then the Leader of the Opposition in the Legislative Council, in consultation with the ALP Campaign Committee. Mr Lenders told investigators that although the arrangement would have been a legitimate use of Electorate Officer work, in practice it 'morphed' into an arrangement where employees did not perform Electorate Officer work at the times and dates on their DPS time-sheets.

The second section of the chapter includes the views of Mr Lenders, Members of Parliament, DPS, and the Electorate Officers/Field Organisers about the 60:40 split arrangement.

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## The ALP's 2014 Victorian election campaign

### The 2013 trial

119. The Victorian branch of the ALP trialled a Community Action Network strategy for the 2013 federal election. The strategy drew on three sources: the lessons of the ACTU's 2007 'Your Rights at Work' campaign, community organising tactics developed by unions, and the grassroots approach used during the United States presidential campaign of Barack Obama in 2012.

120. Stephen Donnelly, then the Victorian Federal Campaign Coordinator, described the Community Action Network as a 'significant evolution in the way political campaigns are run':<sup>6</sup>

The aim of Victorian Labor's federal campaign strategy was to cut through all the noise of an increasingly hostile mainstream media to persuade undecided voters in target seats with personal one-on-one conversations.

We would do this by organising thousands of progressive activists using the neighbourhood team model into a network of dedicated, well-trained activists who would have a personal conversation with voters in their own local areas and convince them to vote Labor.

121. Mr Donnelly attributed the ALP's better-than-expected performance in Victoria in the 2013 federal election to the work of the 2013 Victorian field campaign, and noted that the ALP would continue to refine it for future campaigns: 'this new style of campaigning was never a trial. It is just the beginning'. He wrote:

... we now have a corps of community activists across metro and regional Victoria with campaign experience.

This group of people was brought together in just three months. Next year, we have a State election in November and in years to come another Federal Election. There's a lot we can build in that time.

122. In 2014, the Victorian ALP adopted a similar approach as part of its campaign for the Victorian election.

### Employment of Field Organisers for the Community Action Network

#### *Recruitment: November 2013 - January 2014*

123. On 20 November 2013, Mr Donnelly sent an email to ALP members with the subject 'Seeking enthusiastic campaigners for 2014' (Annexure 1). The email stated that Victorian Labor was taking applications for 'full time Regional Field Directors and Field Organisers to be employed for the State election campaign' and listed Mr Donnelly - Assistant State Secretary of the Victorian branch of the ALP - as the contact for more information.

124. On 29 November 2013, Mr Donnelly sent a further email indicating that the interview process would begin in early December and conclude on 19 December (Annexure 2).

125. This email included a link to a 'Field Organiser Candidate Preliminary Survey', which applicants were asked to complete by 3 December. Among other things, this survey included questions on applicants' ability and willingness to work longer hours than a standard week and more than five days per week.

126. The position description for the Field Organiser role was attached to the 29 November 2013 email. It highlighted that the role would initially be 40 hours per week but, during the final 40 days of the campaign, would involve '7 days a week with longer hours'. The role involved being 'the face of Victorian Labor'. The position description read:

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<sup>6</sup> Stephen Donnelly, 'The Silver Lining', *Evolve*, December 2013. Subsequent quotes in this Chapter are from the same article.

Figure 1: Field Organiser position description (attachment to email from Stephen Donnelly dated 29 November 2013)

[REDACTED]

**Position: Field Organiser**

Victorian Labor is now taking applications for full time Field Organisers to be employed for the state election campaign starting from March 3 through the November 29 State Election.

The campaign is looking for outgoing, passionate, hardworking people to join our state campaign team across Victoria to be a part of the most exciting and innovative campaign to happen in a generation.

**Job description**

Field Organisers are the face of Victorian Labor in communities across Victoria, working to advance our agenda and grow the grassroots movement we are building to help us win State Government in November, 2014.

The primary responsibility of a Field Organiser is to recruit, manage and train volunteers to organise their communities and neighbourhoods into teams that persuade and motivate voters through making phone calls and doorknocking.

Field Organisers' responsibilities include but are not limited to developing a plan to organise their communities based on its unique characteristics; identifying and cultivating volunteer team leaders; planning and executing events and training; building relationships with community leaders; and ensuring data integrity. Field Organisers will report to a designated Regional Field Director.

**Skills required**

We're looking for a few specific qualities in anyone interested in becoming a Field Organiser: Flexibility and a sense of humour are required, and you must be goal driven and receptive to coaching and constant training and evaluation. We want people who are passionate about their communities, have strong Labor values and possess a can-do attitude to help build the biggest volunteer network Australia has ever seen.

This job requires long hours, can be very stressful, and isn't remotely glamorous. While you will start by working 5 days a week and 40 hours per week, your responsibilities will likely mean that you'll be working 7 days a week with longer hours during the final 40 days of the campaign.

Additionally, potential Field Organisers should also meet the following qualifications:

- Strong interpersonal skills, experience meeting deadlines and the ability to manage many tasks simultaneously;
- Must be self-motivated and willing to work long hours (including nights and weekends);
- Must have strong communications skills and be comfortable interacting with diverse communities and leaders;
- Candidates will have proven leadership and management skills;

[REDACTED]

- Candidates must be dedicated to the importance of training volunteers and be willing to receive constant coaching and skills training.
- A commitment to the field campaign's core principles of LEAD, CONNECT, RESPECT
- Strict adherence to the cultural norms of flexible, solutions and goals-oriented, and positive campaigning

**Conditions of employment**

Employment wages and conditions will be underpinned by the ALP (Victorian Branch) Staff Enterprise Agreement. The salary will be \$63,256 p.a. and a tablet and phone will be provided.

Applications must be submitted by COB Friday 29 November. Formal applications must be made to Victorian Branch Assistant Secretary Stephen Donnelly:

Email: [REDACTED]  
Mail: [REDACTED]

- 
127. Short-listed applicants were asked to contact an officer at the ALP's Victorian branch office to schedule an interview. With one exception, the Field Organisers who provided information to the investigation confirmed that they were interviewed by Mr Donnelly and other staff involved with the Community Action Network at the Victorian branch of the ALP's Docklands head office.
  128. Successful applicants were notified in late December 2013 and received formal letters of offer. The letters of offer were signed by Noah Carroll, at that time the State Secretary of the Victorian branch of the ALP (see Figure 2).
  129. The letters of offer reiterated that the Field Organiser position was a full-time, fixed-term role starting on 3 March 2014 and continuing until 29 November 2014. The letters also confirmed the terms and conditions listed in the position description.
  130. On 29 January 2014, Mr Donnelly emailed successful applicants for the Field Organiser position (see Figure 3) and advised them that they would start on 3 March 2014 with a six-day 'intensive training and briefing program' at the Victorian branch office.
  131. Consistent with the position description and Mr Donnelly's email, the Field Organisers were employed to work in that role from 3 March 2014 to the election on 29 November 2014.

#### Training program: 3-7 March 2014

132. The training schedule for 3 March 2014 (Annexure 3) included an address to the Field Organisers by Mr Lenders, then the Leader of the Opposition in the Legislative Council. Mr Lenders attended with one of his Electorate Officers, Jadon Mintern.
133. During his address, Mr Lenders informed the Field Organisers that most of them would also be employed by the Parliament of Victoria as Electorate Officers on a casual basis.
134. Mr Lenders' rationale for, and Field Organisers' response to, this 60:40 split arrangement are discussed in 'Field Organiser pay arrangements' in this chapter.
135. On 4 March, Field Organisers received training from ALP campaign management about volunteer recruitment.
136. On 5 March, Field Organisers convened at Flagstaff Gardens to commence a training activity that involved approaching people on the streets of Melbourne. At interview, several Field Organisers confirmed that the purpose of approaching people was to identify potential volunteer recruits for the Community Action Network.
137. Jake Finnigan was one of the Field Organisers who took part. He described the aim of this exercise as practising how to approach people in the street to obtain their contact details with a view to recruiting them as volunteers for the ALP's Community Action Network for the 2014 Victorian election campaign.

Figure 2: Letter of offer to successful Field Organiser applicants, 19 December 2013

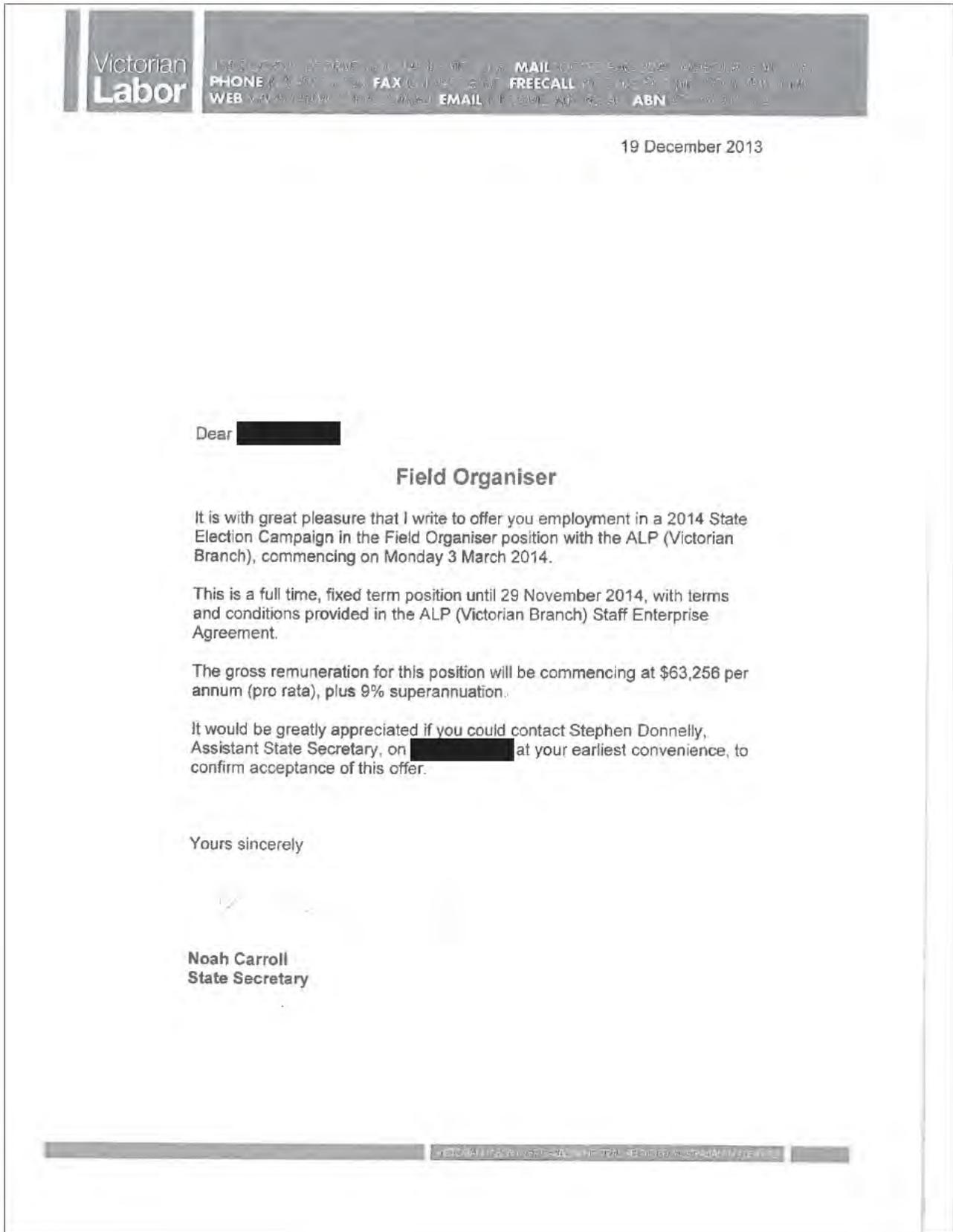


Figure 3: Email from Stephen Donnelly to ALP Field Organisers, 29 January 2014



138. Field Organiser Jamie Mileto recollected being sent out with cards captioned 'This is Labor' to 'recruit people to the cause' and to collect their contact details. A social media post from Alexandra Manning, who was at that time employed by the ALP as a Regional Field Director for the Community Action Network, confirms this recollection (see Figure 4).

139. Field Organiser Justin Barbour agreed that the exercise was a practical trial for the voter contact work. Bastian Simrajh, another Field Organiser, said at interview:

We were interacting with members of the community asking them whether they were Labor supporters or what issues they thought were important to them, and if they would be interested in getting involved in the campaign to win Government in November (see Figure 5).

140. Field Organiser Jackson Hitchcock remembered 'having to go around Melbourne and engage people about issues that they cared about':

**Investigator:** So, when you say 'engage', what do you mean by that?

**Mr Hitchcock:** I guess ask people what they cared about and with the ultimate goal of getting them to commit to take action in the upcoming election. Grab their contact details onto a card.

**Investigator:** When you say 'Take action in the upcoming election', what action would that be?

**Mr Hitchcock:** Any action.

**Investigator:** Any action?

**Mr Hitchcock:** Well, I mean it was quite an unspecific ask. But, any action, I guess. Volunteering, voting, writing a letter. Any action.

**Investigator:** And who was the action for?

**Mr Hitchcock:** For the Labor Party.

141. On 6 March, Field Organisers received 'train-the-trainer' training for the first half of the day. This training was essential for Field Organisers to meet the team training benchmarks set out in the '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document (discussed in this chapter). At interview, several Field Organisers confirmed that the focus was how to train Community Action Network volunteers to train and manage other volunteers.

Figure 4: Twitter post dated 5 March 2014 by a Regional Field Director for the ALP Community Action Network



Time of post from source data:  
1:47 pm, Wednesday 5 March 2014

142. Field Organiser Wallace Huang described the objective of training volunteers as 'essentially training them to almost outsource your own job'. Mr Barbour explained that part of the Field Organiser role involved training people:

to be volunteer leaders so that they could lead activities. The purpose of that was to expand capacity and kind of ensure that we didn't have to be around all the time.

143. While Mr Hitchcock could not 'really remember the details of the session' he agreed that training volunteers how to train other volunteers was 'the definition that comes to mind'.

144. This training was delivered by ALP Training Director Nicola Castleman, as shown in the photograph posted on Twitter by Mr Donnelly at 9:29 am on 6 March 2014 (see Figure 6).

Figure 5: Twitter post dated 5 March 2014 by a Field Organiser



Time of post from source data:  
11:20 am, Wednesday 5 March 2014

Figure 6: Twitter post dated 6 March 2014 by Stephen Donnelly of training delivered by the ALP Training Director



Time of post from source data:  
9:29 am, Thursday 6 March 2014

145. On 7 March, a photo was posted on the Facebook page of the Hon James Merlino MP showing Mr Merlino with 25 people described as 'passionate, hard working & dedicated Organisers' who were part of 'Labor's 2014 Field Campaign' (see Figure 8). All of the Field Organisers were wearing a red t-shirt or sweatshirt/hoodie marked with the words, 'Organiser Labor 2014'.<sup>7</sup>
146. Contemporaneous social media posts confirmed that the Field Organisers received the red t-shirts, sweatshirts/hoodies, and other campaign-related materials on the last day of training (see Figure 7).



Figure 7 Twitter post dated 7 March 2014 by Stephen Donnelly showing bags of campaign-related materials

Figure 8: Photograph posted to the Facebook page of the Hon James Merlino MP on 7 March 2014

Time of post from source data:  
3:16 pm, Friday 7 March 2014



<sup>7</sup> The photograph does not include one casual Electorate Officer who attended the training. It includes four permanent part-time or full-time Electorate Officers as well as one Field Organiser who was employed solely by the ALP from March to October 2014.

Time of post from source data:  
5:12 pm, Friday 7 March 2014

**Work performed as Field Organisers:  
10 March - 29 November 2014**

147. Field Organisers began post-training work for the Community Action Network in the week starting 10 March 2014.

148. The document '2014 Victorian Field Program Field Organiser Roles & Responsibilities' (Annexure 4), which was provided during the training week, sets out tasks, obligations and typical work schedules. Figure 9 shows the key responsibilities of Field Organisers outlined in the document.

Figure 9: 'Topline Responsibilities' as outlined in '2014 Victorian Field Program Field Organiser Roles & Responsibilities'

**Topline Responsibilities** – if you were trapped in an elevator with someone you don't know who asks you what you do as an FO, this is what you should tell them:

- Build 1 volunteer team in Labor's Community Action Network in your local campaign;
- Hold 5 introductory 1:1s per week with Volunteer Prospects;
- Recruit 5 new volunteers every week to complete one voter contact shift;
- Train volunteers how to perform various methods of voter contact;
- Train volunteers how to recruit other volunteers;
- Train volunteers how to train other volunteers;
- Ensure that all data produced by your local campaign is tracked in Campaign Central;

**FIELD ORGANISER ROLES & RESPONSIBILITIES**

6

- Work with your Regional Field Directors to plan and execute field events in your local campaigns;
- Have a regular 1:1 meeting with your Regional Field Director;
- Hold a weekly 1:1 meeting with your campaign staff and/or candidate;
- Participate in weekly state-wide hook up;
- Execute one team building or volunteer recruitment event every week.

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149. The document emphasises the complete and accurate entry of collected data into the ALP's Campaign Central database: 'If it is not in Campaign Central, it does not exist' (see Figure 10).<sup>8</sup>

Figure 10: 'Data & Reporting' responsibilities as outlined in '2014 Victorian Field Program Field Organiser Roles & Responsibilities'

### **Data & Reporting:**

Accountability is a key component of the 2014 Victorian Field Program. Below is a list of norms that every FO is accountable to when it comes to data and reporting:

- If it is not in Campaign Central, it does not exist;
- You may not leave the Field until all data generated by your campaign that day has been entered into Campaign Central;
- You must complete a qualitative report every day before you go home;
- If you cannot enter your data into Campaign Central and/or complete your night qualitative report for some reason, you must inform your RFD. It is unacceptable to not explain why you cannot enter data or complete a nightly qualitative report before the end of the day;
- Your progress-to-goal and performance evaluation will only be based on data in Campaign Central.
- The 2014 Federal Field Program will not feature a nightly reporting call.
- You will be required to participate in a Statewide hook-up at 6:00 PM every Saturday to discuss the end of the goal week and the week ahead.

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<sup>8</sup> The reference in this document to the 'Federal Field Program' appears to be an error.

150. At interview, Field Organisers Mr Mileto and Calum Walker confirmed the importance placed on data collection and entry.
151. The document concluded with a section titled 'Week 1 Priorities', which noted that '[y]our first day in the field is going to be hectic' and provided a list of priorities and objectives for the first week (see Figure 11).
152. During the training week, Field Organisers also received an undated one-page document titled '2014 Victorian Field Program', which set out the four phases of the program (see Figure 12). Each phase had clear start and finish dates and a stated focus: list and organisation building, community engagement and team building, team trainings, and voter persuasion.
153. All but the last phase, entitled '**Win the Vote**' (emphasis in original), included performance benchmarks for the Field Organisers. The benchmarks related to the number of volunteers recruited, teams assembled, delivery of training (including train-the-trainer training) and strategic briefings for volunteers.

Figure 11: 'Week 1 Priorities' as outlined in '2014 Victorian Field Program Field Organiser Roles & Responsibilities'

**Week 1 Priorities:**  
Your first day in the field is going to be hectic. To help you organise all the demands on your time, you should head into your first week in the field expecting to work towards the following objectives:

<b>Planning</b>	<ul style="list-style-type: none"> <li>■ Schedule regular meetings with RFD</li> <li>■ Schedule recurring meetings with campaign staff and/or candidate to take place weekly</li> <li>■ Set a date for your Strategic Briefing</li> </ul>
<b>Recruitment</b>	<ul style="list-style-type: none"> <li>■ Hold 5 Intro 1:1s</li> <li>■ Complete at least 30 volunteer recruitment calls into Campaign Central per day</li> <li>■ Recruit for your CAN Strategic Briefings</li> </ul>
<b>Training</b>	<ul style="list-style-type: none"> <li>■ Train 1 volunteer how to make volunteer recruitment phone calls</li> </ul>
<b>Daily Tasks</b>	<ul style="list-style-type: none"> <li>■ Participate in daily check-ins</li> <li>■ Read Daily Priority Emails from your RFDs</li> <li>■ Introduce yourself to your campaign staff and explain the Field Program</li> </ul>

154. At interview, Field Organisers elaborated on the four phases.

155. Michael Waters recalled that phase one (roughly March to May) was about recruiting volunteers, phase two was about team building, phase three was about training volunteers in persuasion, and phase four (which started in September and continued to 29 November) was actual persuasion. Mr Waters could not recall the time frames for phases two and three.

156. Mr Simrajh recalled that the first phase 'was to enable us to acclimatise to our individual campaign environments' and to reach out to 'people who would be good Labor Party volunteers'. He confirmed that the second phase involved organising teams who would motivate voters through phone calls and door knocking, as well as training existing recruits to train other volunteers.

157. Mr Simrajh stated that the 66-day final phase to the 29 November election 'was the persuasion phase where we were actively convincing people to vote for the Labor Party'.

Figure 12: '2014 Victorian Field Program' document recording phases of 2014 Community Action Network campaign

## 2014 VICTORIAN FIELD PROGRAM

**Phase I - 11 March - 31 May**

- Focus: List and Organisation building
- Benchmarks:
  - 9 volunteers on the Prospective Leader Checklist (3 for each role)

**Phase II - 1 June - 2 August**

- Focus: Community Engagement and Team Building
- Benchmarks:
  - 6 volunteers in Step 1 (2 for each role) - **2 July**
  - 1 complete Team in each campaign - **15 August**

**Phase III - 3 August - 13 September**

- Focus: Team Trainings on persuasion and strategic briefings
- Benchmarks:
  - 1 Full Team Training on persuasion and strategic briefings - 13 September
  - 15 persuasion trainers in each campaign - 13 September
    - 10 phonebank persuasion trainers
    - 5 doorknock persuasion trainers
    - Each persuasion trainer has a goal of training 10 volunteers on persuasion doorknocking or phonebanking

**Phase IV - 14 September - 29 November - Win the Vote**

- Focus: Persuasion

Figure 13: 'How to structure a persuasion conversation' document provided to Field Organisers during training in March 2014

**HOW TO STRUCTURE A PERSUASION CONVERSATION**  
*It's all about values*

A persuasion conversation is a meaningful conversation between a trained volunteer and an undecided voter about Labor's values and accomplishments. In all persuasion conversations, our goal is to establish a connection between the voter and the Party through the volunteer.

**The 4 P's of Persuasion**

**1 – Probe, Acknowledge, and Relate**

- *What we want to do:* Figure out what matters to the elector and connect with them on a personal level.
- *How we do it:* Ask questions about what issues matter to the elector. Listen and validate the elector's concern. Find common ground. Use parts of your story to connect to the elector.

**2 – Point to Values**

- *What we want to do:* Establish a connection between you, the voter, and the Party.
- *How we do it:* Point out the value(s) that you share with the Party/Candidate/MP, and connect that value to the voter's interests.

**3 – Pivot to Plans and Accomplishments**

- *What we want to do:* Continue to build a connection between the up for grabs voter and the Party.
- *How we do it:* Shift to a Party/Candidate plan or accomplishment that impacts the voter.

**4 – PUNCH! With Contrast**

- *What we want to do:* Explain the difference between Labor & the Opposition in a meaningful way.
- *How we do it:* Discuss what a Labor or Liberal win will mean for the elector and their family or community.

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158. Mr Finnigan described his duties as:

... managing street stalls, phone banking and trying to recruit potential volunteers to the Community Action Campaign. I believe that door knocking was scheduled for later in the campaign, and after I resigned from the Field Organiser position in April 2014.

159. The final 'persuasion' phase involved following the methods set out in a further document, 'How to structure a persuasion conversation', provided to Field Organisers at the training week (see Figure 13).

160. Mr Walker stated that Field Organisers were given this document during training and confirmed that it was the process used in volunteer recruitment, as well as the structure that volunteers used to conduct persuasion conversations with constituents.

161. The document is explicit in its goal:

A persuasion conversation is a meaningful conversation between a trained volunteer and an undecided voter about Labor's values and accomplishments. In all persuasion conversations, our goal is to establish a connection between the voter and the Party through the volunteer.

### **Management and direction of Field Organisers**

162. The '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document notes that '[a]ccountability is a key component of the 2014 Victorian Field Program'. Under the heading 'Daily Check-ins', it instructed the Field Organisers that '[t]o ensure accountability and that you are aware of your most important daily tasks, you will participate with the other FOs in your Region in a daily check-in to be convened by your RFD [Regional Field Director]'.

163. The document states that '[t]he 2014 State Field Campaign is a vertical structure that communicates with a clear chain-of-command', and that Field Organisers 'must first reach out to [their] RFD as [their] first Point-of-Contact' with any questions.

164. In keeping with these instructions, Field Organisers had daily teleconferences with their Regional Field Director and other Field Organisers assigned to that same director. There was also a weekly teleconference at 6:00 pm on Saturdays, involving all field campaign staff, where the Regional Field Directors presented the week's outputs and Field Leadership provided an update.

165. At interview, several Field Organisers named their Regional Field Director as their primary contact. Mr Finnigan said that his duties were coordinated each morning by Owen Wrangle, his Regional Field Director. Mr Walker stated that Tom McDermott, his Regional Field Director, was the person he contacted each morning and who directed his activities: 'That's his job'. Mr Barbour said that he reported to Ms Manning, his Regional Field Director.

166. Field Organiser Katherine Hardy stated that most contact was with her Regional Field Director, Ms Manning, but that she would also hear from the Field Director, the Training Director, other deputies, or Mr Donnelly.

167. Mr Simrajh also mentioned several contacts. In response to a question about who he would contact if he could not go to work, he said he would speak to his Regional Field Director or 'directly' to Mr Donnelly.

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## Did Members of Parliament direct activities?

168. Such lines of reporting are not inappropriate for Field Organisers engaged by the ALP to work on an election campaign. However, 21 Field Organisers were also engaged as casual Electorate Officers – a role designed to support Members of Parliament in their parliamentary and electorate duties. As discussed in this chapter and following chapters, Victorian Members of Parliament’s staffing entitlements are set out in the Members’ Guide. Section 30(4) of the *Parliamentary Administration Act 2005* (Vic) confers a power on Members of Parliament to determine their Electorate Officers’ duties, despite the Presiding Officers being their employers pursuant to section 30(1) of that Act.
169. Some Field Organisers told investigators that they did not take direction about their work duties or responsibilities from their nominating Member of Parliament or that Member’s electorate office staff.
170. Mr Barbour, for example, was emphatic in stating that he only engaged in ‘small talk’ with his nominating Member, Mr Lenders, on those occasions when Mr Lenders was in the electorate office. Mr Barbour could not recall Mr Lenders ever speaking to him about the election campaign and stressed that it was Ms Manning who gave him directions while he worked as a Field Organiser.
171. When asked about the level of his involvement with the Hon Gavin Jennings MLC, Mr Hitchcock described his contact as ‘very minimal’. He noted that contact with Mr Jennings’ staff was administrative in nature (such as emailing them his time-sheets).
172. Ms Hardy said it was ‘very clear’ that Ms Manning was her manager, not Mr Lenders (her nominating Member of Parliament) or Nick Staikos MP (the non-sitting ALP candidate for Bentleigh at the 2014 election). She also noted that when Mr Lenders was in the office, communication was of a general nature: ‘He would say “hello” and “how is it going?”, and stuff’. Her only written communication with him was to ‘email a couple of times about messages’.
173. Mr Waters stated that he was never directed by Candy Broad MLC (his nominating Member of Parliament and a Member for Northern Victoria Region until May 2014), nor did he receive ‘explicit directions’ from Margaret Lewis MLC, who replaced Ms Broad in the Legislative Council in June 2014 following Ms Broad’s retirement:
- She [Ms Lewis] spoke about what I would be doing in my role, and that some days that I would be employed by her, and then ultimately, sort of, be feeding information back to her ... with the issues that I would be raising. They never did get back to her, but that was what we were speaking about.
174. Mr Waters also told investigators that he did not notice any practical distinction between the work he performed on the days recorded in time-sheets submitted to DPS and other days worked as a Field Organiser.

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175. Mr Walker made the same point about his relationship with Ms Lewis, whom he said he had met 'a couple of times':

**Investigator:** Did you have a conversation with her [Ms Lewis] about what you were doing with the role or anything like that?

**Mr Walker:** ... She understood that I was based in Yan Yean but that I was on her payroll, and I think she kind of encouraged me to keep my head down and, you know, keep working hard at Yan Yean.

**Investigator:** What did she say to you about being on her payroll?

**Mr Walker:** Well, she said she understood that I was employed on her payroll.

**Investigator:** And did she explain to you what she understood the job that you were employed to do?

**Mr Walker:** Yes, my understanding and recollection is that she understood the role that I was doing.

176. In a statutory declaration, Field Organiser Samantha Towler told investigators that during her employment from March to November 2014, she was not tasked or managed on a day-to-day basis by the Hon Marsha Thomson MP (her nominating Member of Parliament) or Ms Thomson's electorate office staff.

### Three Field Organisers received direction from their nominating Member

177. In contrast, three Field Organisers told investigators that they did receive tasking and instructions from their nominating Member in connection with their work as part of the Community Action Network.

178. Mr Huang said at interview that he was directed by both his Regional Field Director and his nominating Member, Lee Tarlamis:

**Mr Huang:** So, for instance, the MP ... which I was associated with [Mr Tarlamis], we would have regular meetings and, basically, I would report to him activities that are coming up - campaign or other kind of events that we would want to plan together.

[...]

**Investigator:** Were you tasked to do duties by the Regional Field Director, by Mr Tarlamis, or both?

**Mr Huang:** Sorry, both would be probably accurate.

179. Mr Huang suggested the distinctions between his Field Organiser and Electorate Officer work were blurred. This is discussed later in this report.

I was always treated as part of Lee's staff, so I participated in his staff meetings as such. But, obviously, my day-to-day focus was talking to constituents who were sympathetic to Labor.

[...]

In terms of events, that was obviously a natural function for me to coordinate. So, obviously - so, generally, when I say 'around events', these events were because some campaigns had this thing where the Field Organisers would run their own events and the campaign, or the MP in their own capacity, run certain events and those things would overlap of each other.

[...]

We always went with an approach where those things were one and the same.

- 
180. In a statutory declaration, Field Organiser Marcus Feaver stated that he worked from a number of locations during his employment as an Electorate Officer and Field Organiser in 2014, including the electorate office of his nominating Member, the Hon Gayle Tierney MLC. Mr Feaver stated that Ms Tierney had insisted that he perform Electorate Officer work on days claimed in time-sheets submitted by DPS.
181. Mr Feaver stated that 'from the outset', Ms Tierney made it clear to him that he was to divide his time 'between doing Electorate Officer work in her office and doing Field Organiser work' for the ALP candidate's campaign in South Barwon District. Mr Feaver stated that he performed the role of a Field Organiser when he was not working for Ms Tierney. Mr Feaver added that, as the South Barwon electorate was her 'duty seat', Ms Tierney took a 'particular interest in issues arising in that electorate and the success of Mr Richards' campaign'. Andy Richards was the non-sitting ALP candidate for South Barwon District at the 2014 state election.
182. At interview, Mr Simrajh stated that he took directions from several people, including Tony Clark (the ALP candidate for Ringwood District), Field Leadership, Owen Wrangle (his Regional Field Director), Jonathan Pickering (another Regional Field Director), and Shaun Leane MLC (the nominating Member for Mr Simrajh's employment in March 2014).
183. When asked if he could identify any of those people as his manager, Mr Simrajh replied 'No'. However, he suggested that both Mr Wrangle and Mr Leane played prominent roles:
- Mr Simrajh:** ... I was provided with instructions by Owen Wrangle, who was my Regional Field Director, in my capacity as working for the Labor Party.
- Investigator:** Okay. So, would that differ on the days that you are recorded as working as an Electorate Officer?
- Mr Simrajh:** My day-to-day activity, no.
- Investigator:** And who you took direction from?
- Mr Simrajh:** No.
- Investigator:** So, effectively, five days a week, or the whole time you were working in 2014, from March through to the 66 days out [from the election], you were taking direction from Owen Wrangle, the Regional Field Director.
- Mr Simrajh:** I was also taking direction from Shaun Leane who, as you know, was also my manager. Shaun took an active interest in the campaign that we were running in Ringwood as it fell inside his Upper House electorate. And, so, he would often pop in and provide advice or direction.
- Investigator:** Do you remember what kind of directions he would provide you?
- Mr Simrajh:** Well, merely things that he thought were important that we should be focusing on. You know, people he thought that it was worthwhile us engaging; community groups that perhaps might be important to interact with.

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184. Mr Simrajh ceased to be employed as a casual Electorate Officer for Mr Leane at the end of March 2014. From 31 March 2014, Mr Simrajh was employed to work as a casual Electorate Officer for a second Member of Parliament, Matthew Viney MLC. Mr Viney represented Eastern Victoria Region, which does not include Ringwood District.
185. Mr Simrajh told investigators that Mr Viney did not direct his duties during 2014, and that he did not work from Mr Viney's Warragul electorate office, which was given as his work location in the letter of offer from DPS. Mr Simrajh confirmed that he received and signed the letter of offer from DPS confirming that Mr Viney would be his manager. Mr Simrajh also gave evidence that he did not know why his employment arrangements changed, that he did not query why this had occurred, and that the reasons for the change were not explained to him.
186. Mr Viney, by reason of health issues, was unable to provide his account of these events to investigators.

### **Where did the Field Organisers work?**

187. The available evidence indicates that, from 10 March 2014, most Field Organisers began working from an ALP Member of Parliament's electorate office. In some cases, this was not the electorate office of their nominating Member.
188. Most Field Organisers interviewed stated that they relocated to campaign offices during their work in the Community Action Network. These arrangements were not uniform. At least two Field Organisers worked from Trades Hall premises from 10 March 2014, with one Field Organiser doing so until the election. At least two other Field Organisers never relocated to a campaign office, and worked from electorate offices until the election.

### **Hours of Field Organiser work**

189. The '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document included a table under the heading 'A Day-in-the Life of a Field Organiser' (see Figure 14).
190. The table indicates that Field Organisers would typically work from noon to 8:30 pm on weekdays, and from 9:00 am to 6:00 pm on Saturdays.
191. Field Organisers Mr Walker and Mr Finnigan stated that this reflected the position's typical working schedule, with some day-to-day variation. For example, Mr Finnigan stated that as a Field Organiser his normal hours of work were from noon to 8:30 pm from Tuesday to Friday, and from noon to 6:30 pm every Saturday.
192. Mr Feaver stated that he would often start a day working in Ms Tierney's electorate office as an Electorate Officer, before working as a Field Organiser in the afternoons. Mr Feaver agreed that, when he was not working for Ms Tierney, his duties were consistent with the schedule set out in Figure 14.

Figure 14: Field Organisers' daily work program as outlined in '2014 Victorian Field Program Field Organiser Roles & Responsibilities'

WEEK-DAY	WEEKEND
<p><b>12:00 PM: Arrive in the Field</b></p> <ul style="list-style-type: none"> <li>■ Read Daily Priorities</li> </ul> <p><b>12:30 – 1:15 PM: Check-in Period</b></p> <ul style="list-style-type: none"> <li>■ Report on metrics included in Daily Priorities</li> <li>■ Discuss the day's action items</li> <li>■ Communicate your understanding with RFDs</li> </ul> <p><b>1:15 – 4.30 PM: Work Period</b></p> <ul style="list-style-type: none"> <li>■ Potential tasks could include:           <ul style="list-style-type: none"> <li>■ 1:1 with Vol, Prospect</li> <li>■ 1:2 with RFDs</li> <li>■ 1:2 with campaign staff / candidate;</li> <li>■ Plan local campaign events;</li> <li>■ Prepare upcoming events;</li> <li>■ Confirmation calls</li> <li>■ Necessary volunteer recruitment</li> </ul> </li> </ul> <p><b>4:30 – 6:30 PM: Call Time – Shift 1 – Events Period 1</b></p> <ul style="list-style-type: none"> <li>■ Tasks will include           <ul style="list-style-type: none"> <li>■ Training volunteers;</li> <li>■ Managing events;</li> <li>■ Making your own volunteer recruitment calls;</li> </ul> </li> <li>■ Volunteers will make in order of priority:           <ul style="list-style-type: none"> <li>■ Volunteer Recruitment calls;</li> <li>■ Voter ID calls</li> </ul> </li> </ul> <p><b>6:30 – 8.30 PM: Call Time – Shift 2 – Events Period 2</b></p> <ul style="list-style-type: none"> <li>■ Tasks and priorities are the same as in Shift 1</li> <li>■ This a period where many of your campaign events will take place</li> </ul> <p><b>8:30 PM: Wrap-up</b></p> <ul style="list-style-type: none"> <li>■ ALL data entered in Campaign Central</li> <li>■ Complete nightly qualitative reporting</li> <li>■ Clean work-space</li> </ul>	<p><b>9:00 AM: Arrive in the Field</b></p> <ul style="list-style-type: none"> <li>■ Ensure that all materials for the day's activities are fully prepared;</li> <li>■ Ready day's materials for distribution</li> </ul> <p><b>9:45 AM: Completed Brief Check-in with RFD</b></p> <ul style="list-style-type: none"> <li>■ Check-in will assess preparation, lingering challenges and expected layout</li> </ul> <p><b>10:00 AM: Field Observation / Work Period</b></p> <ul style="list-style-type: none"> <li>■ This is a flexible time for the FO. He or she should participate in Field Activity, but must also be responsible for the following tasks:           <ul style="list-style-type: none"> <li>■ 15 volunteer recruitment calls;</li> <li>■ Confirmation calls for next work day completed;</li> <li>■ Work spaces cleaned;</li> <li>■ ALL data entered in Campaign Central</li> </ul> </li> </ul> <p><b>5:45 PM: Completed Check-up with RFD</b></p> <ul style="list-style-type: none"> <li>■ Check-up will ensure all tasks have been completed and assess how weekend activity went.</li> </ul> <p><b>6:00 PM: Victorian Field Program Wrap-up</b></p> <ul style="list-style-type: none"> <li>■ Call to assess State's progress to critical goals and preview week ahead.</li> </ul>

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### Official launch: 3 October 2014

193. On 3 October 2014, the ALP officially launched its Community Action Network. By this time, Field Organisers had been recruiting and training teams of volunteers for seven months. In Mr Merlino's speech at this launch, he discussed the role of Field Organisers:

To the FOs and RFDs, you guys are the first ones there in the morning and the last ones there at night and it's our time tonight to say 'thank you'.

194. Field Organiser Michaela Settle also spoke at the launch, outlining the nature, focus and duration of the Community Action Network's efforts in 2014:

I want to welcome the dedicated volunteers, volunteer leaders, phone-banking captains, door-knocking captains. These are the people on whom our movement relies. I welcome you, the members of our Community Action Network.

Tonight, we celebrate your hard work. Tonight, we say 'thank you' to the volunteers that over the last 241 days have built a real and reliable grass movement [*sic*] that gives voice to the values that we live and fight for.

195. The time frames, including the numbers of days worked, given by Ms Settle at the launch event are consistent with a Twitter post by Mr Donnelly on 4 February 2014:

Looking forward to kicking off our 2014 Field Campaign today with the start of our RFD Training & welcoming back some of our 2013 FO's.

### Employment as Electorate Officers from March to November 2014

196. Central to the allegation that led to this investigation is the claim that parliamentary funds were misused by some ALP Members of Parliament to employ Field Organisers as casual Electorate Officers two days a week.

197. Members of Parliament may nominate a person to be employed as an Electorate Officer. However, Electorate Officers are not employed by the nominating Member. They are employed by the Presiding Officers of the Parliament (acting jointly) to assist the nominating Member. The Presiding Officers may delegate their status as the employer to the Secretary and/or the Director, Resource Management of DPS, who may exercise the powers of employer if duly authorised.

198. The Parliamentary Administration Act was amended in 2013 to state that 'the duties and responsibilities of a person employed as an electorate officer are to be determined by the member who nominated that person'. This amendment to section 30(4) is discussed later in this report.

199. The terms and conditions of employment for Electorate Officers in Victoria are governed by the *Electorate Officers (Victoria) Single Enterprise Agreement 2013* (Enterprise Agreement). This was the applicable agreement throughout 2014.

200. The Members' Guide states that Electorate Officers may be employed at one of three grades, with the grade determining the relative seniority, appropriate duties and salary of the Electorate Officer (clause 9.1.1). The Grade Descriptors describe the typical competencies expected of Electorate Officers employed at each grade.

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## Remuneration

201. Electorate Officer salaries are set out in Part Four of the Enterprise Agreement.
202. Electorate Officer salaries depend on their assigned grade and progression through increments within their grade. Electorate Officers are initially appointed at the base of their grade unless they have particular prior experience.
203. Electorate Officers employed full-time or part-time also receive a 'workload management' allowance, which is paid 'in compensation for additional hours worked over and above the ordinary hours of duty'. This allowance is equal to three per cent of their base annual salary, and is pro-rated for part-time Electorate Officers.
204. Under the Enterprise Agreement, casual Electorate Officers receive a loading of 25 per cent 'in addition to the ordinary hourly rate of the base salary of Grade 1' as compensation in lieu of entitlements including overtime, leave and the workload management allowance. In March and April 2014, the hourly rate of pay for casual Electorate Officers was \$35.09, including a casual loading of \$7.02 per hour. Following a scheduled pay increase which took effect from 1 May 2014, the hourly rate rose to \$36.15, including a casual loading of \$7.23 per hour.
205. Members of Parliament may also approve additional hours of work to be performed by a part-time Electorate Officer.

## Electorate Officer position description and duties

206. The Enterprise Agreement does not include a position description, but states that Electorate Officers 'will carry out duties described in the [relevant] position description and such other duties as directed, consistent with their skills, and Grade Descriptors' (clause 21.1).
207. In 2013 and 2014, the Parliament of Victoria had a position description for Electorate Officers (Annexure 5). The key selection criteria for each grade, as set out in the position description, reflected the expected competencies and duties in the Grade Descriptors.
208. The position description that applied during 2014 described the purpose of the role as follows:

Electorate Officers are employees of the Victorian Parliament, directly accountable to the Member in whose electorate office they are employed. Electorate Officers have a main role in supporting the Member, which requires a high degree of loyalty and ability to maintain confidentiality on behalf of the Member and those who contact the office.

Electorate Officers should possess knowledge of the Victorian Parliament's process and procedures, understand the role of State and Federal governments as well as knowledge of the electorate in which they are employed, and have an understanding of the electoral procedures.

The scope of duties is dependent on the Electorate Officer's skills and experience and the needs of the Member.
209. Under the heading 'Duties', the position description categorises the types of work to be performed under the following subheadings:
  - General administration
  - Constituent service
  - Office management
  - Communications and information management
  - Parliamentary duties
  - General.

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210. The 'General' subheading notes that Electorate Officers may be required to perform other duties 'as directed by the Member'. It states that the duties assigned to any particular Electorate Officer depend on 'the particular needs of the Member and the capabilities of the Electorate Officer'.
211. Under the heading 'Other Relevant Information', the document states: 'The position description is indicative of the position. The job comprises other duties as directed.'
212. The position description also states that 'Electorate Officers are required to be familiar with the Member's Guide which details policy and procedural rules for a range of administrative processes'.

### Recruitment and starter documentation

213. On 3 March 2014 (the first day of training), Field Organisers were asked by Mr Lenders' Electorate Officer Mr Mintern, at Mr Lenders' direction, to complete new starter documentation to facilitate their employment as casual Electorate Officers, starting on 5 March 2014.
214. Mr Mintern told investigators that he had prepared folders of the necessary documents for each of the attendees. These were distributed to the Field Organisers during Mr Lenders' attendance at the Field Organiser training. The documents included forms required by Parliament (such as the Authority to Offer Employment, an example of which is provided as Annexure 6) and time-sheets.
215. At interview, Field Organisers recognised documents relating to employment as an Electorate Officer by the Victorian Parliament as the documents they were given on the day, including a New Starter Details form.
- Mr Hitchcock:** So, John Lenders came in and spoke to us and we just filled out signed letter of offers, tax file number declarations, you know, union membership forms; all that.
- Mr Finnigan:** The Field Organisers (including myself) were given new starter documents to complete. This documentation included two sets of tax file number declaration forms. The new starter documents also included a lot of blank casual Electorate Officer payment time-sheets for the Parliament of Victoria.

### Letters of offer

216. Twenty Field Organisers received Electorate Officer letters of offer that listed starting dates between 3 and 5 March 2014.<sup>9</sup> However, the correspondence providing the necessary new starter forms to DPS to formalise the employment of 15 of those Electorate Officers is dated 19 March 2014, two weeks after their starting dates. An example of these letters of offer is provided as Annexure 7. Another Field Organiser was offered employment as a casual Electorate Officer starting from 11 March 2014.
217. All but one of the letters of offer are dated after the Field Organiser's Electorate Officer starting date cited in each letter; most between two and four weeks later.

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<sup>9</sup> Four permanent part-time or full-time Electorate Officers employed before March 2014 also attended the Field Organiser induction training in March 2014. One Field Organiser was not employed as an Electorate Officer in 2014.

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218. The letters of offer show that the 21 Field Organisers employed in March 2014 to work as casual Electorate Officers were each nominated to work for a specific Member of Parliament:

- Four were employed to work as casual Electorate Officers for multiple Members of Parliament during 2014.
- From May 2014, one Field Organiser initially employed on a casual basis (Alice Wade) was employed part-time as part of the ALP staff pool. The relevant DPS letter of offer stated that this Field Organiser's assigned manager in that role was the 'ALP Party Parliamentary Secretary'. Staff pooling arrangements are discussed in detail later in this report.
- The remaining Field Organisers employed as casual Electorate Officers were not assigned to the ALP staff pool at any time between 3 March 2014 and 29 November 2014.
- Three additional Field Organisers were employed after March 2014 to replace Field Organisers who resigned from their roles during the campaign. Two of these Field Organisers were not concurrently employed as Electorate Officers during 2014.

219. A request for information concerning the remaining additional Field Organiser was refused by DPS, citing the Legislative Assembly's resolution of 9 February 2017 asserting exclusive cognisance in relation to the Referral.

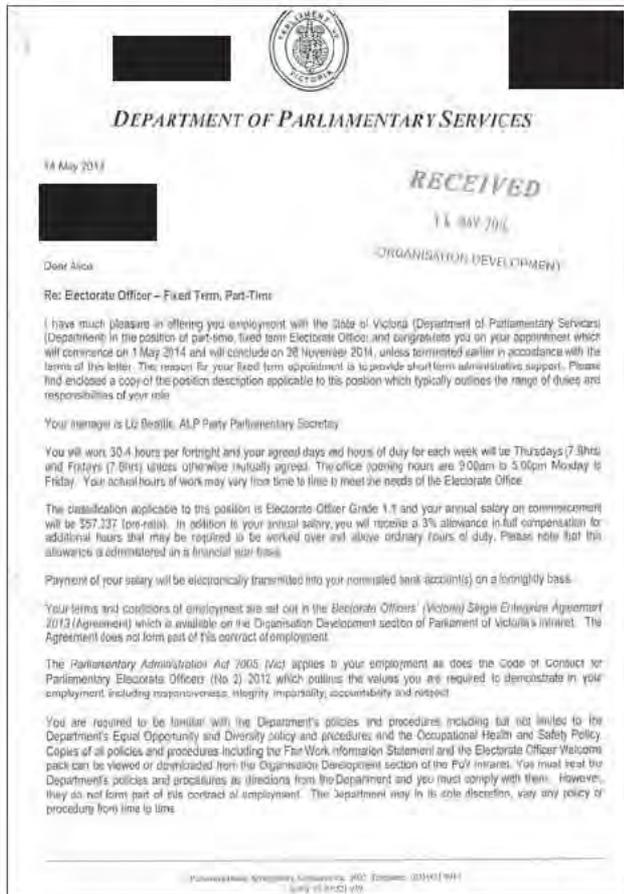
220. The investigation confirmed that Ms Wade was employed from 1 May 2014 as a part-time Electorate Officer for a fixed term as part of the ALP staff pool administered by DPS (Annexures 8 and 9).

221. An example of a DPS letter of offer for an Electorate Officer engaged as ALP pool staff is set out in Figure 15. For ALP pool staff, the ALP Party Parliamentary Secretary is their manager, which is why Elizabeth Beattie, the former Member for Yuroke, is referred to in that capacity.

222. DPS records indicate that the remaining Field Organisers employed or re-employed as casual Electorate Officers in March 2014 were not engaged as part of the ALP staff pool during 2014.

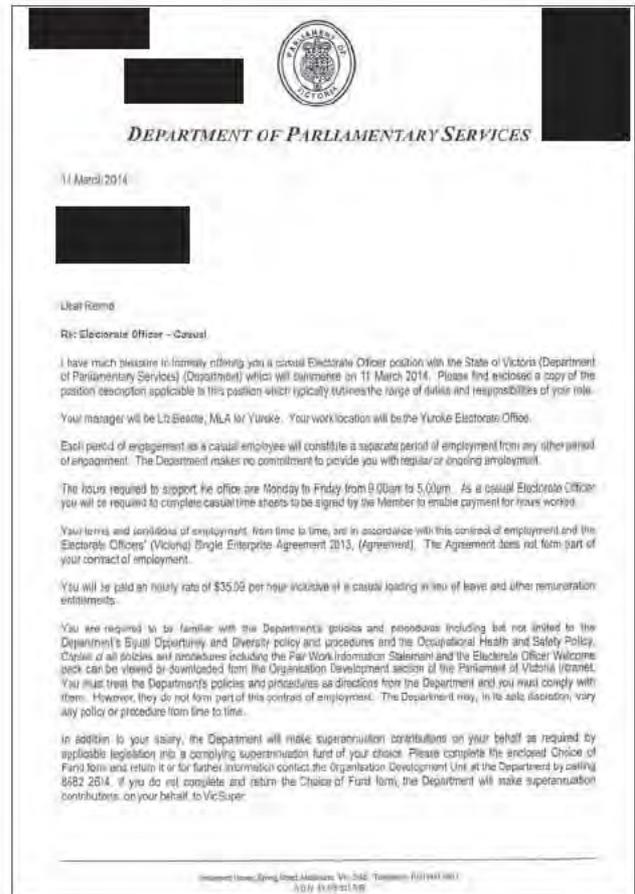
223. An example of a DPS letter of offer for non-ALP pool staff is set out in Figure 16. The manager is referred to in the letter by their name and specific electorate. Ms Beattie is referred to in two separate capacities in the letters for this reason.

Figure 15: Letter of offer from Department of Parliamentary Services to Field Organiser engaged as an Electorate Officer within ALP staff pool



224. Each Field Organiser signed their respective letter to confirm their acceptance of the offer of employment.

Figure 16: Letter of offer from Department of Parliamentary Services to Field Organiser engaged as a casual Electorate Officer



225. The *Code of Conduct for Parliamentary Electorate Officers* and the Enterprise Agreement are both referenced in the standard DPS letter of offer to new Electorate Officers and in the Electorate Officers' position description. Yet despite being employed as Electorate Officers two days a week, only three of the casually employed Electorate Officers claimed to have received the *Code of Conduct for Parliamentary Electorate Officers* between 3 March 2014 (the first training day) and the state election on 29 November 2014.

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226. In statutory declarations provided to the investigation, three Field Organisers stated that they received a copy of the *Code of Conduct for Parliamentary Electorate Officers* by email during 2014.

### Understanding of their duties

227. Field Organisers employed as casual Electorate Officers gave consistent evidence that they believed each Electorate Officer's duties would likely be quite different. The duties would be determined by the needs of the nominating Member of Parliament, the current stage of the electoral cycle, specific issues in the electorate, the skills of other Electorate Officers working for the same Member, and whether the electorate was considered safe or marginal.

228. This is broadly consistent with the spectrum of duties listed in the position description, the Grade Descriptors in the Enterprise Agreement, and the different grade-based key selection criteria in the Electorate Officer position description.

229. In a later chapter we include comments from Field Organisers about the challenges they faced in delineating the roles of Field Organiser and Electorate Officer.

### Partially pre-filled time-sheets

230. Several Field Organisers stated that on 3 March 2014 they were given partially pre-filled Electorate Officer time-sheets (rather than blank time-sheets).

231. Mr Mintern told investigators that he had pre-filled these time-sheets for the entire period from March 2014 to the 'caretaker period' before the state election. He told investigators that it was his idea to include the pre-filled time-sheets in the packs as a way of helping Members to get the paperwork completed:

... as I recall, the idea of putting all the time-sheets in the pack was mine and that was essentially a suggestion I made to John [Lenders] where he, sort of, went, 'yes, yes'. So, that they were at least ready to go for the Members. Because sometimes getting Members to sign forms on time is a challenge enough ... it gets lost in the in-tray or ... they are out or whatever. So, you know, it's tough getting everyone lined up to get a form in on time, especially when ... it is so regular and consistent as I understood these were going to be; it was two days a week every week. So, that's where the time-sheets ideas came from, so they were essentially ready to go for the Member each week.

232. When asked about some time-sheets that were handwritten, rather than typed, Mr Mintern said these were 'something of an anomaly' and would have been handwritten because the Member had lost the typed, pre-filled forms.

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233. Mr Mintern confirmed that the pre-filled hours in the time-sheets he prepared and distributed to the Field Organisers on 3 March 2014 reflected Parliament's understanding of what constituted a full day's work: 7.6 hours.

234. Field Organisers gave evidence that they were instructed to write their names on, and sign, the time-sheets. Examples of the completed time-sheets are provided as Annexures 10 and 11. Mr Finnigan told investigators:

The time-sheets which I was given on the morning of 3 March 2014 had been partially pre-completed with typed information listing the dates and hours worked and the reason for payment, which was recorded as 'Additional capacity required for electorate duties'.

235. Mr Walker recalled being 'asked to sign ... upward of 10 or 15 time-sheets'. He could not recall whether he was provided with further time-sheets on a later day. Mr Simrajh remembered signing time-sheets, but not the exact number:

I can't tell you if it was 20 or 30 or whatever, but, yeah, I do remember signing time-sheets. But I can't tell you how many there were there.

236. Ms Hardy recalled signing time-sheets dated to 27 November 2014 (but did not recall if the time-sheets were signed at the start of training on 3 March). Mr Huang recalled signing some time-sheets on the day, but not all. He maintained that 'during the course of the year I continued to sign them, essentially'.

237. Mr Huang said his understanding of why he was asked to sign time-sheets on the first day was:

Well, because - you were being employed as casual Electorate Officers and casual Electorate Officers have to sign them to - in order to, you know, be employed.

238. Mr Waters understood the reason to be 'for ease of processing'.

239. Mr Finnigan noted that the partially completed time-sheets were returned to Mr Mintern before he left the induction training with Mr Lenders on 3 March 2014.

240. Mr Mintern confirmed that most of the folders containing those documents were returned to him, and that he subsequently arranged for each complete folder to be provided to the nominating Member of Parliament. He noted that a few Field Organisers returned their paperwork later than the first day. Mr Hitchcock, for example, recalled sending his signed paperwork during the second or third week of employment.

241. Of the 21 Field Organisers also employed as casual Electorate Officers during 2014, only one continued to complete and submit time-sheets to be processed by DPS after 31 October 2014.

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## Who was the contact for payment queries?

242. The investigation heard that Mr Mintern was nominated as a contact person for any Electorate Officer having problems with their payments from Parliament. Mr Walker's understanding of this was:

[Jadon Mintern] was, I guess, the sort of centralised point for processing those [payments]. And to kind of reduce the administrative complexity and handle the fact that we wouldn't necessarily be – some people certainly weren't working in areas that close to where they were being employed as EOs. That that would reduce the administrative burden and reduce the chance of any mistakes being made ... in terms of payment details.

243. Mr Mintern confirmed that 'one or two' of the Field Organisers had given him 'a buzz' when they had missed payments, and he had offered to follow up with the relevant Member. However, the available evidence indicates that Mr Mintern was not the sole point of contact for Field Organisers when they had a problem with payments. Mr Walker said that on a couple of occasions, when he missed a payment, he raised it with his Regional Field Director, not Mr Mintern (although he acknowledged that he may have emailed Mr Mintern or included him in an email chain). Mr Hitchcock said he never contacted Mr Mintern, and instead went to one of his nominating Member's Electorate Officers.

244. Mr Waters said he had complained about payment issues to Mr Pickering (his Regional Field Director), Mr Donnelly (ALP Assistant State Secretary) and the Hon Jacinta Allan MP (the ALP candidate in his assigned district), as well as Mr Mintern.

## Hours of casual Electorate Officer work claimed

245. Casual Electorate Officers' days and hours of work are recorded on time-sheets certified by a Member of Parliament as being an accurate reflection of the dates and times worked. These time-sheets are submitted to DPS, which processes payments based on the hours certified on the time-sheet as having been worked.

246. DPS Secretary Peter Lochert advised investigators that DPS relies on Members to certify the accuracy of Electorate Officers' time and attendance records.

247. One ALP Member of Parliament signed a time-sheet dated 5 March 2014 authorising DPS to pay a Field Organiser who attended Field Organiser training on 4 March 2014 for seven hours of casual Electorate Officer work.

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248. Seventeen Field Organisers were paid by DPS for 7.6 hours of casual Electorate Officer work on 5 March 2014. One other Field Organiser was paid by DPS for 7.0 hours of casual Electorate Officer work on 5 March 2014. Evidence suggests that on 5 March 2014, the day's schedule concluded between 12:30 pm and 2:30 pm, although some Field Organisers could not recall the exact start and finish times of the exercise. This is supported by the training schedule, contemporaneous social media posts, and evidence given by Field Organisers. Field Organisers interviewed by investigators did not identify any other training activities taking place on 5 March 2014.

249. Seventeen Field Organisers were paid by DPS for 7.6 hours of casual Electorate Officer work on 6 March 2014. The Field Organiser training schedule, contemporaneous social media posts, and evidence given by Field Organisers suggest that these Field Organisers attended a full day of training on 6 March 2014.

### **Hours recorded in casual Electorate Officer time-sheets**

250. Time-sheets obtained by investigators indicate that:

- Fifteen of the Field Organisers employed as casual Electorate Officers in March 2014 had pre-filled details on every time-sheet submitted, authorising payments to them by DPS between March and October 2014.

- Eighteen Field Organisers who were employed as casual Electorate Officers in March 2014 consistently claimed to have worked the same two days per week throughout their employment in that role, from March to October 2014.
- In four cases, this consistency was maintained across multiple casual employment relationships, which started in or after March 2014. With only four exceptions, every time-sheet submitted by these four Field Organisers from March to October 2014 claimed they had worked as an Electorate Officer between 9:00 am and 5:00 pm on the dates claimed, with a 24-minute lunch break.
- At interview, Field Organisers confirmed that the hours claimed in their time-sheets did not reflect the actual times they had worked on the dates claimed, but did reflect the number of hours they had worked on those dates.

251. Ms Hardy and Mr Hitchcock, for example, both confirmed that the hours recorded on their time-sheets did not show accurate start and finish times. However, Ms Hardy indicated that her hours of work were Tuesday to Friday from noon to 8:30 pm, and Saturday from about 10:00 am to 4:30 pm.

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252. Similarly, Mr Finnigan advised that his core hours of work were Tuesday to Friday from noon to 8:30 pm, and Saturday from 9:00 am to 6:00 pm. He stated that during that time:

My duties and hours of work during my employment in March 2014 were consistent with the job description stated in the 'Field Organiser: Position Description' document I had received previously and with the roles, responsibilities and daily activities described in the document titled '2014 Victorian Field Program Field Organiser Roles & Responsibilities'.

253. Mr Walker stated that he would arrive about 10:00 am or 11:00 am and leave about 9:00 pm, and that these times 'didn't change particularly and noticeably any day, apart from weekends'. Mr Waters confirmed that he worked similar core hours, although 'sometimes you work longer, sometimes you started earlier. Sometimes you worked Sundays'.

254. Mr Simrajh suggested that it was not an uncommon practice to document inaccurate hours on time-sheets:

The hours on time-sheets do not accurately represent the hours that were worked at any given point in time, and ... it is not uncommon in politics working for any Member of Parliament in any jurisdiction in Australia that that would be the case.

### **DPS's view: 'We really don't have visibility'**

255. DPS Secretary Mr Lochert told investigators that he would not be surprised to find that hours noted on the time-sheets may not reflect the actual hours worked:

In terms of the time, as much as we would love to think that Members of Parliament are, and Electorate Officers for that matter ... have good administration around start times, end times, all of these sort of things, I think the reality is no. And I wouldn't be surprised if they tell you that, you know, in the time sheet that it was 9 o'clock and in fact they started at 11 and they were trying to compensate for attending with the member an evening meeting with a community group.

256. When shown time-sheets that showed no clear distinction in practical terms between the work of a Field Organiser and Electorate Officer, he noted that some of the listed duties were consistent with the role of an Electorate Officer (for example, attending events with a Member) - but not all of them.

257. Mr Lochert highlighted that DPS, with 128 electorate offices across the state, is not in a position to check each time-sheet: 'We really don't have visibility'. That is why, he said, 'we have to rely on the certification of the Member'.

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## Authorisation of payments by Members of Parliament

258. Investigators obtained Field Organisers' time-sheets submitted for DPS processing. The time-sheets indicate that 23 current and former Members of Parliament authorised payments to particular Field Organisers for days of work as Electorate Officers, as set out in Table 1: Authorisation of time-sheets certifying casual Electorate Officer work by persons employed as Field Organisers.
259. This information is not a complete record of all time-sheets signed by Members of Parliament authorising payments to be made to Field Organisers employed as casual Electorate Officers from March to November 2014. The investigation was not able to obtain all of the time-sheet documents authorising payments by DPS to at least four Field Organisers. However, investigators were able to calculate total payments to four of those Field Organisers by using the hours of work recorded on their respective DPS payment summaries and their gross hourly rates of pay.
260. One additional Field Organiser may have been employed as an Electorate Officer from April to October 2014. Mr Finnigan told investigators that after he resigned as the Field Organiser assigned to the Legislative Assembly's Bellarine District, Ben McMullin replaced him in that role. In Parliament on 16 April 2015, the Hon Lisa Neville MP, Member for Bellarine, thanked Mr McMullin by name for his efforts in assisting her re-election campaign. DPS declined to provide information about whether Mr McMullin had been employed as an Electorate Officer in 2014, citing the Legislative Assembly's assertion of exclusive cognisance.
261. Of the initial cohort of Field Organisers, four resigned during the course of the campaign. Two other Field Organisers from the original cohort were reassigned to new districts when one of their colleagues left the campaign. In one case, the Field Organiser who replaced the departing Field Organiser was not replaced in their original district. Three additional Field Organisers were employed to continue the Community Action Network's efforts in the other targeted districts and remained in those roles until the state election.
262. Three of the resigning Field Organisers were also employed as casual Electorate Officers. Information received by investigators indicates that two of the three were not paid for any further work as a casual Electorate Officer following their resignation from the Field Organiser role. One (Mr Mileto) continued to work and be paid as a casual Electorate Officer for two weeks following his resignation from the Field Organiser position.

Table 1: Authorisation of time-sheets certifying casual Electorate Officer work by persons employed as Field Organisers

Signing MP	Electorate Officer	Days Authorised
Beattie, Elizabeth	Pope-Munro, Renee	35
Broad, Candy	Bushnell, Jophiel	4
	Waters, Michael	20
Carbines, Anthony	Wade, Alice	30
D'Ambrosio, Liliana	Bushnell, Jophiel	14
Duncan, Joanne	Mileto, Jamie	54
Elasmar, Nazih	Maxfield, Luke	70
Eren, John	Finnigan, Jake	8
Helper, Jochen	Settle, Michaela	70
Jennings, Gavin	Hitchcock, Jackson	32
Leane, Shaun	Simrajh, Bastian	8
Lenders, John	Barbour, Justin	70
	Hardy, Katherine	78
Lewis, Margaret	Walker, Calum	40
	Waters, Michael	40
Melhem, Cesar	Wade, Alice	12
Mikakos, Jenny	Henderson, Sebastian	70
Pakula, Martin	Walker, Calum	20
Pandazopoulos, John	Moore, Ryan	72
Scheffer, Johan	Gonzalez, Natalie	70
Somyurek, Adem	Ratcliffe, Jeremy	40
Tarlamis, Lee	Huang, Wallace	66
Tee, Brian	Keyes-Liley, Clare	70
Thomson, Marsha	Towler, Samantha	28
Tierney, Gayle	Feaver, Marcus	68
Viney, Matthew	Simrajh, Bastian	62

Figure 17: Estimated dollar value of hours certified as Electorate Officer work for Field Organisers, by certifying Member of Parliament (3 March – 29 November 2014)



Total estimate  
**\$387,842**

 Member of the Legislative Council (57th Parliament)

 Member of the Legislative Assembly (57th Parliament)

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## How much did DPS pay to the Field Organisers?

263. Investigators have calculated that DPS paid an estimated \$387,842 of parliamentary funds for Electorate Officer work by Field Organisers from March to November 2014.

264. This figure includes an unquantified amount of Electorate Officer work legitimately done for a small number of Members of Parliament, and excludes a further unquantified amount relating to any Field Organisers employed as Electorate Officers after the initial cohort. This estimate will require confirmation by DPS, which holds complete records.

### NOTES for Figure 17

Amounts include gross wages, employer compulsory superannuation contribution and WorkSafe insurance premium.

**RETIRING** Did not contest the 2014 election and retired from Parliament at the 2014 election. Retirement announced prior to election.

1. Based upon consolidated time-sheet and payment summary information due to incomplete time-sheets being provided to the investigation.
2. Appointed to fill casual vacancy due to Candy Broad's retirement in May 2014. Did not contest the 2014 election.
3. Time-sheets for a casual Electorate Officer employed for Matthew Viney were signed under the delegation of the President of the Legislative Council for days of work after Wednesday 2 April 2014. One time-sheet was unsigned but processed by DPS.
4. The Field Organiser employed as a casual Electorate Officer for Joanne Duncan resigned in August 2014. Ms Duncan did not nominate a replacement for employment.
5. Candy Broad retired from Parliament in May 2014. Margaret Lewis was appointed to fill the casual vacancy.
6. The Field Organiser employed as a casual Electorate Officer for John Eren resigned in March 2014. DPS did not provide information regarding a replacement due to the Legislative Assembly's exclusive cognisance assertion.
7. Shaun Leane certified time-sheets for a Field Organiser until Thursday 27 March 2014 after which time that Field Organiser was employed as an Electorate Officer for Matthew Viney. See (3) for further details.

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## Field Organiser pay arrangements: The '60:40 split'

### Proposed use of Members of Parliament's staff entitlements

265. In 2014, ALP Members of Parliament contributed to an approved Electorate Officer pooling arrangement administered by DPS. In this report, this arrangement is defined as the 'ALP staff pool'. Persons interviewed by investigators provided different descriptions of what they considered to be Electorate Officer staff pooling arrangements permitted by Parliament. It also became apparent that staff pooling arrangements approved by Parliament had changed over time.
266. The ALP staff pool was supported by ALP Members of Parliament each contributing a fraction of their entitlement to the equivalent of two full-time Electorate Officers, as set out in clause 9 of the Members' Guide. These contributions were aggregated and used to employ Electorate Officers on a part-time or full-time basis. The ALP Parliamentary Party Secretary was the nominating Member of Parliament for these Electorate Officers and responsible for these employees as their manager.
267. The ALP staff pool enabled Electorate Officers with specialist skills (for example, speech writing, graphic design, research, and policy development) to perform work for a number of Members in a single employment relationship, rather than having to be individually nominated for employment by each Member who required their service.
268. The available evidence indicates that, in 2014, no other parties represented in the 57<sup>th</sup> Parliament had DPS-administered staff pooling arrangements.
269. At interview, Mr Lenders said that the initial arrangement of employing the Field Organisers as Electorate Officers two days per week was so they could perform Electorate Officer work (for example, research and community engagement) for their nominating Member during the two designated days. Mr Lenders said that he and Mr Carroll, then the ALP State Secretary, designed this 'split' as a way to 'better coordinate activities'. He also noted that such a structure is 'virtually an iteration of what's been happening since 1992' through the use of pooling where the concept of working some time for one person and some time for another is not unusual:
- So, for example, if a person is seconded to the pool ... they might be paid two days ... a week out of the pool, three days a week by the Leader of the Opposition. The Leader of the Opposition staff come from the Department of Premier and Cabinet, not the Department of Parliamentary Services. ... So ... three days a week for the Labor Party for things that are, for want of a better term, the proselytising; two days a week for an MP for ... collecting information according to the normal duties.
270. Both Mr Lenders and Mr Mintern told investigators that the employment of Field Organisers as Electorate Officers had initially been designed as an expansion of the existing ALP staff pool administered by DPS.
271. Notwithstanding the discussions throughout this report about the ALP staff pool, its use is not the subject of this investigation. However, misunderstandings about the legitimate use of the ALP staff pool by Members of Parliament contributed to the outcomes of the 60:40 split arrangement.

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## January 2014: Mr Lenders seeks an expansion of the ALP staff pool

272. On 10 January 2014, Mr Lenders emailed DPS about the possibility of expanding the existing ALP staff pool administered by DPS, using contributions from Members' Electorate Office and Communication Budgets:

Further to our discussions of late last year, a number of Labor MPs wish to second staff beyond our basic entitlement of two to the Office of the Leader of the Opposition for some of 2014. As they would report to and be directed by the Chief of Staff to the Leader, it is desirable that he is the Delegate of the Parliament who approves leave and supervises the relevant staff.

This already happens in the case of secondments of a portion of an MP's basic entitlement of two staff and I understand from Liz Beattie, a similar situation applies with a staff member of Jacinta Allan's ([Electorate Officer's name]) who is partly funded out of the budget allocations of a number of other MPs.

What I seek from you is approval for me to fund from 1 February to 31 October from my Office Budget the cost of a 0.3 EFT staffer to be appointed by the Chief of Staff to the Leader of the Opposition and accountable to the Leader via his Chief of Staff. This would be in addition to my existing staff allocation of two of which a 0.5 EFT is already allocated to the Leader.

[...]

I would greatly appreciate if this could be resolved ASAP so that arrangements can be in place well before the resumption of the Parliament.

273. Mr Lenders told investigators that the Electorate Officer performing a media adviser role for Ms Allan, to whom he referred in his email of 10 January 2014, was concurrently employed through the ALP staff pool and as a casual Electorate Officer by himself and two other former Members of the Legislative Council, Johan Scheffer and Candy Broad. Mr Lenders' evidence was that DPS had not raised any concerns with him about this Electorate Officer's employment arrangements.

274. In respect of this Electorate Officer's employment arrangements, Mr Lochert stated that, in principle, there would be no inconsistency with an Electorate Officer being employed by one Member of Parliament on a permanent part-time basis and also working additional hours on a casual basis for other Members. These arrangements would be acceptable to DPS if:

- separate time-sheets were submitted and approved by each Member
- the time-sheets each claimed different hours and days of work
- the combined total of hours claimed in the time-sheets did not exceed 38 hours per week.

275. Mr Lochert told investigators that DPS would view any casual hours certified by a Member of the Legislative Council on a time-sheet as having been casual hours worked by that Electorate Officer for that authorising Member. DPS would not be suspicious of an Electorate Officer employed on a part-time basis in the ALP staff pool who was also working for other Members on a casual basis on other days.

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276. DPS recognised that some Electorate Officers have specialist skills useful to multiple Members, and that it would not be unusual if several Members each engaged the same Electorate Officer on casual contracts to perform that specialist work. In the example given in Mr Lenders' email of 10 January 2014, several Members of the Legislative Council could have engaged this Electorate Officer on a casual basis using funds from their Electorate Office and Communication Budgets. DPS's expectation was that these engagements would be additional and separate to their employment on other days as an Electorate Officer in the ALP staff pool.

277. On 31 January 2014, DPS informed Mr Lenders that Mr Lochert would speak with him the following week before briefing the Presiding Officers of the Parliament about Mr Lenders' proposal.

278. In a statutory declaration dated 4 December 2017, Mr Lenders stated that he spoke with Mr Lochert on 13 February 2014:

When I spoke with Mr Lochert, I asked how the pooling arrangement could be extended to enable the employment of additional electorate officers to assist MPs. I did not explain that the electorate officers would also be employed by the ALP. (It would not be unusual, in my experience, for electorate officers to have other employment, as many are employed on a part time basis.) Further, I did not describe to Mr Lochert the roles the additional electorate officers would perform. It would, however, have been clear to him that I was seeking to maximise the number of electorate officers that could be employed by the Opposition in the lead up to the 2014 elections. Furthermore, by me referring to them as pool staff, Mr Lochert would have understood that they would not be working under the direction of the MP who employed them.

279. Mr Lenders' statutory declaration of 4 December 2017 states that, following his meeting with Mr Lochert, he met with Mr Carroll 'to discuss how the Field Organisers could be employed, part-time, by the DPS and part-time by the ALP':

It was my intention that there would be a clear delineation between work done for the ALP as field organisers and work done as electorate officers. Mr Carrol [*sic*] acknowledged the need for the delineation in the roles. Having regard to the position description for an electorate officer, I could see there was an overlap between the roles of field organisers and electorate officers and that there were some duties of field organisers which I did not believe electorate officers should be performing.

280. As discussed above under the subheading 'Recruitment: November 2013 – January 2014', the Field Organisers had already been offered full-time employment in that role in letters of offer signed by Mr Carroll in December 2013.

### DPS's concerns about the proposal

281. A DPS internal memorandum dated 17 February 2014 and addressed to Mr Lochert stated that its purpose was: 'To provide information in relation to the proposal by Mr Lenders to contribute from the Electorate Office and Communication Budget to the ALP Pool staff employed by the Parliament and intersecting employment issues and outline associated risks'.

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282. Under the heading 'Reputation Risk', the memorandum gave examples of three separate 'media-reported occasions' of Electorate Officers employed in the ALP staff pool engaging in 'non-parliament related duties'. One of these examples involved an Electorate Officer who 'received performance counselling by the ALP Assistant Secretary'. Under the same heading, the memorandum noted the risk of: 'Allocation of Parliament resources provided to Members for parliamentary purposes to the ALP Pool/Leader of the Opposition for political purposes'.

283. The DPS internal memorandum considered five potential actions that DPS could take in response to Mr Lenders' proposal, and provided risk assessments in respect of each option. Two options involved Members of Parliament contributing capped amounts from their Electorate Office and Communication Budgets to a single fund under a written agreement. The memorandum noted that both of these options carried the reputational risks described above. A separate option was to amend the Members' Guide to clarify that allowable expenditure on Electorate Officer salary expenses was 'for support in [a Member's] electorate office only', which would require casual Electorate Officers to work only from their nominating Member's office.

284. The memorandum recommended that Mr Lochert brief the Presiding Officers and 'explore the options listed above in relation to the employment of Parliamentary Advisers and contributions to the ALP Pool'.

### Proposal for expanded approved ALP staff pooling in early 2014

285. Mr Lenders told investigators that in early 2014 he had discussed expanding the approved ALP staff pooling arrangements with Mr Lochert. Mr Lenders' recollection was that he wanted to determine how ALP Members of Parliament could assist with the 2014 Victorian election campaign. He did not discuss this purpose with Mr Lochert:

I think we were working on the design as to how we could, again, in the context of how can a parliamentary – individual MPs and the parliamentary party assist the campaign if it's going to help all of them, in a year's time or whenever it is. How can we best maximise it. And that was really a design thing that, this was an option coming forward as to how we would do it. I mean ... what did Parliamentary Services allow? There was an option that really hadn't been there earlier on and the design was something that we were moving towards ... as an option of enhancing our programme by doing this in the terms of what the Parliament would let us.

[...]

[During this period] I had a discussion with Peter Lochert, the CEO.

[...]

About whether we could enhance the pool. Quite detailed discussions of that, could we put more people into the pool. Which I'm happy, but technically putting them into the pool in a traditional way was not going to work. I mean, there's no secret, as Peter [Lochert] would say, or I as a former treasurer would know, the largest spend of the Parliamentary budgets is in the last year. MPs roll over half their budget, it's all for campaign purposes.

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286. Mr Lenders went on to say that Mr Lochert never asked him why the ALP wanted to expand the pool: 'that that was the nature of relations with Parliamentary Services; no one asked anyone any questions of this nature':

But the material discussion was can MPs – can I as an MP second another, you know, four days a week into the pool. And the answer was you cannot out of your casual staff budget, you can out of your permanent [staff] budget.

[...]

And then for me, like most MPs, if I then put my permanent staff on to casual staff so I can second to the pool, one as an employer, you know, if I fall under a bus tomorrow, well then people have lost entitlements. So that was not an option for that reason. But we discussed the mechanics of boosting the pool out of budgets.

287. In his statutory declaration of 4 December 2017, Mr Lenders stated that he did not provide further details about the duties that the additional Electorate Officers would perform, nor their concurrent employment as Field Organisers:

I was reluctant to provide more specific details to Mr Lochert because he was responsible to the President of the Legislative Council and the Speaker of the House and may have felt bound to report my discussions to them. While both the President and the Speaker are nominally impartial, they remained members of the Coalition parties and, I was concerned, that they might pass information to the Coalition parties.

288. Mr Lenders' statutory declaration also indicated that although he 'was not fully aware of the job descriptions' for Field Organisers, he agreed to approach DPS following discussions with Mr Carroll during which he noted there were common duties between the Field Organiser and Electorate Officer roles:

While I do not remember what discussions I had with Mr Carrol [*sic*] about field organisers, my general recollection is that the employment of field organisers came up in the context of discussions with Mr Carrol about the utilisation of resources. We discussed the duties of field organisers and noted that many of the duties of field organisers were performed by electorate officers. As a result of this discussion, I agreed to speak with the Department of Parliamentary Services about whether the pooling arrangement could be extended to enable people engaged as field organisers by the ALP to be employed as electorate officers on a shared basis.

### Mr Lochert's recollections

289. At interview, Mr Lochert did not recall discussing any proposal to expand approved ALP staff pooling arrangements with Mr Lenders in early 2014. However, Mr Lochert told investigators that DPS had wanted to implement greater controls over DPS-administered staff pooling arrangements:

[W]e wanted to tighten up the management of the pools in particular. Because, I mean, we needed to know, for example, who was approving leave. Are there people employed? Because we were paying them in the payroll. So, under the terms and conditions as an Electorate Officer. But with a normal Electorate Officer you've got a Member of Parliament that they are allocated to. The pool wasn't for a while allocated, and by that stage we allocated it to the Parliamentary Party Secretary. So, anything that had to do with employment, or leave, or discipline, or anything like that was dealt with through the Parliamentary Party Secretary.

[...]

And to then start looking at casuals employed by, you know, using money, would be seen as a transfer of electorate office budget, dollars from an electorate office budget into a central pool which we felt very uncomfortable about.

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290. Mr Lochert's concerns about transferring contributions from Electorate Office and Communication Budgets into a central fund are reflected in clause 8 of the Members' Guide, which states: 'The Electorate Office and Communication Budget may not be transferred, as a whole or in part between Members'.

291. Mr Lenders told investigators that DPS had a narrower interpretation of pooling arrangements than he did, and that DPS would not have considered the employment of Field Organisers as casual Electorate Officers to be part of approved ALP staff pooling:

**Investigator:** So, what pool was it then? Because if casual staff can't be engaged in the pool, and most of these guys were casual staff, what pool? Is it a separate pool or is it the same pool?

**Mr Lenders:** Well, this goes, again, to 'what is a pool?' I mean, Parliamentary Services would define the pool as the nine or ten equivalent full-time Electorate Officers who are engaged by the Caucus Secretary and the Leader of the Opposition's Chief of Staff.

**Investigator:** Is [it] actually included in the parliamentary budget each year?

**Mr Lenders:** Yes.

**Investigator:** They make a budget estimate, don't they?

**Mr Lenders:** Yes. But it comes out, again. So that's what they would call a pool. What I would call a pool would also be the additional staff that go in. So, you pick any shadow minister. You know, inevitably if they've got a safe seat, one or more of their Electorate Officers will be in the Leader of the Opposition's rooms doing the same sort of work as the pool staff do.

**Investigator:** So, it is a separate secondment, is it? Or -

**Mr Lenders:** It's an informal secondment.

292. Earlier in the interview, Mr Lenders had defended the employment of Field Organisers as casual Electorate Officers as simply an iteration or expansion of the existing pooling arrangements, despite having stated that Mr Lochert had told him that the ALP staff pool could not be expanded in the manner proposed in early 2014. Mr Lenders said:

I was asked, can you engage two of the people. Very willing to. I made a point of meeting them, obviously. But my view was this is, again, the traditional [practice that] you second [an Electorate Officer]. And as long as you were satisfied that they are doing their work, which clearly they were because they were supervised on a daily [basis] through the Labor Party, to me that was, again, an iteration of the traditional pool arrangements. They are doing the task; the task is legitimate. I'm not going to daily manage them. But I did in both their cases, you know, talk to them frequently and see them frequently and watch them frequently.

293. Mr Lenders was given a draft of this report for comment on 21 December 2017, and provided a further statutory declaration dated 7 February 2018. In that statutory declaration, Mr Lenders stated that describing the engagement of the casual Electorate Officers as a pooling arrangement 'is probably a misnomer', given that available funding was not pooled and reallocated to a single pool, 'nor was it the case, as with other pool employees, that they were under the control of the Opposition Leader's Chief of Staff (such as the DPS administered ALP Pool for whom Ms Beattie was the nominated contact)'. Mr Lenders considered that this arrangement would be more accurately described as 'a series of individual transactions' with no single employer or nominating Member. DPS records support this understanding of the casual Electorate Officers' employment arrangements.

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294. Mr Mintern, who worked as an Electorate Officer for Mr Lenders from October 2011 to November 2014, gave evidence that Mr Lenders had told him about Mr Lochert's position in an 'informal debrief'.
295. While Mr Lochert did not specifically recall these conversations with Mr Lenders, he agreed that he would have told Mr Lenders that the ALP staff pool could not be expanded in the way proposed.
296. DPS separately confirmed to the investigation that the ALP staff pool could not be expanded by contributions from Members' Electorate Office and Communication Budgets to employ casual Electorate Officers. DPS's view is that the effect of implementing this proposal would be to pool Members' Electorate Office and Communication Budgets, which is not permitted by the Members' Guide.
297. The available evidence shows that Mr Lenders accepted that the ALP staff pool could not be expanded using contributions from Members' Electorate Office and Communication Budgets. However, Mr Lenders opted for a different approach to increasing the number of Electorate Officers available. Mr Lenders' evidence was that he did so without further reference to DPS or consulting the Presiding Officers of the Parliament.

### Taking the proposal to ALP Members of Parliament

298. Mr Mintern stated at interview that he had understood from Mr Lenders that the original intention was for the two days a week to come out of an expanded pool. He also stated that Mr Lenders had spoken to Mr Donnelly about this division.
299. Mr Mintern said that in February 2014 Mr Lenders had asked him to prepare a one-page document combining information about the Electorate Officer role from the *Parliamentary Administration Act 2005* (Vic), the Members' Guide, and the Electorate Officer position description:
- So, I essentially copied and pasted relevant bits from those into a one-pager with footnotes that demonstrated what was in the purview of an Electorate Officer, and John [Lenders] used that in his discussions that informed what the split for the individuals was to be, and what they were to be doing on the two days they were employed as an Electorate Officer and what they weren't.
300. Mr Mintern said the document stated that at 'a basic level' Electorate Officers could 'undertake research for a Member, they could survey constituents, and maintain an information database'.
301. Mr Mintern also stated that the document was for Mr Lenders to use as a set of 'talking points' in conversations with other ALP Members of Parliament about the proposed employment of Field Organisers as Electorate Officers - in part, so that 'everyone could understand'. He added that the document was for use by Mr Lenders and in conversations with DPS.

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302. At interview, Mr Mintern was asked if the one-page document he had prepared included an extract from the Members' Guide stating that 'the Parliament does not fund positions to support the Member's political or party duties'. His response was: 'I think so, yes ... yes'. He was less certain about whether he had included information from section 8 of the Guide about the conditions whereby casual Electorate Officers can be charged against the Electorate Office and Communication Budget.
303. Mr Mintern stated that he understood Mr Lenders' discussions about expanding the ALP staff pool included conversations with the ALP Campaign Committee and with ALP Members of Parliament. It is not clear what discussions (if any) were had between the Campaign Committee and ALP Members of Parliament regarding the proposed arrangement and its ramifications, but Mr Mintern told investigators he thought these would have been very limited.
304. ALP Members of Parliament explained that Mr Lenders had discussed the proposed employment of Field Organisers as Electorate Officers with them. The Hon Jenny Mikakos MLC stated that 'the matter was first raised in a group meeting of Labor Members of the Upper House [by Mr Lenders] and that meeting was followed up by a one on one discussion with Mr Lenders'; however, she said that she could not recall the specifics of advice given by Mr Lenders.
305. Ms Mikakos's account is supported by Mr Huang, one of the Field Organisers employed as an Electorate Officer. At interview, Mr Huang noted that Mr Lenders had mentioned discussions he had had with other Members of Parliament about the arrangements, which had resulted in those Members agreeing to participate in the 60:40 arrangement.
306. In his statutory declaration of 4 December 2017, Mr Lenders confirmed that he had spoken with other ALP Members of Parliament about engaging Field Organisers as casual Electorate Officers and insisted that he had explained the need for a clear delineation between the times worked in each role:
- Apart from making arrangements to engage 2 electorate officers within the Southern Metropolitan Region, I recall speaking with each of the MPs involved about engaging electorate officers. I spoke with each about the need to delineate between the time that they were performing field organiser responsibilities and when they were performing their roles as electorate officers. I explained that this delineation was necessary to ensure the legitimacy of their employment as electorate officers.
307. Mr Lenders indicated that he recognised that a delineation between Field Organiser and Electorate Officer work was required to ensure the legitimacy of these employment arrangements. However, the available evidence indicates that, for almost all Field Organisers, no practical delineation was maintained and their day-to-day activities were directed by their Regional Field Directors.

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308. In a statutory declaration dated 7 February 2018, Ms Mikakos stated:

I do not recall in detail the proposal put to me by Mr Lenders. My understanding of what was proposed was that it would be an extension of the longstanding pooling arrangement which was operating amongst Labor Members of Parliament when I was elected in 1999. Under this longstanding arrangement, that I understand DPS had approved, I had contributed 0.5 of my Electorate Officer entitlement to a pooling arrangement for which I had no direct involvement in either recruitment or direct supervision of those staff, nor did any of those pooled staff work in my office. I did, however, derive an indirect benefit from their work.

[...]

I understood that this arrangement was a legitimate use of my Electorate Office and Communications budget being an extension of the existing longstanding pooling arrangements.

309. Similarly, Cesar Melhem MLC told investigators:

Other than being told that the Electorate Officer would also be working in a Legislative Assembly marginal seat and that I would be 'employing' that Electorate Officer using part of my staff budget, I do not recall in detail the proposal put to me by Mr Lenders. As I already contributed part of my staff budget entitlement to fund pooled Electorate Officer positions, I was familiar with Electorate Officers being nominally employed by me but working in other roles in the opposition room.

[...]

Mr Lenders gave me an assurance that the arrangements amounted to a legitimate use of my staff budget entitlement.

## Members of Parliament contributing to the 60:40 split

310. Based on information obtained by investigators, Table 2: Members of Parliament nominating Field Organisers for employment as casual Electorate Officers in 2014 sets out the details of:

- the Members of Parliament who nominated a Field Organiser to be employed by the Parliament as a casual Electorate Officer in 2014.
- each nominating Member's electorate, noting whether this was a Legislative Assembly district or a Legislative Council region.
- the Legislative Assembly district(s) to which their casual Electorate Officer was assigned to work as a Field Organiser.
- the ALP candidate for election in each Field Organiser's assigned district(s) in 2014.

311. Some Members of Parliament nominated more than one Field Organiser to be employed as a casual Electorate Officer. One Field Organiser worked in two Legislative Assembly districts in the course of a single employment relationship.

## How Members of Parliament understood the 60:40 split

312. Investigators asked two Members of Parliament about their understanding of the 60:40 arrangement: Mr Leane and Mr Jennings. Three others, Mr Melhem, Ms Tierney and Ms Mikakos, responded to requests for information in the form of statutory declarations. Mr Melhem and Ms Tierney provided further information in their responses to a draft version of this report. Mr Scheffer and Ms Lewis provided a response to the draft report.

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## Mr Leane's evidence

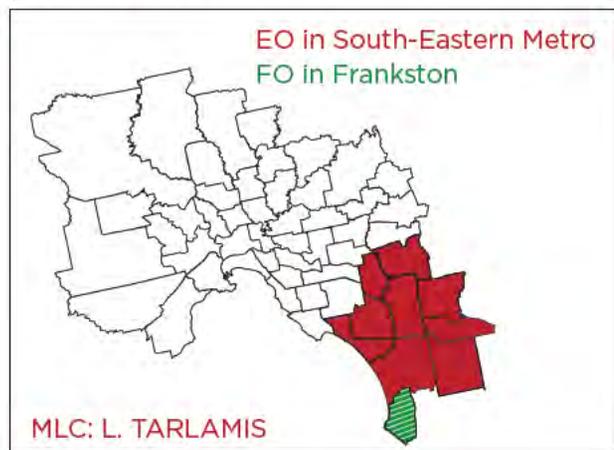
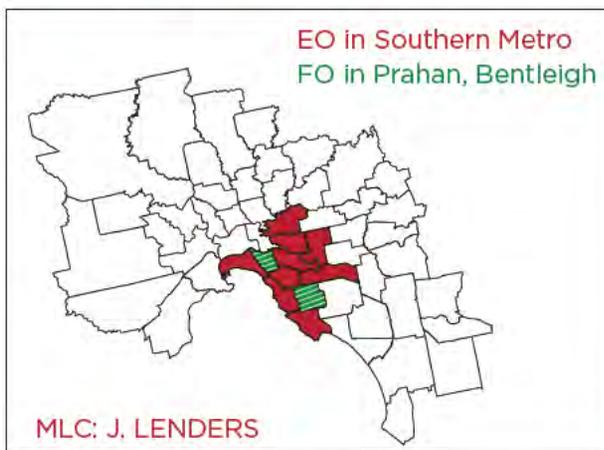
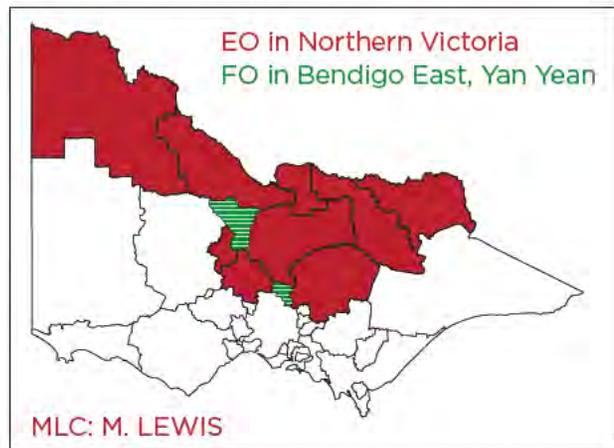
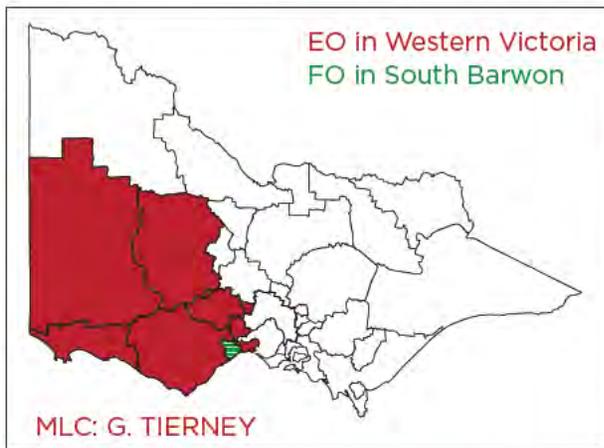
313. Mr Leane told investigators that in early 2014 Mr Lenders had spoken with him about an opportunity to employ a person to engage with constituents within his electorate. Mr Leane saw this as a way to confirm which matters were particularly relevant to his electorate.
314. Consistent with this explanation, the Authority to Offer Employment form which Mr Leane signed in relation to Mr Simrajh's employment indicates that the intended period of employment was from 3 March 2014 to 14 March 2014. Only one other form authorising the employment of a Field Organiser as a casual Electorate Officer in March 2014 includes an end date for the period of employment – in that case, the end date was 29 November 2014.
315. Mr Leane told investigators that Mr Lenders did not explain the intended split between Mr Simrajh's work for him as a casual Electorate Officer and Mr Simrajh's work as a Field Organiser for the Community Action Network:
- As far as I'm concerned, Bastian [Simrajh] had a role to play to assist me in the best way I could represent the Eastern Metropolitan Region. And that's the way I saw his role with me. And they were the conversations that I had with – as I said – people in my office as far as how we interacted and worked together.
- [...]
- ... the hours of work conversation was around – that Bastian would start later in the day and finish later in the day because of – that was the best time for him to be able to engage with people in the electorate.
316. Investigators showed Mr Leane a copy of the Field Organiser position description. Mr Leane stated that he had not seen that document before and was not familiar with it.
317. Investigators also showed Mr Leane the document provided to Field Organisers during their initial training that provided a schedule of typical daily tasks. Mr Leane stated that he had not been told that Mr Simrajh would be performing those duties.
318. Mr Leane said that he did not recall any discussions or votes at ALP meetings about employing Field Organisers as casual Electorate Officers for two days per week. He told investigators that the ALP Caucus 'is not isolated from what head office is thinking about the way they are going to campaign' but that he did not recall the split employment arrangements being discussed at any Party meetings.
319. Mr Leane said that he did not discuss the Members' Guide's requirements or any rules about Electorate Officers' work in his conversations with Mr Lenders, and did not consider the proposed arrangements (as they were explained to him) to have been unusual.
320. Mr Leane told investigators that he was not involved with the recruitment of Field Organisers. He stated that it is 'apparent now' that the recruitment of the Field Organisers was an 'exercise done by the Party's head office' and that it 'absolutely' did not reflect the process he would normally follow when employing Electorate Officers for his electorate office:
- ... as far as the discussion we are having now, I had no understanding or direct involvement or whatsoever considering that. I see that it was the role of the ALP head office, as they saw it and undertook, and it was a divorce of the duties that I had to the electorate that I represent.

**Table 2: Members of Parliament nominating Field Organisers for employment as casual Electorate Officers in 2014**

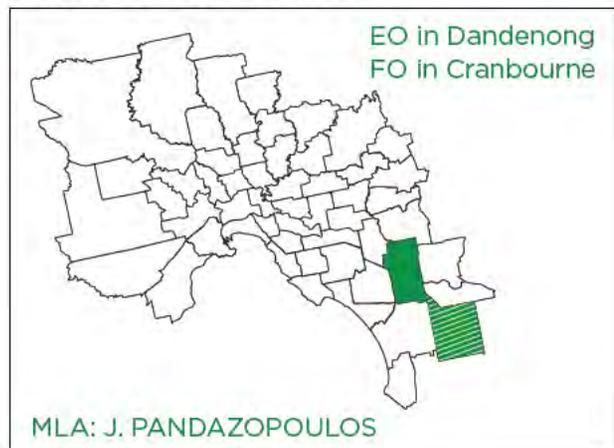
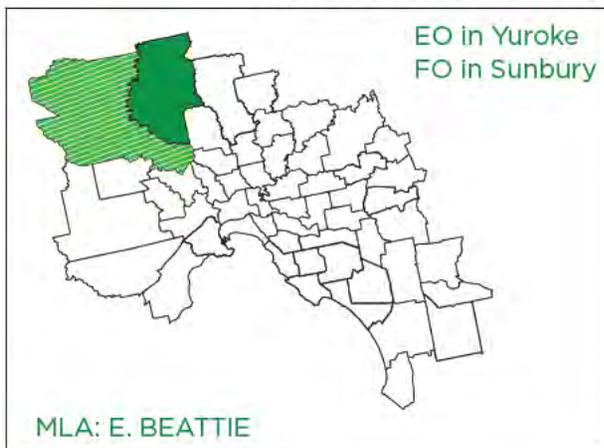
Nominating MP	Nominating MP's electorate & House	Field Organiser's assigned district(s)	ALP candidate in assigned district
Beattie, Elizabeth	Yuroke (Assembly)	Sunbury Macedon	Bull, Joshua (non-sitting candidate) Thomas, Mary-Anne (non-sitting candidate)
Broad, Candy	Northern Victoria (Council)	Bendigo East Yan Yean	Allan, Jacinta (sitting Member) Green, Danielle (sitting Member)
Carbines, Anthony	Ivanhoe (Assembly)	Ivanhoe	Carbines, Anthony (sitting Member)
D'Ambrosio, Liliana	Mill Park (Assembly)	Yan Yean	Green, Danielle (sitting Member)
Duncan, Joanne	Macedon (Assembly)	Macedon	Thomas, Mary-Anne (non-sitting candidate)
Elasmar, Nazih	Northern Metropolitan (Council)	Richmond	Wynne, Richard (sitting Member)
Eren, John	Lara (Assembly)	Bellarine	Neville, Lisa (sitting Member)
Helper, Jochen	Ripon (Assembly)	Wendouree	Knight, Sharon (sitting Member)
Jennings, Gavin	South-Eastern Metropolitan (Council)	Carrum	Kilkenny, Sonya (non-sitting candidate)
Leane, Shaun	Eastern Metropolitan (Council)	Ringwood	Clark, Tony (non-sitting candidate)
Lenders, John	Southern Metropolitan (Council)	Bentleigh Prahran	Staikos, Nick (non-sitting candidate) Pharaoh, Neil (non-sitting candidate)
Lewis, Margaret	Northern Victoria (Council)	Bendigo East Yan Yean	Allan, Jacinta (sitting Member) Green, Danielle (sitting Member)
Melhem, Cesar	Western Metropolitan (Council)	Ivanhoe	Carbines, Anthony (sitting Member)
Mikakos, Jenny	Northern Metropolitan (Council)	Melbourne	Kanis, Jennifer (sitting Member)
Pakula, Martin	Lyndhurst (Assembly)	Mordialloc	Richardson, Tim (non-sitting candidate)
Pandazopoulos, John	Dandenong (Assembly)	Cranbourne	Perera, Jude (sitting Member)
Scheffer, Johan	Eastern Victoria (Council)	Monbulk	Merlino, James (sitting Member)
Somyurek, Adem	South-Eastern Metropolitan (Council)	Narre Warren North	Donnellan, Luke (sitting Member)
Tarlamis, Lee	South-Eastern Metropolitan (Council)	Frankston	Edbrooke, Paul (non-sitting candidate - replaced initial candidate)
Tee, Brian	Eastern Metropolitan (Council)	Eltham	Ward, Vicki (non-sitting candidate)
Thomson, Marsha	Footscray (Assembly)	Albert Park	Foley, Martin (sitting Member)
Tierney, Gayle	Western Victoria (Council)	South Barwon	Richards, Andy (non-sitting candidate)
Viney, Matthew	Eastern Victoria (Council)	Ringwood	Clark, Tony (non-sitting candidate)

Nominating Members and Field Organisers' allocated Legislative Assembly districts

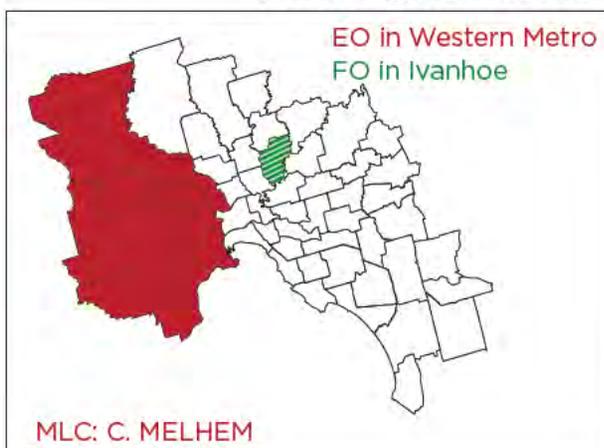
**Field Organiser within funding MLC's Region**



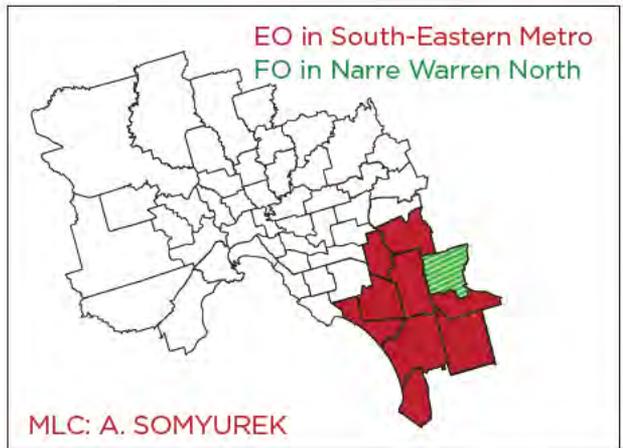
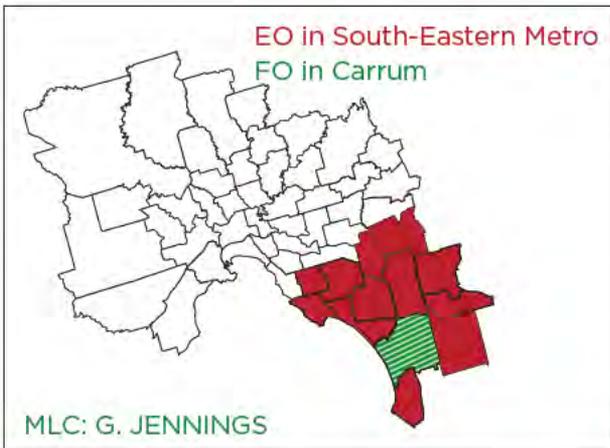
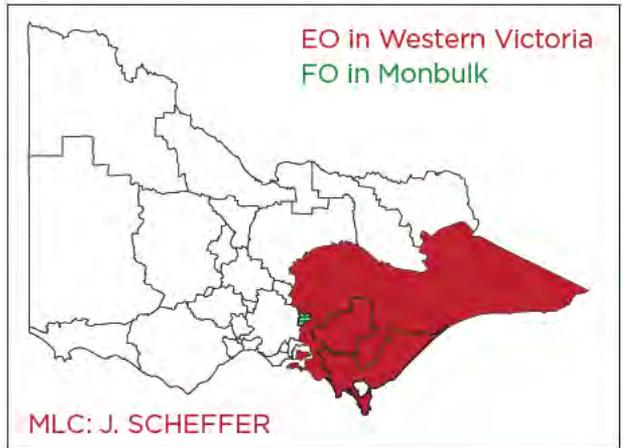
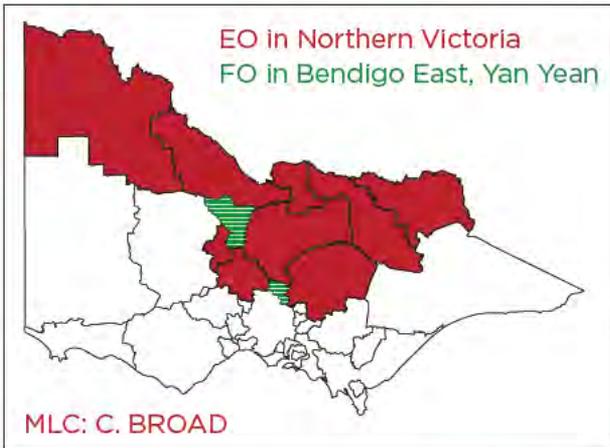
**Field Organiser outside funding MLA's District**



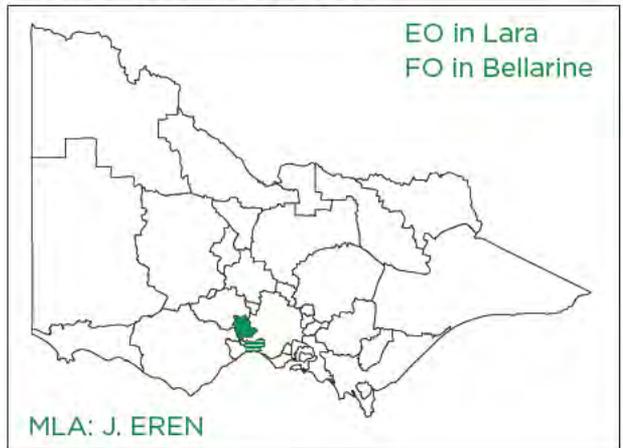
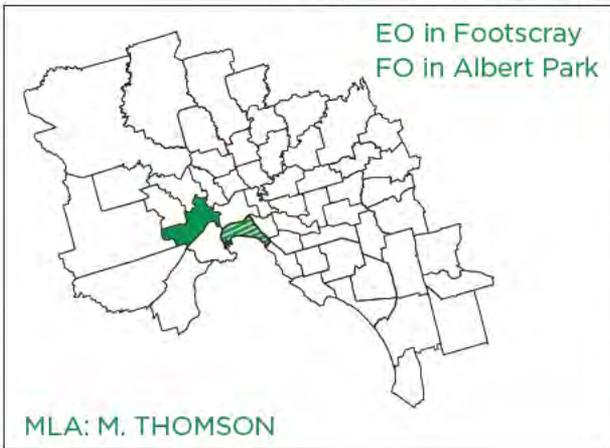
**Field Organiser outside funding MLC's Region**



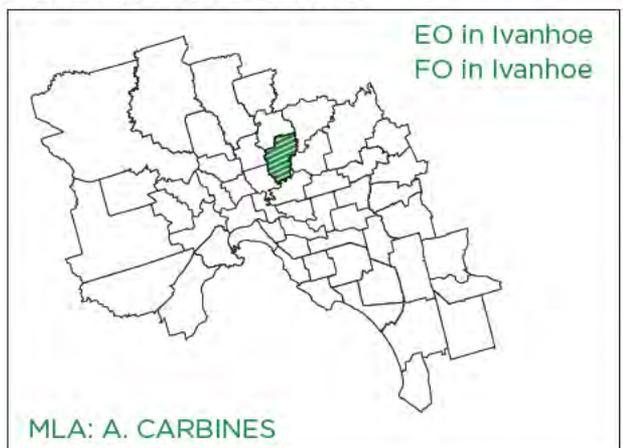
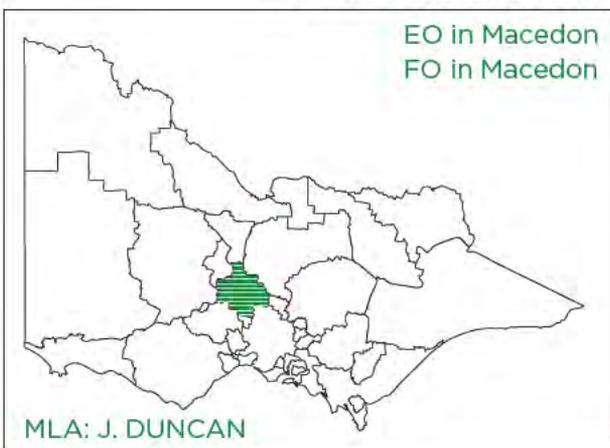
### Field Organiser within funding MLC's Region



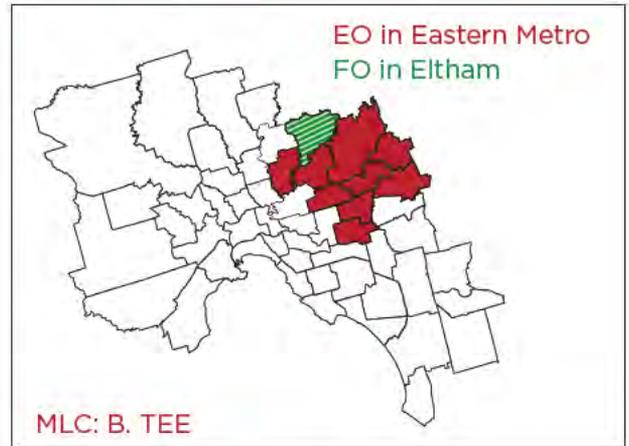
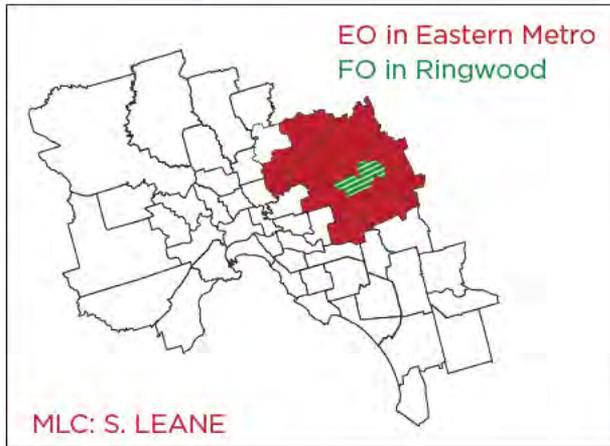
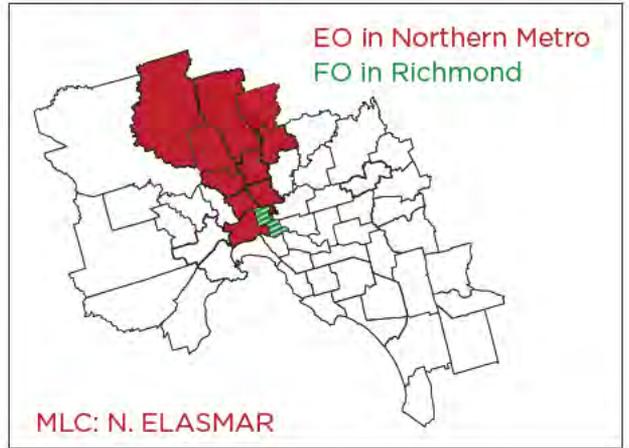
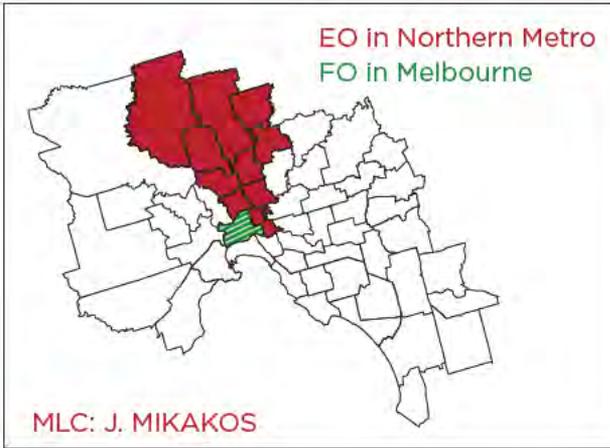
### Field Organiser outside funding MLA's District



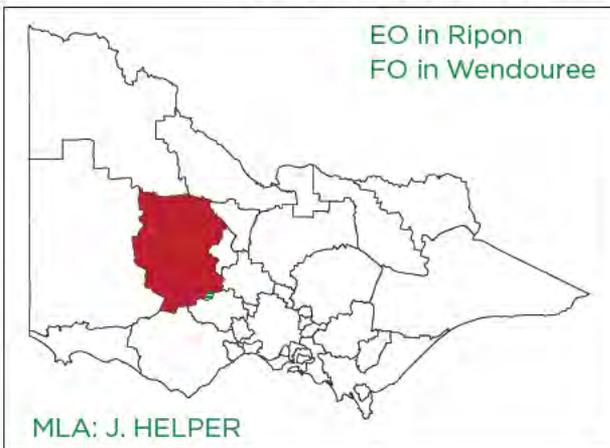
### Field Organiser within funding MLA's District



### Field Organiser within funding MLC's Region



### Field Organiser outside funding MLA's District



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## Mr Jennings' evidence

321. Mr Jennings told investigators that he was not involved in discussions about the 60:40 split arrangement. Mr Jennings' recall of events was that in early 2014, ALP Members of Parliament would have been asked to contribute part of their staffing entitlements to the field campaign for the 2014 election: 'I can't tell you the precise date, but I would have - I and a number of others would have been asked to contribute a staffing allocation for that purpose'. When asked if he could recall who asked him to do this, Mr Jennings replied:

Well, it would have either been directly John Lenders or, somebody on his behalf who would have convened a conversation to take place about that matter.

322. Mr Jennings told investigators that he was not told that this was an expansion or broadening of the ALP's staff pooling arrangements.

323. Mr Jennings' recollection was that the work was largely to involve setting up databases of community interests and concerns:

... the work would involve preparing material that would either advise me or enable correspondence to be generated in accordance with those issues that had been obtained and - so that's the general description of it from memory of what was outlined as the functions.

324. Mr Jennings' evidence was that he had been assured by Mr Lenders that DPS was aware of the proposed arrangement, and he had relied on that assurance in contributing to it: '... I was provided with some comfort that Parliamentary Services [had] ... if not approved it, they were comfortable with what had been described to them'.

325. In evidence, Mr Jennings also said that he did not have 'absolute clarity' about how the proposed arrangements were communicated to ALP Members of Parliament, but noted that Mr Lenders had approached individual Members. He also advised investigators that, each year, ALP Members of Parliament attended an off-site Caucus meeting before the first parliamentary sitting, where 'we actually discuss what's going to happen during the course of the year'. He said: 'It would ring true to me that this [the arrangement] would be talked about during the course of that, that gathering':

I would actually say [there is] a good chance it [the arrangement] was described generically there. We get back to Parliament the following week, we actually have Caucus meetings within the Parliament. ... and what you've described to me in the sequence in terms of how it affected individual MPs there would have been bilateral discussions [between John Lenders and the Member of Parliament]. That rings true to me.

326. Investigators showed Mr Jennings the document containing the Field Organisers' typical daily schedule. Mr Jennings stated that he was not aware in 2014 of that schedule and expressed surprise at how specific it was in its regimentation and time allocations. He said he would be 'very surprised' if the daily schedule was adhered to given it had been structured in a 'very stark fashion'.

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327. Mr Jennings told investigators that he was not involved in the recruitment process for the Field Organisers, and that it would not be usual practice for the ALP's campaign hierarchy to be involved in recruiting Electorate Officers (although Party networks might be involved in that process).

328. Mr Jennings did not recall having seen the Field Organiser advertisement or the position description which was attached to Mr Donnelly's email of 29 November 2013.

### Mr Melhem's evidence

329. Mr Melhem provided a statutory declaration to investigators on 19 November 2017. He stated that Mr Lenders spoke to him in early 2014 about using part of his staff budget entitlement to fund a casual Electorate Officer position. Mr Melhem stated that he did not recall the detail of the proposal except that Mr Lenders told him that the Electorate Officer would also be working in a Legislative Assembly marginal seat using part of Mr Melhem's staff budget, and that Mr Lenders had given him 'an assurance that the arrangements amounted to a legitimate use of [Mr Melhem's] staff budget entitlement'.

330. Mr Melhem stated that he had no recollection of being told about the details of the Community Action Network but that he had already contributed to the ALP staff pool and 'was familiar with Electorate Officers being nominally employed by me but working in other roles in the Opposition room'.

331. Mr Melhem stated that he did not agree with the statement put to him that he had been told that the casual Electorate Officer he nominated would work for two days per week as part of their full-time duties as a Field Organiser. Mr Melhem did not agree with the statement put to him that neither he nor his staff had directed the day-to-day work activities of the Field Organiser employed to work for him as a casual Electorate Officer from 13 March to 24 April 2014. Mr Melhem stated that, during the days he certified Ms Wade as having worked for him, she was working in his Electorate Office and performing work for him in the Opposition room.

332. Mr Melhem provided documents in support of his statutory declaration, including emails which showed that Ms Wade sent time-sheets to his office for processing each pay cycle. However, these emails and the corresponding time-sheets do not contain details of the work conducted on the relevant days. While Mr Melhem's statutory declaration assisted investigators to understand Ms Wade's employment arrangements in March and April 2014, he did not provide examples of research work that Ms Wade performed, which could have assisted the investigation to understand her day-to-day activities.

333. Investigators contacted Ms Wade by telephone on 28 April 2017 and in writing on 14 September 2017 to request that she provide information to the investigation. Ms Wade did not provide information in response to either request.

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334. Ms Wade was also employed to work for Anthony Carbines MP as a casual Electorate Officer from March to June 2014 and as a part-time Electorate Officer from July to November 2014. Investigators wrote to Mr Carbines on 11 October 2017 requesting information. On 10 November 2017, following correspondence from Mr Carbines on 23 October 2017, investigators provided Mr Carbines with a written Request for Information. Mr Carbines did not respond to this request.

335. On 22 December 2017, investigators provided Mr Carbines with extracts of the draft report and requested his responses about any content relating to him. Mr Carbines did not respond to the draft report. In both cases, the Legislative Assembly's assertion of exclusive cognisance on 9 February 2017 may have influenced Mr Carbines' decision not to respond.

### Ms Tierney's evidence

336. On 11 October 2017, the Ombudsman wrote to all Members who had participated in the arrangement, including Ms Tierney, to request further information and confirmation of particular matters. Ms Tierney responded to this request on 31 October 2017, electing to provide information in the form of a statutory declaration on 18 December 2017.

337. In her statutory declaration, Ms Tierney stated that she expected Mr Feaver would 'perform a range of electorate officer duties for me on the days he worked in my office'. She recalled John Lenders explaining that Mr Feaver would also be employed as a Field Organiser but did not recall what he said about preparing the required paperwork or when this conversation took place.

338. Ms Tierney did not recall receiving DPS documents for Mr Feaver, including receiving or signing his time-sheets, but said that she expected that she did so. She stated that Mr Feaver worked in her electorate office two days per week, subject to some flexibility 'in order to meet his other obligations'. She said that during his employment as an Electorate Officer, Mr Feaver's duties included assisting with drafting letters and speeches, conducting research and representing her at community meetings. Although Mr Feaver performed these duties for Ms Tierney, he was not provided with his own DPS computer log-in. In a statutory declaration provided to investigators on 1 December 2017, Mr Feaver stated that 'when I was performing my electorate officer duties for Ms Tierney, I would log on using the long on [sic] details of another staff member'.

339. In support of her statement, Ms Tierney provided a number of emails, and documents which she stated Mr Feaver had prepared for her, including draft second reading speeches, letters to newspaper editors, Member's statements and meeting notes. Of these materials, only two emails referred to Mr Feaver's work as an Electorate Officer. These emails showed that Ms Tierney directed Mr Feaver to represent her at a community meeting held on Sunday, 20 April 2014 and to attend a public rally on Sunday, 10 August 2014. The remaining documents provided by Ms Tierney did not identify Mr Feaver, or any other person, as their author.

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340. On 16 January 2018, investigators requested further information about how the delineation in Mr Feaver's Electorate Officer and Field Organiser roles was observed, but this was not provided.
341. In her response to the draft report, Ms Tierney stated that she authorised DPS payments to Mr Feaver on the basis that he was working for her on the days in question as an Electorate Officer. She said she directed Mr Feaver's Electorate Officer work and, in her absence, her Office Manager and another one of her Electorate Officers directed Mr Feaver. She stated again that Mr Feaver did use the DPS email system but did not have his own DPS log-in, as was standard practice in her office for casual employees. Ms Tierney noted that the Ombudsman should not infer from this that the 'lack of log-in indicated a lack of formality' in Mr Feaver's work as an Electorate Officer. She said she expected that, when working as an Electorate Officer, Mr Feaver would generally work normal office hours and 'so long as he was doing the work assigned to him', she was prepared to sign his time-sheets.
342. Ms Tierney stated that only after reading the draft report did she realise that Mr Feaver had attended ALP Field Organiser training on 5 and 6 March 2014. Ms Tierney had certified a time-sheet which recorded that Mr Feaver performed Electorate Officer duties on those days. Ms Tierney said that at the time, Mr Feaver had told her he was attending training and she assumed that this training related to his Electorate Officer role. Ms Tierney believed Mr Feaver was performing Electorate Officer duties on other days certified in time-sheets submitted to DPS.

### Ms Mikakos's evidence

343. Ms Mikakos provided a statutory declaration stating that she understood Mr Lenders' proposal was 'an extension of the longstanding pooling arrangement which was operating amongst Labor Members of Parliament when [she] was first elected in 1999 [... in which] she had contributed 0.5 of [her] Electorate Officer entitlement to a pooling arrangement for which [she] had no direct involvement in either recruitment or direct supervision of those staff, nor did any of those pooled staff work in my office'. However, Ms Mikakos stated that between 2011 and 2014 she had benefited from access to a media adviser as part of the pooling arrangement.
344. Ms Mikakos provided the following information about her understanding of the arrangement proposed by Mr Lenders in early 2014:
- I was told that an Electorate Officer would be located in the office of the Member for Melbourne, which is one of the Lower House electorates within my electorate of Northern Metropolitan Region. As had been the previous practice with such pooling arrangements, I was not involved in recruiting the Electorate Officer nor was it intended that I would, on a day-to-day basis, give directions to the Electorate Officer. I understood this would be the responsibility of the Member for Melbourne.
345. Ms Mikakos stated that she 'understood that [the] arrangement was a legitimate use of [her] Electorate Office and Communications budget'. She stated that neither she nor a member of her staff consulted DPS or anyone else to seek advice about Mr Lenders' proposed arrangement: 'I did not recall whether Mr Lenders referred to the Members' Guide, laws or codes. I respected Mr Lenders and accepted his advice.'

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346. Ms Mikakos did not recall receiving or signing the DPS forms and time-sheets associated with Field Organiser Sebastian Henderson's employment as an Electorate Officer, but 'accept(s) that, in all probability, I did at or about the time I met with Mr Henderson, at the commencement of his employment. I accept that it is probable that the documents were returned to Mr Mintern on my behalf.' Ms Mikakos stated that she 'expected to benefit indirectly from the Electorate Officer's work in that [they were] supporting an ALP member within [her Legislative Council] Region by entering data into a shared database [Campaign Central]'. Ms Mikakos observed that she had a clear interest in supporting ALP Members of the Legislative Assembly whose districts were located in her Legislative Council region and their mutual constituents.
347. Ms Mikakos stated that she 'has no recollection of receiving any information about how the Community Action Network would be coordinated with the casual Electorate Officer duties'. She added: 'What the Electorate Officer did on [days not paid as an Electorate Officer] was not relevant to their employment as an Electorate Officer'.

### Mr Scheffer's evidence

348. Mr Scheffer provided a statutory declaration in response to an extract of the draft report containing matters relevant to him. Mr Scheffer stated that, during his 12 years as a Member of Parliament, it was common practice to work in partnership with other Members, particularly those in the Legislative Assembly whose districts were in his Legislative Council region. This practice involved 'sharing information on issues affecting constituents and preparing information materials for distribution to constituents'. Mr Scheffer considered this an acceptable use of resources for the benefit of their shared constituents.
349. For this reason, Mr Scheffer located his Electorate Officer, Natalie Gonzalez, in the Hon James Merlino MP's electorate office to engage with constituents of Monbulk District. The Legislative Assembly's Monbulk District was located in Mr Scheffer's Eastern Victoria Region. Mr Scheffer stated that his constituents in Monbulk were affected by proposed funding cuts to local TAFEs.
350. Mr Scheffer commented that he 'located Ms Gonzalez in Mr Merlino's electorate office because the issue of funding cuts to the TAFE system was arguably the issue that had caused more constituent unrest than any other issue during [his] time as an MP'. Mr Scheffer stated that placing Ms Gonzalez in Mr Merlino's electorate office meant that she was 'geographically closer to the community affected by one of the key issues affecting [his] electorate'.

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351. Mr Scheffer stated that it was not a secret that Ms Gonzalez was working in Mr Merlino's electorate office, and thought it was 'highly likely' that another of his Electorate Officers had informed DPS of this arrangement. Mr Scheffer stated that he received no queries from DPS about Ms Gonzalez's employment as an Electorate Officer.
352. Mr Scheffer was unequivocal in his statement that he instructed Ms Gonzalez to maintain a clear delineation between Field Organiser and Electorate Officer work throughout her employment. Mr Scheffer stated that he was concerned to ensure that Ms Gonzalez would not be performing work as a Field Organiser 'during the times when she was employed by Parliament'. Mr Scheffer told investigators that he ensured that Ms Gonzalez was provided with the 'DPS electorate officer information package', and was 'stepped through' this, and she understood how to complete her time-sheets correctly and that they were to be forwarded to him. Mr Scheffer said that he discussed with Mr Lenders the delineation between Ms Gonzalez's two roles, although he did not provide specific details of this discussion to the investigation.
353. Mr Scheffer stated that although he was not in a position to supervise Ms Gonzalez on a daily basis, she was required to lodge work reports with another of Mr Scheffer's Electorate Officers. Mr Scheffer stated that he instructed his Electorate Officer to 'keep in touch' with Ms Gonzalez and Mr Merlino's Electorate Officer, who Mr Scheffer understood was supervising Ms Gonzalez's work as an Electorate Officer. Mr Scheffer stated that the arrangements for supervision of Ms Gonzalez's work as an Electorate Officer were sufficient to satisfy him that the time-sheets were a genuine reflection of the hours she worked as an Electorate Officer.
354. Mr Scheffer did not provide the investigation with any evidence from either of these other Electorate Officers, copies of the work reports which he states that Ms Gonzalez submitted, or correspondence between staff in his office and Mr Merlino's office relating to Ms Gonzalez or her work.
355. DPS records indicate that Ms Gonzalez was first employed by DPS as a casual Electorate Officer on 5 March 2014, which is consistent with the engagement of other casual Electorate Officers employed as part of Mr Lenders' arrangement. While the investigation understands that Ms Gonzalez attended the Community Action Network training from 3 to 7 March 2014, and Mr Scheffer certified her as having worked two days as an Electorate Officer in that week, the evidence he provided to the investigation does not address this.
356. Evidence obtained by investigators shows that Mr Scheffer signed time-sheets authorising DPS to pay Ms Gonzalez for 7.6 hours of work as an Electorate Officer on each Wednesday and Thursday from March to October 2014. The dates and hours on Ms Gonzalez's DPS time-sheets were typed, and almost all have the dates for Ms Gonzalez's signature and Mr Scheffer's signature typed. Mr Scheffer's response to the investigation does not comment on why Ms Gonzalez's time-sheets appear to have been completed in the same manner as the pre-filled time-sheets prepared by Mr Mintern and distributed at the Field Organiser training session on 3 March 2014.

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## Ms Lewis's evidence

357. Ms Lewis provided a statutory declaration in which she observed that she was appointed to fill a casual vacancy in the Legislative Council on 12 June 2014. Ms Lewis stated that shortly before she became a Member of the Legislative Council she had a conversation with Electorate Officer Mr Mintern, who informed her that the former Member had employed part-time Electorate Officers and asked her if she would continue to do so.
358. Ms Lewis stated that she 'did not believe that there was a problem with sharing resources with Legislative Assembly MPs in my electorate ... [s]haring an electorate office with Legislative Assembly members in my electorate was a benefit to me and the Legislative Assembly members'. Based on the advice provided by Mr Mintern, Ms Lewis understood that Mr Walker would be supervised by Danielle Green MP, Member for Yan Yean, and Mr Waters would be supervised by Ms Allan, and would be working in their respective electorate offices.
359. Ms Lewis stated that, as she was aware that Mr Walker and Mr Waters were also employed as ALP Field Organisers during the same period, she spoke to Ms Green and Ms Allan about ensuring that a clear delineation was maintained between Electorate Officer and Field Organiser duties. Ms Lewis stated that she also spoke to Mr Walker and Mr Waters about the separation of the two roles.

360. Ms Lewis agreed that she 'did not give Mr Walker instructions on a day-to-day basis', but stated that she 'did explain to him that he was not to engage in campaign activities on the days he was employed as an electorate officer'.
361. Ms Lewis agreed that she was not in a position to personally supervise Mr Walker and Mr Waters. As above, she stated that she relied on Ms Green and Ms Allan to maintain the delineation between the two roles, and relied on Mr Walker and Mr Waters to provide accurate records of their work on their time-sheets.
362. Ms Lewis stated that it was not unusual for Legislative Council and Legislative Assembly Members of Parliament to share offices and resources, and work together on issues of common interest. Sharing an Electorate Officer with Legislative Assembly Members enabled her to focus on other parts of her electorate, which covers over 100,000 square kilometres, where there were no ALP Assembly Members.

## Statements made during parliamentary debates

363. In 2015, Labor Members of Parliament were asked questions during parliamentary debates about whether any of their Electorate Officers had been assigned to the Community Action Network.
364. In the Legislative Council, ALP Members confirmed that they had contributed to staff pooling arrangements and that such arrangements had been in place for many years. Steve Herbert MLC, the Hon Jaala Pulford MLC, and Ms Mikakos were among those who responded to questions:

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**Mr Herbert:** [...] in terms of pooled staff and contributions put in there, this is a practice that has gone on for 20 years basically in terms of supporting the work of MPs. I have contributed, like most members of Parliament here, to pooled staffing arrangements a whole heap of times in accordance with the directions of the Parliament and for the purposes of the Parliament.<sup>10</sup>

**Ms Pulford:** For the entire duration of the time that I have been a member of Parliament I have contributed to the pooled staff resource, the likes of which Mr Herbert referred to. It has across all parties of this Parliament a history that spans a couple of decades.<sup>11</sup>

**Ms Pulford:** The existence of the pool staff is something that is well known and understood by members; it has existed for the best part of two decades with the agreement of Presiding Officers of all political persuasions over that duration. It is a modest portion of the staffing allocation. I am absolutely confident that my electorate officers, who work for me, fulfil their duties in accordance with the arrangements that I am sure all members of Parliament are requiring of their staff.<sup>12</sup>

**Ms Mikakos:** The member has asked me about a very specific period of time. That is a figure that I do not have at hand, but I can make it clear, as I did yesterday, that there have been very longstanding practices in relation to members of Parliament on both sides of the political fence making contributions to pooled staff arrangements. I can confirm that I made a contribution to Labor's pooled staff arrangements. I certainly have acted in accordance with the parliamentary rules, but as for the specifics of the dates and the details that the member has asked for, I do not have those matters at hand.<sup>13</sup>

365. In her response to a question in the Legislative Council about staff pooling arrangements and the Community Action Network, Ms Mikakos noted that the two were distinct:

The opposition has conflated the pooled staff with the issue of the Community Action Network. They are two different bodies. What I can provide are details around pooled staff arrangements. I have made a contribution to Labor's pooled staff arrangements, but I certainly reject the premise of the member's question around the Community Action Network.<sup>14</sup>

366. After receiving a draft of the report, Ms Mikakos clarified that her expectation was that the Electorate Officer whom she nominated for casual employment, Mr Henderson, would perform Electorate Officer tasks under the direction of the then Member for Melbourne. Ms Mikakos's expectation was that this work would be separate from Mr Henderson's work as a Field Organiser.

## What the Field Organisers said about the 60:40 split

### Reaction to hearing about the 60:40 split

367. Field Organisers interviewed by the investigation indicated that their reactions to the announcement of the 60:40 split on day one of their training varied from acceptance to disquiet. Mr Lenders confirmed that some 'did raise some surprise'. Others, he said, accepted it as 'the way it's done'.

368. Mr Waters confirmed that he was surprised when Mr Lenders advised the Field Organisers that they would be paid three days a week from the ALP and two days a week as Electorate Officers. He said 'it was a surprise to everyone'.

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<sup>10</sup> Steve Herbert, *Parliamentary Debates*, Legislative Council, 2 September 2015.

<sup>11</sup> Jaala Pulford, *Parliamentary Debates*, Legislative Council, 2 September 2015.

<sup>12</sup> Jaala Pulford, *Parliamentary Debates*, Legislative Council, 3 September 2015.

<sup>13</sup> Jenny Mikakos, *Parliamentary Debates*, Legislative Council, 3 September 2015.

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<sup>14</sup> *ibid.*

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369. Mr Simrajh recalled Mr Lenders saying that some of the Field Organisers would be employed full-time by the ALP, and some would be employed part-time by the ALP and on a casual basis by the Parliament of Victoria. He said that he expressed surprise as it was the first time he had heard he would be working as an Electorate Officer. He said that he found the arrangement unusual, as he had applied for and obtained a job that was advertised as full-time. He recalled asking Mr Lenders about the arrangement but could not remember the answer. He said: 'I certainly wasn't the only person to ask the question'.
370. Mr Walker said that he, too, was surprised as it was the first he had heard of the arrangement. While he viewed the arrangement as unusual, his general recollection was that Mr Lenders had said it was 'legitimate within the rules'.
371. Mr Finnigan, Mr Barbour and Ms Hardy also confirmed that day one of training was the first time they had heard of the pay arrangement that was to be in place when they were employed as Field Organisers. Like other Field Organisers, Ms Hardy indicated that she was a little surprised.

### **'Is this legal?'**

372. Mr Finnigan recalled Mr Lenders being asked 'Is this legal?' and Mr Lenders answering with words to the effect of 'It's straddling the line, but we believe it's legal'. Mr Simrajh and Mr Huang also recalled Mr Lenders speaking about the legality of the arrangement in response to a question. In addition, Mr Finnigan recalled Mr Lenders saying words to the effect of: 'Don't tell anyone how you were paid. If anyone asks any questions, you are employed by the Party full-time.'
373. Mr Lenders told investigators that he did not believe that he had described the arrangement as 'straddling the line' between being legal and not being legal. Mr Lenders told investigators that:
- I have a clear recollection of explaining the need to have the delineation between performing the electorate officer roles and the roles as field organisers. I recall that some of the people present were surprised by the arrangement. I recall one person asked a question about whether the arrangements were legitimate. I responded by saying that I felt they were, but that it would be unwise for field organisers to speak publicly about the arrangements. When asked for a further explanation, I referred to the importance of not speaking publicly about the arrangements. My concern was not about the lawfulness of the activity, rather, I was concerned that the Government, if told about the arrangements, would make them a political issue and distract attention from issues of interest to electors.
374. Other Field Organisers confirmed that Mr Lenders had told them not to discuss the 60:40 split arrangement. Field Organisers interviewed stated that the reason Mr Lenders gave for this was that, despite being satisfied the arrangement was legal, the general public may have been critical of it.
375. At interview, Mr Huang was certain that Mr Lenders had told Field Organisers not to publicly discuss the arrangement because, while legal, 'it's not something that the public may have the same, you know, kind of take on it'. In other words, 'the public would not have a positive impression of the arrangement'.

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376. Mr Simrajh said that Mr Lenders may have instructed the Field Organisers to keep quiet about the pay arrangement for 'exactly the reason that we are in this room having this conversation':

There are often things that are permitted by regulations, legislation and all the like, that probably wouldn't necessarily pass the *Herald Sun* test. This may very well have been one of them.

377. Ms Hardy was another Field Organiser who recalled being told that the arrangement was something the Field Organisers should not talk about widely. She understood this to be because 'even though it was allowed, it still might be controversial ... So better to not talk about it.'

### Assurances to Field Organisers

378. Despite these recollections, not all Field Organisers remembered any discussions about their employment and pay arrangements occurring during or following Mr Lenders' attendance.

379. Those who did remember such discussions told investigators that they were assured the proposed employment and pay arrangements were legitimate, although there was some disagreement about who had told them this.

380. Mr Waters recalled questions being asked about the pay split arrangement because it was a surprise and Field Organisers 'were interested to find out how it would all work, because none of us are accountants'. He recalled Mr Mintern telling the Field Organisers that the arrangement was 'not illegal'. He had no recollection of Mr Lenders using the phrase 'it straddles the line': 'John [Lenders] was there ... but I can't remember verbatim what John was saying'.

381. Mr Walker could not recall particular words spoken but recalled that the general tone of the response to the question of legality was that 'it was legitimate and within the rules, although an unusual arrangement'. He could not recall Mr Lenders using the exact words 'it straddles the line' but recalled Mr Lenders saying words along the lines of 'it wouldn't be a wise idea for it [the split arrangement] to be bandied about'.

382. Mr Huang could not recall Mr Lenders' exact words, but confirmed there was 'certainly something said about the grey area'.

383. Mr Barbour did not recall anyone questioning Mr Lenders. Nor did he recall Mr Lenders making comments to reassure the Field Organisers that while the arrangement might 'straddle the line', the arrangement was legal. He did not recall Mr Lenders asking Field Organisers to be quiet about the way they were being paid.

384. Ms Hardy did not recall anyone asking, 'Is this legal?', nor did she recall Mr Lenders talking specifically of 'straddling the line'. However, she did recall Mr Lenders talking about how the arrangement was allowed 'in the sense of that we will be reporting back on community attitudes and things like that'.

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385. Mr Mintern told investigators that some Field Organisers had asked questions about their pay arrangements, but not about the legality of those payments:

I remember – I remember people being curious and there were a few questions about whether that meant they would get separate pays and things like that.

[...]

– and how often [they will] get paid. And some clarifying questions about the two days [...] But I don't recall anybody questioning the legality.

### **Why did Field Organisers accept the arrangement?**

386. While Ms Hardy conceded that it was 'a little bit odd' to be told on her first day of work that she was going to be employed for two days a week in a job for which she didn't apply and about which she shouldn't tell anyone, she also provided important context for understanding why many of the Field Organisers did not question further:

I think because it was a new job ... You don't want to look like you're asking too many questions or – Like, it all seemed fine. I wasn't – I don't recall being overly concerned about it. It was odd, but I was more focused on doing the job than that [questioning arrangements].

387. Mr Finnigan had no recollection of any of the Field Organisers asking Mr Lenders to elaborate on what he had just said: 'I recall that we spoke about this amongst ourselves'. Mr Huang told investigators that a number of other Field Organisers had discussed their concerns and the likely public perception of the arrangement, and 'whether in fact the advice given to the Party about its legality was accurate'. Mr Waters said he subsequently expressed concerns about the arrangement to an ALP Community Action Network employee and was assured that the arrangement was legal.

388. Mr Simrajh's comments are similar to those of Ms Hardy and Mr Finnigan:

[...] at the end of the day we had a job to do, the employment arrangements were what they were, the advice that was provided to me was provided by others, by eminent people who you've mentioned in the course of this interview was that everything that we were doing was completely legitimate and that the instructions that I were given were completely legitimate. And as a young person getting involved in politics I can only take the advice of the people that are providing it and those people who are providing it were eminent people who would have known the answer to those questions. When someone like John Lenders, former Treasurer of Victoria, a great stalwart of the Labor Party, a great contributor to this state, tells you 'It's fine, I am confident', what more do you want me to do?

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## Summary of Field Organisers' employment arrangement

389. Eleven of the 21 Field Organisers approached by the investigation gave evidence as to their activities in the lead-up to the 2014 state election. Given the high degree of consistency across the evidence from these witnesses, it is reasonable to extrapolate from what we have been told.
390. The Field Organisers were recruited by the ALP for the 2014 election campaign in or around December 2013. Mr Donnelly provided them with the Field Organiser job description and interviewed them for the job at the Victorian branch of the ALP's Docklands headquarters. The successful recruits were provided with a letter of engagement for the Field Organiser role. Both these documents indicated that the Field Organiser role was a full-time, fixed-term position from 3 March to 29 November 2014.
391. The Field Organisers attended a week-long training and briefing program for the role, which started on 3 March 2014. This training was provided at ALP premises on William Street, Melbourne, and attended by 25 to 30 Field Organisers and a number of Regional Field Directors.
392. Twenty-one of the Field Organisers who attended the training were employed as casual Electorate Officers as part of the 60:40 split arrangement. Of those, eighteen started being paid by Parliament for two days per week from the training week. The remaining three started being paid by Parliament for two days per week later in March 2014.
393. Four other Electorate Officers who were already employed on a permanent basis also attended the training week. While these four individuals attended the training, unlike the 21 described above, they had not been recruited as full-time Field Organisers. At least one other Field Organiser who was paid solely by the ALP attended the training.
394. The training delivered on each day was consistent with the schedules detailed in the 'Running Sheet' documents (Annexure 3). Attendees at the training were not provided with any training regarding the duties and responsibilities of an Electorate Officer or guidance about performing those duties.
395. None of the attendees received copies of any of the following documents during the training week:
- Parliament of Victoria Electorate Officer position description
  - Parliament of Victoria Welcome Pack - Electorate Officers
  - *Code of Conduct for Parliamentary Electorate Officers*.
396. Only two Field Organisers told the investigation that they were provided with these documents after the training but before the election.
397. On the first day of the training, Mr Lenders addressed the group and explained that the pay arrangement for most Field Organisers would be a 60:40 split arrangement: 60 per cent of wages would be paid by the ALP and 40 per cent would be paid by DPS. None of the attendees who provided evidence to the investigation, except Mr Lenders and his Electorate Officer Mr Mintern, recall Mr Lenders telling the Field Organisers that they should delineate their work so that they performed Field Organiser duties at times paid by the ALP and Electorate Officer duties at times recorded as worked on their DPS time-sheets.

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398. On behalf of Mr Lenders, Mr Mintern provided Field Organisers who were to be employed under the 60:40 split arrangement with the following documents:
- DPS New Starter Details form
  - Electorate Officer: Authority to Offer Employment form
  - ATO Tax File Number Declaration form
  - Multiple pre-filled DPS time-sheets.
399. The pre-filled 'Dates of employment' section on the time-sheets recorded each recipient's work as 7.6 hours between 9:00 am and 5:00 pm on Wednesday and Thursday of each week. The pre-filled 'Reason for payment' section on each time-sheet recorded 'Additional capacity required for electorate duties'. Recipients signed their name in the section marked 'Employee signature' and wrote their name in the section titled 'Employee name'. They were told not to write a date in the sections headed 'Authorisation' and marked 'Date'. The section marked 'Member of Parliament' was also left blank.
400. In the week starting 10 March 2014, each Field Organiser commenced working to recruit Community Action Network volunteers in a Legislative Assembly district that the ALP had identified as important to win at the November election. The Field Organisers' volunteer recruitment activities are described on page 7 of the document titled '2014 Victorian Field Program Field Organiser Roles & Responsibilities' (Annexure 4). Around the same time, they were introduced to the ALP's candidate in that Legislative Assembly district.
401. Most Field Organisers initially worked in an electorate office, although some worked from the electorate office of an ALP Member of Parliament other than their nominating Member of Parliament. At least one Field Organiser worked from a Trades Hall premises from 10 March 2014 until the election.
402. Letters of offer prepared by DPS indicate that the Field Organisers employed as casual Electorate Officers as part of the 60:40 split arrangement were not part of the ALP staff pool that was in place in 2014. This is illustrated by the letters of offer shown at Figures 15 and 16.
403. The Field Organisers' duties and hours of work during their employment from March 2014 to the election were consistent with the description in the 'Field Organiser: Position Description' document and the roles, responsibilities, and daily activities described in the '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document.
404. The Field Organisers' day-to-day duties were tasked by the Community Action Network Regional Field Director assigned by the ALP to manage them. They reported their performance metrics to their respective Regional Field Director each day, excluding Saturdays. On Saturdays, they were part of a teleconference with other Field Organisers, senior Victorian ALP campaign managers, and ALP training staff, discussing the weekly results and progress of the Field Program. Their core hours of work were from noon to 8:30 pm on Tuesday to Friday each week and from 9:00 am to 6:00 pm on Saturday.

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405. The Community Action Network campaign progressed in the four phases set out in the one-page '2014 Victorian Field Program' document (see Figure 12), including the number of volunteers to be recruited during each phase:
- Phases 1 and 2 – Recruiting and training volunteers about conducting persuasion conversations.
  - Phase 3 – Focus shifts to voter persuasion, with Field Organisers embedding earlier training and facilitating volunteers training other volunteers to conduct persuasion conversations using the form set out in the 'How to structure a persuasion conversation' information sheet received during the training week.
  - Phase 4 (titled 'Win the Vote') – Field Organisers and volunteers attempting to influence voters via persuasion conversations.
406. During the Community Action Network campaign, most Field Organisers moved from working in an Electorate Office to an ALP campaign office established for their assigned candidate.
407. All voter data obtained by the Field Organiser, or any of the volunteers they managed, during the Community Action Network campaign was entered into the ALP's Campaign Central database. With a few exceptions, the Field Organisers did not use DPS's email system, or the DPS intranet or network during their employment as Electorate Officers from March 2014 to the 29 November election.
408. During their employment from March 2014 to the election, most Field Organisers were not tasked or managed on a day-to-day basis by their nominating Member of Parliament or that Member's electorate office staff. However, Field Organisers may have had limited contact with their nominating Member from time to time, including to facilitate the signing and transmission of time-sheets to DPS. Two Field Organisers who gave evidence to this investigation claimed that they did take direction from their nominating Member or that Member's staff, and stated that they observed the delineation of duties performed during the times paid as a Field Organiser and as an Electorate Officer.
409. After the 29 November 2014 election, the Field Organisers' ALP employment ceased in accordance with their fixed-term employment contract. Around the same time, most of the casual Electorate Officer positions also ceased. Subsequently, some of the Field Organisers employed as Electorate Officers went on to be engaged as Electorate Officers and, of those, some recall being provided with induction and training, and the Electorate Officer welcome and code of conduct documents upon starting that role.

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## Understanding of Members of Parliament's involvement in the 60:40 split

410. The investigation's understanding of Members of Parliament's involvement in the 60:40 split is derived from interviews with three Members and nine former Electorate Officers. As described in paragraphs 103 to 105, the 20 remaining MPs who agreed to participate in the 60:40 split were offered opportunities both to comment and respond to a draft report and five Members did so. In a response to the draft report on 9 February 2018, lawyers acting for the Parliamentary Members of the Australian Labor Party stated:

We note that the draft report seeks to make some 'across the board' findings and extrapolations based on the evidence referred to in the Draft Report. In our view, these findings and extrapolations should be reconsidered in the light of the statutory declarations. Furthermore, given that members of the Legislative Assembly have not participated in the investigation following the resolution adopted by the Legislative Assembly on 9 February 2017, and not all field organisers have participated in the investigation, the evidence available to the Ombudsman is necessarily incomplete. In particular, findings and conclusions about the activities of field organisers, and the extent to which field organisers may have engaged in campaigning activities while in receipt of public money, cannot be properly made on the material available to the investigation.

411. Four Members involved in authorising payments to Field Organisers for work as casual Electorate Officers provided an account of their involvement while the investigation was in progress, and another four provided an account in response to the draft report. Given the number of opportunities other Members had to provide a different version of events, both during the investigation and in response to the draft report, including my view of the effect of the Assembly's assertion of exclusive cognisance, it is reasonable to extrapolate from what the investigation was told.
412. The evidence suggests that, in about January 2014, Mr Lenders approached ALP Members of Parliament to propose that they use a portion of their Electorate Office and Communication Budget entitlement to fund a casual Electorate Officer position in the run-up to the 2014 state election.
413. The proposed arrangement was outlined by Mr Lenders as follows:
- A person who the Member of Parliament would nominate to be employed as a casual Electorate Officer (via the Parliament of Victoria's Electorate Officer: Authority to Offer Employment form) would also be employed in part by the Victorian branch of the ALP as a Field Organiser in the Community Action Network.
  - The Member of Parliament would be informed of the name and details of the person they would nominate to be a casual Electorate Officer.
  - Mr Lenders' staff would prepare the paperwork in relation to the nominated person's DPS New Starter Details form, Electorate Officer: Authority to Offer Employment form, and time-sheets.

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414. Mr Lenders told each of these Members of Parliament that the casual Electorate Officer they nominated would perform the Electorate Officer duties of contacting constituents to ask about local issues of importance to the constituents, and entering the data obtained from constituents into the ALP's Campaign Central database. Data entered into Campaign Central would then be used to create reports which the Members could use to inform themselves about constituent issues. The Members were told that the casual Electorate Officers they nominated would perform these tasks two days per week as part of their full-time duties as a Field Organiser.
415. On other days each week the same persons would be employed by the ALP as a Field Organiser for the 2014 state election campaign's Community Action Network. From the evidence of three Members of Parliament approached by Mr Lenders, it was not explained that there would be a delineation maintained between the times when the nominated persons would perform work as Electorate Officers and when they would perform work as Field Organisers during the week.
416. It was, however, apparently explained that the arrangement complied with relevant policies, laws and codes of Parliament, including the requirements of the Members' Guide, in relation to the employment and use of Electorate Officers.
417. Not all of the ALP Members of the 57th Parliament agreed to participate in the arrangement proposed by Mr Lenders. Of the 23 who did (including Mr Lenders himself), fourteen were Members of the Legislative Council and nine were Members of the Legislative Assembly. Nine of the Members who agreed to participate did not seek re-election to the 58<sup>th</sup> Parliament.
418. Having attended the Field Organiser training on 3 March 2014 with Mr Lenders, his Electorate Officer Mr Mintern provided participating Members of Parliament with a DPS New Starter Details form, an Electorate Officer: Authority to Offer Employment form, and DPS time-sheets that were already filled out in respect of the name of the nominated casual Electorate Officer, their employee signature, dates and times of work, and the reason for payment.
419. The Members each signed the Electorate Officer: Authority to Offer Employment form as the nominating Member authorising the employment of a nominated person as a casual Electorate Officer. The DPS documents were subsequently returned to Mr Mintern, or sent directly from the Members' electorate offices to DPS, and the nominated persons were then employed by Parliament to work for the nominating Members as casual Electorate Officers.

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420. The persons nominated by the participating Members were recruited, trained and directed by Community Action Network officials. In the early stages of the Community Action Network campaign, Field Organisers were predominantly located in Members' electorate offices, although not always in the office of their nominating Member. In practice, with one exception, no delineation between Field Organiser work and Electorate Officer work was observed, and the function and duties of the person's role was substantively that of a Field Organiser.
421. Periodically, until the end of October 2014 (in some cases concluding earlier), the Member signed time-sheets certifying that the nominated person worked for the Member as a casual Electorate Officer on certain times and dates, which had been already filled out by Mr Mintern and signed by the respective nominated person.
422. By signing the respective time-sheets, the Members authorised payment to be made by Parliament (via DPS) to the nominated person for the hours of work specified in those time-sheets. Although the time-sheets signed almost always recorded that 7.6 hours had been worked on particular days, usually the Wednesday and Thursday of each week, the hours recorded on the time-sheets did not accurately reflect the times worked on those days.
423. During the middle months of 2014, many of the Electorate Officers relocated on a full-time basis to premises that were not electorate offices, such as campaign offices, where the ALP candidate for the electorate they were assigned to was located and from where the candidate was conducting their election campaign.
424. During 2014, most of the participating Members had limited contact with the persons they had nominated to be employed as Electorate Officers, and neither those Members nor their staff directed those Electorate Officers' day-to-day work activities. However, each Member had access to and received information from Campaign Central, which included the data obtained by the person(s) they had nominated (and who was working substantively as a full-time Field Organiser) and volunteers working under their direction, which the Member could use.
425. The participating Members who did not have regular contact with the Field Organisers whom they had nominated for employment as Electorate Officers were not able to observe their activities. As a consequence, had they been aware of the requirement for a delineation between the work performed in the Field Organiser and Electorate Officer roles, these Members would have been unable to properly appreciate that such a delineation was not observed in practice.

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## Chapter 3.

# The political and legal setting

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This chapter gives an account of the complexities of the political and legal setting (including differences in understanding and interpretation), which is best explored in the light of what occurred and which informs our understanding of the issues arising from the evidence.

The chapter focuses on:

- the relevant clauses of the Members' Guide, and what they say about the employment of Electorate Officers
- section 30(4) of the Parliamentary Administration Act 2005 (Vic), and what authority it gives a Member of Parliament to direct the work of an Electorate Officer – particularly in relation to political or party-political work
- staff pooling arrangements, and how different practices and understandings may have played a part in Members accepting an arrangement outside DPS-administered practice.

The chapter contains illuminating comments from current and former Presiding Officers and Members of Parliament about how they view and interpret the Members' Guide, legislation and pooling arrangements. The comments help to identify where there is a shared understanding of requirements and definitions and where the legal and guidance material has been open to different interpretations.

The chapter also includes a discussion of the comparable rules in other Australian jurisdictions and recent recommendations for change. While breaches of the codes of conduct for Members of Parliament and Electorate Officers were not named specifically in the allegations, the Referral asked the Ombudsman to investigate and report on 'any other breach of applicable policies, laws or codes in relation to these allegations'. The chapter therefore includes an overview of the relevant codes of conduct.

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## Entitlements and oversight

### General entitlements

426. In Victoria, Members of Parliament are provided with Electorate Officers, a furnished electorate office, a budget for office expenses and communication with their electorate, and assistance with other costs relating to their work. These resources are not personal benefits for Members, but are ‘tools of trade’<sup>15</sup> supplied to assist them in performing their parliamentary and representative responsibilities. The allocation and use of Members’ entitlements and allowances are governed by a combination of legislative requirements, policy directions, and conventions of conduct.
427. Members of Parliament also receive other allowances and expense reimbursements in support of their official duties and functions, such as vehicle and travel entitlements. These are not within the scope of the Referral, and have not been the subject of this investigation.
428. For each financial year, the Parliament passes legislation in the form of an Appropriation Act to authorise the Treasurer to issue public funds. A separate Act is passed each year to authorise the Treasurer to issue funds for the Parliament of Victoria, including each department of the Parliament – most recently, the *Appropriation (2017-2018) Act 2017* (Vic). These funds are used to pay parliamentary staff and to meet other expenses of the Parliament.

429. For the most part, the Parliament’s control and spending of public funds is not subject to the *Financial Management Act 1994* (Vic) nor to the Standing Directions of the Minister for Finance. This is in keeping with the principle of the separation of powers whereby Parliament and the Executive are distinct branches of government.

### Oversight arrangements

430. The President of the Legislative Council and the Speaker of the Legislative Assembly oversee the Parliament’s administrative operations.
431. The Department of Parliamentary Services (DPS) provides administrative support to the Parliament. DPS’s responsibilities include:
- administering entitlements and allocations of funds to Members of Parliament, including Electorate Office and Communication Budgets
  - managing payroll for Electorate Officers employed to work for Members of Parliament
  - arranging for the rent and fit-out of electorate offices.
432. The services administered by DPS are funded by the public monies appropriated for the Parliament in each financial year.

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<sup>15</sup> This phrase is used by Malcolm Hazell in his *Independent Review of Victorian MPs’ Salary Entitlements, Allowances and Other Arrangements*, 5 February 2013, pp 6, 36.

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## The Members' Guide

433. The Parliament of Victoria Members' Guide (2014) provides guidance on the responsibilities and obligations of Members of Parliament. It is approved by both the President of the Legislative Council and the Speaker of the Legislative Assembly.
434. At interview, Mr Peter Lochert, Secretary of DPS, described the directions in the Members' Guide as unenforceable guidelines – in effect, a manual for Members of Parliament. The Guide does not have the force of law.

### Staffing entitlements

435. Part Four of the Members' Guide is titled 'Electorate Office and Communication Budget Guidelines' and sets out rules governing the use of resources provided to Members to assist in the performance of their duties.
436. Clause 9.1.1 of the Members' Guide states that each Member:
- is entitled to two (2) full-time Electorate Officer positions funded by the Parliament. These positions are provided to support the Member in their parliamentary and electorate duties. The Parliament does not fund positions to support the Member's political or party duties.
- Full-time or part-time Electorate Officers may be engaged to fill these positions as long as the total number of hours worked each week does not exceed 76 hours.

437. Clause 9.1.4 of the Members' Guide provides that Electorate Officers may be engaged on a casual basis. This may be done '[t]o assist with short term needs' and for a maximum of 570 hours over 12 months. The costs of casual Electorate Officers that exceed the staffing provisions in the Members' Guide are charged against the relevant Member's Electorate Office and Communication Budget.

### The Electorate Office and Communication Budget

438. Clause 8 of the Members' Guide provides instruction about the Electorate Office and Communication Budget. This is an annual budget for each financial year, allocated on a pro-rata basis in an election year. Among other things, clause 8 of the Members' Guide states:

The Electorate Office and Communication Budget, administered by the Department of Parliamentary Services (DPS), is made available to the Members of the Victorian Parliament to:

- fund the operating costs of their electorate office, and
- communicate with their electorate in regard to their parliamentary duties.

[...]

Each Member is individually accountable for the use of their Electorate Office and Communication Budget. Members are responsible for ensuring that all expenditure is managed within the allocated budgets and in accordance with all relevant legislation and guidelines.

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A member must be able to certify that the usage was within the established guidelines and that the funds have been used for Parliamentary or electorate purposes. The certification process is an integral part of the accountability framework that serves to protect members from unwarranted criticism regarding their use of budget allocations.

While parliamentary officers may provide advice, training or assistance, it remains the responsibility of the Member to satisfy themselves that their use of parliamentary entitlements is lawful, and it may be in the Members' interest to satisfy themselves that it is publicly defensible.

The Electorate Office and Communication Budget may not be transferred, as a whole or in part between Members.

[...]

The Electorate Office and Communication Budget can not be used to fund any items/service/product where an emblem, corporate symbol, logo or slogan is used to promote a political party. Members are also reminded that the Electorate Office Budget can not be used to support any party or political activities.

The Parliament of Victoria **will not** fund any communications, advertisement or signage that uses a political party emblem, corporate symbol, logo or slogan [emphasis in original].

[...]

Members may be required to repay expenses that are found to be in breach of the guidelines.

## Carrying over funds

439. The Electorate Office and Communication Budget for each Member of Parliament is calculated with reference to the numbers of enrolled voters (both in Victoria, and in the Member's electorate) and the total number of Legislative Assembly districts. It does not include the training budget, which involves a separate allocation of funds. Some Members whose electorate offices are located outside Melbourne also receive a small allocation to assist with additional telephone expenses.
440. According to the Members' Guide, Members can apply to carry over up to half of their base Electorate Office and Communication Budget for a given financial year into the next financial year.
441. The Treasurer must approve any application to carry over funds, and the proportion that may be carried over excludes any amount carried over from the previous financial year. Mr Lenders, a former Victorian Treasurer, told investigators that, in practice, these applications are routinely granted, and that Members accumulate larger Electorate Office and Communication Budgets over the course of each Parliament to spend in election years.
442. At interview, Mr Lochert confirmed that Members of Parliament tended to carry over part of their Electorate Office and Communication Budget into an election year to pay for additional communication with their electorates.

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## Allowable expenses

443. Clause 8.2.1 of the Members' Guide sets out the allowable expenses and costs that can be met from the Electorate Office and Communication Budget. It states that this budget provides funds 'to operate the Member's Electorate Office and support the Member's parliamentary and electorate duties'. The allowable items of expenditure include '[a]dditional Electorate Officer salary expenses'.

444. Clause 8.2.2 states that communications funded from the Electorate Office and Communication Budget 'should be used for the purposes of communicating with the Member's Electorate'. Among other things, such communications:

- should support the Member's parliamentary and electorate duties and may not be used for activities of a party-political nature
- should be used to advise constituents of issues affecting the electorate and/or the services provided by the Member
- are not to be used to fund non-electorate or non-parliamentary activities, and must 'not survey for voting intention, preferred leader or preferred political party'
- must 'not request donations for the Member, their party or other persons or organisations'.

445. Clause 8.2.2 was updated following the Victorian Electoral Boundary Commission's 2013 redivision of electorate boundaries. As a result, under the 2014 Members' Guide, Members were expressly permitted to use the Electorate Office and Communication Budget 'to correspond with their new constituents including those electorates that have changed names but have substantially encompassed existing constituencies'. This is described in the Members' Guide as 'a one-off measure to assist transition to the new electorate boundaries ensuring that all electors are adequately informed of issues relevant to their electorate and services provided by their Member of Parliament'.

446. Under the updated clause, Members whose districts had been abolished could communicate with their current electorate until the November 2014 election. Clause 8.2.2 specifically prohibited retiring Members from using their Electorate Office and Communication Budget 'for the purpose of communicating on behalf of a new candidate'.

## Provision of furnished electorate offices

447. The Parliament of Victoria also provides each Member with a furnished office in their electorate. Clause 10 of the Members' Guide notes that the office and related resources provided by the Parliament 'are to be used for the purpose of supporting the Member in representing constituents and discharging their parliamentary responsibilities'.

448. The Members' Guide specifically prohibits using these offices or office resources for commercial business purposes, and states that:

As the Electorate Office is a public office, signs for e.g. portraits, images, signage or displays which indicate the political party with which the Member is affiliated must not be publicly displayed.

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449. Clause 10 does not explicitly forbid using an electorate office for party-political purposes. Despite this, current and former Presiding Officers of the Parliament told investigators that electorate offices should not be used for electoral campaigning or for party-political purposes.

### Guidance available to MPs

450. Mr Lochert advised investigators that DPS provides induction training for new Members of Parliament. This includes information about the Members' Guide and one-on-one meetings with DPS staff. The Members' Guide also states that Members can seek advice from the Clerks of the Parliament and from DPS.
451. At interview, current and former Members of Parliament said they were aware of this support. However, several Members indicated that fellow Members of the same party would be the first point of contact for assistance in interpreting the Members' Guide requirements, not DPS.

### Differences from the 1997 Members' Guide

452. On 28 November 2017, DPS informed the investigation that it had located a 1997 edition of the Members' Guide, which it provided to the investigation on that day. The 2014 Members' Guide is different in a number of key respects from the 1997 Guide, perhaps most significantly that the 1997 Guide did not include a direction to the effect that Electorate Officer positions 'are provided to support the Member in their parliamentary and electorate duties. The Parliament does not fund positions to support the Member's political or party duties.'
453. This change is consistent with the history of formal staff pooling arrangements, outlined later in this chapter.

### Electorate Officer duties – section 30(4)

454. In the previous chapter it was outlined how Members of Parliament may nominate a person to be employed as an Electorate Officer, but the Electorate Officer would be employed by the Presiding Officers of the Parliament.
455. The *Parliamentary Administration Act 2005* (Vic) was amended in 2013 to insert section 30(4), which states that 'the duties and responsibilities of a person employed as an Electorate Officer are to be determined by the Member who nominated that person'.
456. Section 30(4) specifically provides that the nominating Member determine the duties and responsibilities of the Electorate Officer, despite that Member not being their employer.
457. During debate on the Bill that foreshadowed the insertion of section 30(4), no Members commented on the proposed introduction of section 30(4), the reason for its inclusion, or its intended function or effect. The Parliamentary and Public Administration Legislation Amendment Bill 2013 (Vic) was debated between 9 May and 11 June 2013 and received royal assent on 25 June 2013.
458. According to DPS, section 30(4) of the Parliamentary Administration Act has priority over the Members' Guide 'if there is a conflict', as the Members' Guide is not made under statute and does not have the force of law.

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## Rationale for amendment of section 30(4)

459. Current and former Members of Parliament told investigators that section 30(4) was inserted to avoid disputes about who could task or direct the activities of Electorate Officers. Those who prepared and presented the amending legislation told investigators they believed the change was intended to clarify arrangements.

460. For example, the Hon Dr Denis Napthine, the then Premier of Victoria, said the amendment was not to effect a substantive change or broaden the scope of the Electorate Officer's position description, but to make it clear how the relationships worked:

[...] My understanding [was] there was an EBA negotiation that was going on ... a settlement. And [as] part of that process, there was a discussion about who employed the Electorate Officers and who was responsible for their day-to-day activities. And for very sound and good reasons, it was very clear that they had to be employed by the Parliament and indirectly by the Presiding Officers, the President and Speaker. And it was also clear that they weren't going to be subject to the Public Service Act. ... But there was also an understanding that while they were employed in that manner, their actual day-to-day activities, whether they spent the day on the front desk answering a phone or whether they spent the day writing speeches, or whether they did X or Y each day, ... clearly had to be at the direction of the Member of Parliament.

461. At interview, the Hon Louise Asher MP, who introduced the Bill proposing the insertion of section 30(4), highlighted the implications of not being able to direct someone in her own electorate office. She described how an Electorate Officer who followed the Enterprise Agreement to the letter (for example, around break times) could jeopardise the staffing of a small office. This was the sort of thing, she said, that Members had discussed 'for decades': 'I'm the employer, and I should be able to say, "This is what I want you to do"'.

462. While not an architect of the amendment, Mr Lenders, too, spoke to investigators of the greater clarity the amendment gave Members:

It was part of that ongoing process to try and clarify. To say who is the Electorate Officer accountable to? To the MP, clearly. They are not employed by the MP but they are accountable to the MP.

## Views on section 30(4)

463. Members of Parliament interviewed expressed a range of views about the effect of section 30(4).

464. Some agreed with DPS's view that statute prevails over a policy document where the two are inconsistent (the 'broad interpretation'). Others considered that section 30(4) clarified existing arrangements for managing Electorate Officers, but did not expand the range of duties and responsibilities that could be assigned to Electorate Officers beyond assisting with a Member's official duties (the 'narrow interpretation').

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465. Ms Christine Fyffe MP, who was the Speaker of the Legislative Assembly between February and November 2014, said she understood that section 30(4) gave her the ability to direct her Electorate Officers in her own office, without anyone else telling them what to do:

It stops the Speaker or the Presiding Officer or any other Member telling your staff what job they are going to do in the office. If I decided Sue should be sitting out at the front and Phil down the back, because that is where I need him, or that Sue is to do all constituent things [and] Phil to do all research for speeches, that I'm the only one who decides what their duties are in the office within the parameters of their employment.

466. Several witnesses were firm in their view that section 30(4) did not permit Members to direct Electorate Officers to perform political or party activities.

467. For example, the Hon Bruce Atkinson MLC, President of the Legislative Council, said that he read section 30(4) to mean that in directing staff, a Member should still 'have regard to the parameters set out in the Members' Guide' and not allow 'direct political campaigning by staff for a number of reasons'. Ms Fyffe was also clear that overt political campaigning is where the Electorate Officer's duties stop. She stressed that section 30(4) 'does not say that a Member can direct an EO to do something that is outside their job description'.

468. Ms Asher was similarly firm in saying that directing someone to perform any duties could not involve things such as 'touting', as that was party-specific:

I suppose the ethical view will be that to direct means to direct something to do with your work. ... you'd never tell your staff 'That woman is a swinging voter and do you reckon you can get in there first and tell her I'm fabulous and the Labor Party will do something she hates'. That's touting or campaigning and I'd never dream of asking my staff to do that.

469. Peter Ryan, who was the parliamentary leader of The Nationals in 2014, also believed the changes 'clarified the status of things' in terms of 'who's holding the reins', but did not change what an Electorate Officer could be properly instructed to do. He acknowledged that the section could be read as giving Members permission to direct an Electorate Officer to do party-political matters – but only if people chose to ignore the 'overlay' of conventions about ethical practice and 'what was well understood by everybody in that parliament about this issue in particular'.

470. Sue Pennicuik MLC, a Greens Member of Parliament who participated in debate on the amending Bill, disagreed with the suggestion that section 30(4) could be read as expanding the duties which Electorate Officers could be directed to perform. When the broad interpretation of section 30(4) was put to Ms Pennicuik, she commented: 'To override all the things that are in place, I can't see that that would have been the intention. And I don't think it was, from my memory of the debate. ... I just think people thought it was just a clarification of the existing arrangement.'

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471. Mr Jennings did not think section 30(4) was helpful and suggested that a more direct statement is needed:

I don't think it's helped. ... Because in fact what is actually happening, within all of these moving parts that we have actually been talking about, the way in which you use your electorate office budget, the way you use your communication budget, the way in which you are using, you know, the activities of, of your Electorate Officer, a lot of people actually think that, you know, they want to actually embrace the Commonwealth model that actually just goes straight to the fact that takes all of this out of the way by actually saying one of the tasks of an Electorate Officer is to assist in the re-election of their Member.

## Parliamentary staff pooling

472. As noted in the previous chapter, in 2014, ALP Members of Parliament contributed to an approved Electorate Officer pooling arrangement administered by DPS. Persons interviewed by investigators provided different descriptions of what they considered to be Electorate Officer staff pooling arrangements permitted by Parliament. It also became apparent that staff pooling arrangements approved by Parliament had changed over time.
473. The ALP staff pool was supported by ALP Members of Parliament each contributing a fraction of their entitlement to the equivalent of two full-time Electorate Officers, as set out in clause 9 of the Members' Guide. These contributions were aggregated and used to employ Electorate Officers on a part-time or full-time basis. The ALP Parliamentary Party Secretary was the nominating Member of Parliament for these Electorate Officers and responsible for these employees as their manager.
474. The ALP staff pool enabled Electorate Officers with specialist skills (for example, speech writing, graphic design, research and policy development) to perform work for a number of Members of Parliament in a single employment relationship, rather than having to be individually nominated for employment by each Member who required their services.
475. The available evidence indicates that, in 2014, no other parties represented in the 57th Parliament had DPS-administered staff pooling arrangements.

### History of parliamentary staff pooling arrangements

476. Mr Lochert confirmed that various Parliament-approved staff pooling arrangements existed in the past.
477. Initially, pooled staff positions were made available to parties after the second Electorate Officer positions for Members of the Legislative Council were abolished as a cost-saving measure by the Kennett Government.
478. At interview, Mr Lenders confirmed that this was his understanding of the history of Electorate Officer staff pooling arrangements:
- So, going right back to 1992, a pooled staff arrangement was put in place where every MP seconded a portion of their staff to a pool, which then would do tasks and duties collectively. ... So, this goes back right to 1992 when the then Kennett Government reduced the staff of MPs from two to one and gave a pool of 18 staff to the parties to then allocate, and then the Labor Party augmented that by getting its individual MPs to also put extra staff into that pool.

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479. In a subsequent written statement, Mr Lenders commented that formal pooling arrangements in place since 1992 had broken the 'nexus between the work of an electorate officer and the Member of Parliament responsible for his or her "employment"'.
480. Mr Lochert stated that parliamentary staff pooling arrangements were introduced for all parliamentary parties from the mid-1990s. According to DPS, the Liberal, Nationals and Labor parties all established staff pooling arrangements at this time. Mr Lochert told investigators that those arrangements permitted the use of staff paid by Parliament for party activities:
- [...] there was a specific allocation from the executive through the appropriation for all the parties to have this pooling to resource, yes, definitely any function that the party wanted.
481. From the evidence, the Parliament-approved Electorate Officer staff pooling arrangements that were in place from the mid-1990s ceased in the early 2000s. However, Mr Lochert told investigators that, from 2004 onwards, ALP Members of Parliament had maintained staff pooling arrangements by contributing part of their full-time-equivalent staffing entitlements, as described above.
482. Electorate Officers allocated to ALP staff pool positions were employed in the same way as other persons nominated by Members of Parliament to become Electorate Officers, 'with the parliamentary party secretary making the nomination as the Member responsible'. This arrangement was in place in the lead-up to the 2014 election.
483. In respect of pooling arrangements in 2014, Mr Lenders' written statement noted that:
- The pooling of staff involves staff working for the collective interests of members of the party rather than individual Members. Pooled staff do not take direction from the Members who nominally 'employ' them but take direction from the Leader of the Opposition or his/her Chief of Staff or Shadow Ministers.
484. Mr Lochert explained to the investigation that the Presiding Officers and DPS did not approve pooling arrangements involving contributions from Members' Electorate Office and Communication Budgets. Mr Lochert stated that such arrangements had the net effect of transferring Electorate Office and Communication Budgets between Members of Parliament, 'which we felt very uncomfortable about' and which is specifically prohibited at clause 8 of the Members' Guide. He said:
- Well, we – in the context of the communications budget we've always been very clear that you cannot transfer money from one electorate office to the other.
485. The ALP staff pool of part-time and full-time ALP Electorate Officers does not offend the prohibition against transferring Electorate Office and Communication Budgets between Members. Contributions to this pool come from a separate staffing entitlement, described at clause 9 of the Members' Guide.

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## The Parliamentary Party Support Fund

486. In addition to the ALP staff pool, all Members of Parliament are allocated additional funds for administrative support arrangements. This arrangement was put in place in 2008 when the Victorian Government funded the creation of the 'Parliamentary Party Support Fund'. Initially, this allocation was \$2000 per Member of each respective party, but was reduced to \$1000 in 2010 and remains at that level.

487. For the Liberal, Nationals and Labor parties, these funds are aggregated and assigned as a budget to be managed by the Members appointed as each party's Parliamentary Secretary. This arrangement could be considered a financial pooling arrangement, separate and additional to the ALP staff pool to which ALP Members contributed. For other parties and independent Members of Parliament, the Parliamentary Party Support Fund amounts were added to each Member's Electorate Office and Communication Budget. These funds can be used to fund additional staffing resources or for other purposes.

488. At interview, Mr Lochert stated his view that the Parliamentary Party Support Fund was used to employ casual staff and contractors to provide services which would benefit multiple Members of Parliament or the parliamentary party as a whole. Mr Lochert's description of this practice suggested something akin to staff working across a number of different offices of a company – a sharing of resources, rather than the model used for the ALP staff pool:

**Mr Lochert:** ... for example, at the moment the National Party – I mean, every Member gets an amount of money. It's called the Parliament House Administrative Support Fund. And it's about \$1000 per Member, I think. It used to be \$2000 ...

[...]

But we cut it when we had to implement some general efficiency dividends. So, what happens there is that the major parties, we put – let's say you've got 40 Members, or 50 Members, or 60 Members, we give the Parliamentary Secretary a budget.

**Investigator:** Yes.

**Mr Lochert:** With the \$40,000, \$50,000 or \$60,000. The crossbenchers and the independents just get that paid into an electorate office budget. [...] So, they all tend to then pool that money and do different things with it. The National Party actually employ staff with it. [...] I think Labor doesn't. They occasionally employ casuals. The Liberals also employ partly staff and things like, you know, you need somebody to do graphic design, that kind of stuff.

[...]

**Investigator:** All of those sort of specialist kind of skills that you might want to share between offices.

**Mr Lochert:** And that's rational and that's always been the premise, as I understand it, for allowing pools of some kind.

489. In an earlier written response to investigators, Mr Lochert indicated that as at 3 May 2017, the Liberal Party, The Nationals, and the ALP each employed a small number of staff using the Parliamentary Party Support Fund.

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490. Mr Lochert told investigators that DPS would support using the Parliamentary Party Support Fund for an Electorate Officer who was assisting the Parliamentary Party Secretary sitting in Parliament during a sitting week: 'Because that's what the fund is for'.

### Other resource-sharing arrangements

491. Mr Lochert commented that, in addition to the ALP staff pool for ALP Members and the permitted aggregation of their Parliamentary Party Support Fund allowance, parliamentary parties have other resource-sharing arrangements:

The ALP pool cannot be seen in isolation. All political parties have pooled staffing resources in some way or another as a way of resourcing their functions. These included staff funded from electorate officer positions, casual staff funded from electorate office and communications budget, Parliamentary Party Support Fund, Government-funded parliamentary advisers, Opposition staff, and other available support funding. Minor parties will commonly pool staff (electorate officers, parliamentary advisers, etc.) across electorate offices and supplement them with volunteers under the supervision of an electorate officer.

492. Mr Lochert told investigators that DPS also allowed limited forms of resource pooling by Members of Parliament, typically where those arrangements would give Members efficient access to specialist skills. Mr Lochert's evidence was that monies allocated to Members as part of a parliamentary support fund could be used to support Members across a party.

493. DPS allocates these funds either as additional amounts for a Member's Electorate Office and Communication Budgets or as an aggregated total managed by the Members' party's Parliamentary Secretary as a separate budget.

494. It is therefore Mr Lochert's view that there is a formal staff pooling arrangement for the ALP, but that all parties will share resources provided by the Parliament to individual Members: 'Anecdotally, every party will do it'.

495. It appears that resource-sharing arrangements of this nature may take place in practice to assist Members to collaborate on parliamentary activities. It appears that the word 'pooling' has been used by some Members to describe both formally approved pooling and other resource-sharing between Members who belong to the same party, which have not been approved by Parliament as a pooling arrangement of resources between Members.

496. Ms Pennicuik told investigators that the Greens do not have any pooling arrangements involving contributions from Members' staffing or other entitlements. She stated that Electorate Officers working for different Greens Members of Parliament would contact each other for information or assistance with particular matters, but that this did not amount to staff pooling.

497. Mr Ryan and Dr Napthine both stated that they understood that Electorate Officers were allocated to assist particular Members in their electorate. They both told investigators that in 2014, to the best of their recollection, there were no staff pooling arrangements for The Nationals or the Liberal Party. Both stated that they understood that staff pooling had ceased in the early 2000s.

498. The term 'pooling' has been used to describe a variety of resource-sharing arrangements. These arrangements, and their compliance with existing rules on the use of Members' entitlements, are discussed in the following chapter.

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## MPs' awareness of requirements

499. Investigators spoke to current and former Members of Parliament, some of whom had served as Presiding Officers, about their knowledge and experience concerning staff pooling arrangements.

## Views of current and former Presiding Officers

500. Mr Atkinson highlighted that the practice of pooling was particularly common among Opposition parties, who had fewer resources at their disposal:

Pooling has been used in the past. It is generally used mostly by oppositions because of the limited resources that are available to opposition parties compared with government which has an army of advisers and so forth, and has been used to employ people with particular skills to support particularly in terms of shadow ministers, their policy development and so forth.<sup>16</sup>

501. During debate in the Legislative Council on 2 September 2015, Mr Atkinson noted the existence of formal staff pooling arrangements, but strongly condemned the use of pool staff for political campaigning:

The arrangement is an understood arrangement, but clearly it is the view of the Presiding Officers that the people who are employed by the Parliament and paid for by the Parliament are there to support members of Parliament in their parliamentary duties and to support and assist constituents. They are not there for political campaigning. That is the understood position of the Presiding Officers.

502. Mr Atkinson told investigators of his concern that, if the allegations reported in the media which are the subject of this investigation were accurate, Parliament's ability to fulfil its obligations as an employer would be hampered. He gave WorkCover entitlements as an example:

I mean, it raises other issues for us as an organisation including things like WorkCover and all sorts of things. ... if somebody is employed as an electorate officer ... then the expectation of an electorate officer is they are working in an electorate office and in a particular geography because they are engaged by a particular member. So, if they are out doing something else somewhere else under someone else's direction, then we have got an exposure in some other matters, quite distinct from the political ramifications. There could well be some WorkCover or other employer responsibilities that are brought into question by the fact that an individual might be under the direction of someone other than the person who has employed them.

503. Judy Maddigan, a former Speaker of the Legislative Assembly, recalled that when she was elected in 1996, 'we were asked to give one day a week of our Electorate Officer to John Brumby's staff [as the returning Opposition Leader]'. She understood this was so staff could do work on things like background to legislation. However, during her tenure as Speaker, she was not aware of any pooling arrangements: 'Certainly, my office was never involved'. When asked if this had ever been 'a live issue' for her, Ms Maddigan replied: 'Well, if it was, I never knew about it. No, I don't think it occurred when I was there'.

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<sup>16</sup> Mr Atkinson made similar points during a debate in the Legislative Council on 2 September 2015. See Victoria, *Parliamentary Debates*, Legislative Council, 2 September 2015, 2843.

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504. Christine Fyffe MP, the Speaker of the Legislative Assembly between February and November 2014, said that having the pool helped those in Opposition to do their job – for example, by having staff working on party policy and research. She told investigators that the Labor Party had continued pooling long after the Liberals and The Nationals had stopped:

**Ms Fyffe:** [Pooling] stopped for Liberals and Nationals in 1999 and they ceased pooling. Labor kept pooling, and I only found this out last week, Labor Party kept pooling until in the 2014 election. So, they still used that pooling.

**Investigator:** So, when the Liberals stopped using pooling in 1999 how was that sort of decision made?

**Ms Fyffe:** Jeff Kennett went. We were in turmoil and I think it was, you know, retain every seat, you need the two people to help you retain your seat.

## Views of current and former Members of Parliament

505. Mr Jennings told investigators that between 2010 and 2014, while in Opposition, he contributed part of his staffing allocation to the approved ALP staff pool. Mr Jennings described the merit in using pooling arrangements to share resources between Members. He stated:

**Mr Jennings:** ... So, for instance, what's the best way in which that resource could be used to serve the interests of the – in this term, the opposition. What's the best way in terms of quality advice that actually comes to you that supports you and another sitting MP? Or, you know, a whole range of your colleagues.

**Investigator:** A classic pooling arrangement.

**Mr Jennings:** Yes. So, the classic pooling arrangement I think is actually something that acquits your obligation to the query of public money because it's suiting your interests, but it's also a shared benefit to other MPs.

506. Members of other parliamentary parties, however, expressed the view that Electorate Officer pooling arrangements had ceased well before 2014, or that (in the case of Greens Members of Parliament) that there were no staff pooling arrangements at all.

507. Mr Ryan, former parliamentary leader of The Nationals, recalled a situation in his office in the 1990s, whereby one of his two Electorate Officers worked for two years as an administrative officer in the party's Collins Street headquarters:

And to differing degrees there was a similar sort of usage of Electorate Officers across the different parts of our representation through country Victoria.

508. Mr Ryan stated that after the Labor Party assumed Government in 1999 (under the leadership of the Hon Steve Bracks AC), the practice was abolished. Mr Ryan believed this may have occurred about 2000 to 2001. From that time, Electorate Officers 'essentially worked in the electorate offices where they were engaged, and their function was to be very much focused around the interests of the electorate per se'.

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509. Dr Napthine also had a similar recollection of staff being allocated ‘to the party – for the party to deal with as they saw fit’. He, too, recalled pooling practices being abolished in the early 2000s. Dr Napthine thought this was because ‘the Labor Government at the time said we are not going to do that anymore, we are going to allocate staff to MPs; to electorates’. Dr Napthine told investigators that to his knowledge, pooling had not been used by the Liberal Party between then and the 2014 election.

The identified differences in the Members’ Guide’s instructions between 1997 and 2014 appear to reflect the changes to the employment and pooling of Electorate Officers introduced in the early 2000s.

The directions that Electorate Officers were not provided to support the Member’s political or party duties or party-political activities appear to have been inserted into the Members’ Guide about this time to prohibit Electorate Officers working at the direction of political party management or assisting Members in political activities that are directed by the Members’ political party.

510. Current and former Greens Members of Parliament told investigators that the Greens did not have staff pooling arrangements. At interview, Ms Pennicuik considered that the issue of pooling was not relevant to the allegations which gave rise to the Legislative Council’s Referral on 25 November 2015:

I don’t know why this issue is even being raised. ... I don’t think it’s got anything to do with the allegation. I think it’s something they’ve thrown in as a red herring ... I don’t get the relevance of it.

### Parliamentary staff pooling arrangements in 2017

511. At interview, Mr Atkinson said that neither the Liberal Party nor the ALP has staff pooling arrangements currently. Mr Atkinson told investigators that The Nationals is the only party currently operating a formal pooling scheme, whereby each Member allocates ‘an amount from their communications budget to the leadership team and is used as a pool to employ some additional staff for them’. As stated earlier in this chapter, Mr Lochert told investigators that The Nationals employ staff using the Parliamentary Party Support Fund, which is consistent with Mr Atkinson’s evidence on current pooling arrangements.

512. Mr Atkinson stressed that this is not a practice ‘we are particularly keen on’:

... but it is an area that we have actually even revisited in the last couple of weeks because the Government has allocated, which we didn’t ask for, but has allocated an extra 0.5 of a person to every electorate office, to every member of parliament. Now, as I said, that was not subject of a submission of the parliament. The Government, in providing those staff, obviously raised an issue from opposition as to whether or not those staff could be pooled, and the advice that we have provided back to the Opposition is that no, we will not have pooling.

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513. Mr Lochert confirmed that DPS and the Presiding Officers 'wanted to tighten up the management of the pools in particular'. Statements about pooling arrangements in the context of the Community Action Network are discussed in the previous chapter. However, the available evidence indicates that all positions in the ALP staff pool were discontinued in September 2015.

### A call for change

514. Mr Atkinson commented that the major parties may have benefited more than others from parliamentary staff pooling arrangements. During parliamentary debate in September 2015, Mr Atkinson argued that the arrangements need to be looked at afresh through the lens of transparency:

There may be some issues that need to be explored, and the Speaker and I for some time have been working on how we codify those pooling arrangements going forward, making sure that there is transparency and that all parties have access to those arrangements. I am mindful that the Greens, for instance, have not had that flexibility historically.

[...]

It might be other parties as well. Mr Leane made reference to the two-party system, but I think we have gone well beyond that. This is one of the reasons we need to look at the pooling arrangements and make sure, as I said, that they are transparent and support Members in their work of addressing the needs of their constituencies.

## Comparable rules in other Australian jurisdictions

515. All Australian jurisdictions provide staff, a furnished office and a discretionary budget for communications and expenses to assist Members of Parliament in performing their duties. These entitlements may be set by the Parliament in that jurisdiction but, increasingly, they are decided by specialist tribunals established to determine the salaries and remuneration for Members of Parliament.<sup>17</sup>
516. The manner in which Electorate Officers are employed varies substantially between jurisdictions. Members of the New South Wales, Commonwealth, and Australian Capital Territory Parliaments directly employ their Electorate Officers.<sup>18</sup> In Western Australia, the Presiding Officers appoint Electorate Officers to assist Members of their respective House of Parliament.<sup>19</sup> In Queensland, which has a unicameral Parliament, the Clerk of the Legislative Assembly appoints Electorate Officers.<sup>20</sup> However, there is no comparable provision to section 30(4) of the Parliamentary Administration Act in any other jurisdiction in Australia.

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17 For example, the Parliamentary Remuneration Tribunal (NSW), Salaries and Allowances Tribunal (WA) and the Remuneration Tribunal of South Australia.

18 *Members of Parliament Staff Act 2013* (NSW), ss 14, 16, 18, 19; *Members of Parliament (Staff) Act 1984* (Cth), s 20; Special Minister of State (Cth), *Determination 2014/1 – Employment of Electorate Officers*, 10 April 2014; *Legislative Assembly (Members' Staff) Act 1989* (ACT), s 10.

19 *Parliamentary and Electorate Staff (Employment) Act 1992* (WA), ss 3, 4.

20 *Parliamentary Service Act 1988* (Qld), ss 26, 26AA.

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517. Most jurisdictions explicitly prohibit using resources provided by Parliament for electioneering or campaigning purposes.<sup>21</sup> No Australian jurisdiction explicitly approves the use of Electorate Officers or other resources provided to Members to provide anything more than incidental support of their electioneering or party-political purposes.

### Definitions of party-political activity

518. The Legislative Assembly of Queensland's *Members' Remuneration Handbook* defines 'political party activity' as including campaigning for a political party (including electioneering/campaigning purposes) and organising and sustaining branches. 'Electioneering/campaigning purposes' are defined as expenses associated with attending or organising fundraisers, campaign launches and strategy meetings, candidate selection, and 'general campaigning/electioneering by a Member or on behalf of other Members/candidates'. However, in very specific circumstances, expenditure by Members of Parliament for 'political party activity' or 'electioneering/campaigning purposes' may be deemed allowable:

Note also that advising constituents of the locations of polling booths on election day or pre-poll locations or assisting with postal or pre-poll voting is not considered electioneering/campaigning as long as material does not advocate a particular voting choice (p. 6).

Note expenditure for party membership fees/levies or donations to a party is deemed to be associated with political party activity. Policy formulation activity through participation in party committees or attendance at party conferences may still be an allowable expense due to its link to a Members' legislative duties (p. 6).

519. Most other jurisdictions do not attempt to define party-political activities as a category. However, some identify specific kinds of expenses and activities which are beyond the scope of a Member's electorate and parliamentary activities or the 'official duties' of a Member of Parliament:

**Official business** means the usual business of a Member of Parliament, which:

- (a) Includes business related to a Member's Parliamentary, electorate or office holder roles; and
- (b) Excludes party business, other than meetings of a Parliamentary political party, or of its executive or committees, or formal meetings of a political party.<sup>22</sup>

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An important test that a Member should apply is to ask whether any expenditure is in support of their role as a Member of Parliament (allowed) or is in support of a political purpose. It is accepted that many expenditures could be deemed to fall into both categories to some extent, hence while the Member is entitled to use their discretion the expenditure must be able to be justified.<sup>23</sup>

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21 Legislative Assembly of Queensland, *Members' Remuneration Handbook*, 1 January 2014 (updated January 2017), p 11; Parliamentary Remuneration Tribunal (NSW), *Annual Report and Determination*, 31 May 2017, pp 25-28; Legislative Assembly of the Australian Capital Territory, *Members Guide - 9th Assembly*, 27 October 2016, p 79 [18.1]; Parliament of South Australia, *Revised House of Assembly Global Allowance Guidance Notes*, September 2016, pp 1-2; Salaries and Allowances Tribunal (WA), *Members of Parliament Tribunal Determination No. 1 of 2016*, 15 April 2016, pp 5, 7; DOC/17/7986 - Department of Premier and Cabinet (Tas), *Tasmanian Government Members' Handbook*, April 2014, p 9 [3.5].

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22 Salaries and Allowances Tribunal (WA), 'Remuneration of Members of Parliament', Determination 2 of 2016, 1 December 2016, p 2.

23 Legislative Assembly of South Australia, 'Revised House of Assembly Global Allowance Guidance Notes', issued 1 July 2010 (as at 1 September 2016), p 1.

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1.1 Additional entitlements are provided to facilitate the efficient performance of the following particular parliamentary duties of Members as follows:

1.1.1 Activities undertaken in representing the interests of constituents, but excluding activities of a direct electioneering or political campaigning nature.

1.1.2 Performing electorate work for a Member's electorate and participation in official and community activities to which the Member is invited because of the Member's status as a parliamentary representative.

[...]

Some intermingling of a member's parliamentary duties and non-parliamentary duties is in practical terms not always easily avoided. The onus is always on the Member to show that expenditure or any claims for reimbursement relate to parliamentary duties. Where there is intermingling of non-parliamentary activity which is incidental to a Member's parliamentary duties, such incidental non-parliamentary use is permissible.<sup>24</sup>

## Defining parliamentary duties

520. The difficulty of clearly or exhaustively articulating what constitutes 'parliamentary duties' is demonstrated by the definition used in section 3 of the *Parliamentary Remuneration Act 1989* (NSW):

**parliamentary duties** of a member or recognised office holder means the duties that attach to the office of a member or recognised office holder, and includes the duties that a member or recognised office holder is ordinarily expected to undertake, including participation in the activities of recognised political parties, and includes any duties prescribed as being within this definition, but does not include any duties prescribed as being outside this definition.

521. The Parliamentary Remuneration Act authorises the making of regulations to prescribe duties relevant to this definition (under section 21) but no such regulations currently exist.

## Recent recommendations

### 2013 Hazell Review

522. In his 2013 review of salaries, entitlements, allowances and other arrangements for Victorian Members of Parliament,<sup>25</sup> Mr Malcolm Hazell CVO, AO observed that:

Fundamentally, the role of support staff is to expand and facilitate the capacity of the MP or Minister to discharge their duties and functions. As such, MPs and Ministers must be responsible for their staff and their actions, and staff themselves accountable to their MP or Minister. Staff are not elected representatives and must not use their position for political involvement or activity on their own account (p. 54).

523. The Hazell Review was critical of the existing arrangements for employment of Electorate Officers:

The legislation governing the employment of Ministerial Advisers and electorate officers does not reflect actual management structures, lacks transparency and potentially diminishes accountability of staff. Specifically, under the current arrangements electorate staff are 'employed' by the Presiding Officers, when in fact they should be employed by, and responsible to, the relevant MP (p.54).

524. The Hazell Review recommended changing these arrangements so that Members of Parliament would directly employ Electorate Officers. Such a change would be consistent with the 'more direct and accountable employment arrangements' established by the *Members of Parliament (Staff) Act 1984* (Cth).

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<sup>24</sup> Parliamentary Remuneration Tribunal (NSW), *Annual Report and Determination*, 31 May 2017, pp 25, 28.

<sup>25</sup> Malcolm Hazell, *Independent Review of Victorian MPs' Salary Entitlements, Allowances and Other Arrangements*, 5 February 2013.

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525. Successive Victorian Governments have not implemented this recommendation.

### Commonwealth review of parliamentary entitlements, 2016

526. A 2016 review of Commonwealth parliamentary entitlements recommended that ‘the Government and the Remuneration Tribunal should adopt an inclusive definition of “parliamentary business”, as a purpose-based eligibility requirement for all work expenses’, to be adopted ‘immediately, or as soon as practicable, in Remuneration Tribunal determinations and Government policies and guidance materials’.<sup>26</sup>

527. The review proposed a ‘dominant purpose’ test, meaning that activities ‘would fall within the scope of “parliamentary business” where undertaken for the “ruling”, “prevailing” or “most influential” purpose of conducting parliamentary business’. The definition proposed by the review included but was not limited to ‘activities carried out by a parliamentarian for the dominant purpose of performing duties of the following kind’:

- Parliamentary duties, being ‘activities directly related to the parliamentarian’s membership of the Parliament’
- Official duties, being ‘activities undertaken by a parliamentarian, minister or parliamentary office holder in, and by reason of, that capacity, which do not relate directly to proceedings in the Parliament’
- Electorate duties, being ‘activities undertaken by a parliamentarian in support of, in service to, or out of duty to the parliamentarian’s constituents’

- Certain party-political duties, being ‘participation by a parliamentarian in the activities of the political party of which he or she is a member, where the activity has a direct and substantial connection to the parliamentarian’s membership of the Parliament, and the parliamentarian participates in the activity in, and by reason of, his or her capacity as a parliamentarian’.

528. The 2016 review considered that some activities should be expressly excluded from the definition of ‘parliamentary business’. The rationale for express exclusions was to dissuade parliamentarians from seeking ‘to disguise as “parliamentary business” an activity whose dominant purpose is personal or commercial’, as well as ‘party political activities which do not have a substantial, direct connection to the parliamentarian’s position, and consequent duties, such as the general administration and management of a political party.’

529. The definition of ‘parliamentary business’ proposed by the 2016 review excluded the following activities:

**‘Parliamentary business’** does not include activities which are undertaken, or could reasonably be considered to be undertaken, for the dominant purpose of one of the following:

1. administration or management of a political party, such as managing the party’s membership (including preselection), its funds (including fundraising), its property or its compliance with applicable legal and regulatory requirements;
2. providing personal benefit to the parliamentarian or another person; or
3. pursuing the commercial interests of the parliamentarian or another person.

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<sup>26</sup> Parliament of Australia, *An Independent Parliamentary Entitlements System – Review*, February 2016, p 6. All subsequent references to ‘the review’ are to this document.

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530. The *Parliamentary Business Resources Act 2017* (Cth) came into force on 1 January 2018 and includes a definition of 'parliamentary business'. This definition excludes activities undertaken for the dominant purpose of providing a personal benefit to, or pursuing the commercial purposes of, the Member or any other person. The Minister responsible for the Act must also determine what activities constitute 'parliamentary duties', 'electorate duties', 'party political duties' or 'official duties' of a Member, and may determine that particular activities are not the 'parliamentary business' of a Member.

## Codes of conduct

### Code of conduct for Members of Parliament

531. The code of conduct for Victorian Members of Parliament is set out in part one of the *Members of Parliament (Register of Interests) Act 1978* (Vic). Among other things, section 3(1) provides that:

Members shall—

- accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting private interests;
- ensure that their conduct as Members must not be such as to bring discredit upon the Parliament;

Members shall not advance their private interests by use of confidential information gained in the performance of their public duty; and

A Member shall not receive any fee, payment, retainer or reward, nor shall he permit any compensation to accrue to his beneficial interest for or on account of, or as a result of the use of, his position as a Member.

532. Section 9 of the Members of Parliament (Register of Interests) Act provides that any 'wilful contravention of any of the requirements of this Act by any person shall be a contempt of the Parliament and may be dealt with accordingly'.

### Code of Conduct for Parliamentary Electorate Officers

533. The *Code of Conduct for Parliamentary Electorate Officers* was first issued in July 2008, and was re-issued in November 2012 and April 2014. The Presiding Officers of the Parliament approve and issue the Code of Conduct, which is binding on Victorian Electorate Officers during their employment.

534. The Code sets out five values for Electorate Officers – responsiveness, integrity, impartiality, accountability and respect. It states that these values 'are to be read taking into account the fact that parliamentary Electorate Officers are directly accountable and responsible to the Member of Parliament in whose electorate they are employed'.

535. The Code also applies to volunteers who undertake work 'that is of a similar nature to the work undertaken by parliamentary Electorate Officers at a premises or location generally regarded as a parliamentary Electorate Officer's workplace', or who 'use or have access to parliamentary resources or information that are not normally accessible or available to the public'.

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536. Among other things, the Code requires Electorate Officers to:

- ‘provide services to the community in an equitable, prompt and professional manner at all times’
- ‘act within the level of their authority and in accordance with any relevant policies’
- declare and avoid conflicts of interests, and to ‘ensure their personal or financial interests do not influence or interfere with the performance of their role’
- engage in other employment only ‘where the activity does not conflict with their role as a Parliamentary electorate officer’, and ‘to seek approval to engage in any other paid employment from the Member of Parliament whom they serve’
- ‘make decisions and provide advice that is free of prejudice or favouritism and is based on sound judgement’
- ensure that decisions made in their capacity as Electorate Officers ‘are not affected by personal influences’
- use work resources and equipment, including physical, financial, technological and intellectual property, ‘efficiently and only for appropriate purposes as authorised by the employer’
- be aware of and comply with ‘all policies and procedures developed by the Presiding Officers relevant to the performance of their duties’.

## **Conduct of Electorate Officers during an election period**

537. In October 2014, the Victorian Parliament circulated an information sheet containing guidance regarding Electorate Officers’ conduct during state election periods. The information sheet was ‘intended to minimise the risk of employees breaching their obligations’ under the Victorian Constitution or applicable codes of conduct.

538. Relevantly, this information sheet stated:

### **Conduct during work time**

Electorate Officers are reminded of their obligations under the Code of Conduct for Parliamentary Electorate Officers to demonstrate integrity by ensuring their personal or financial interests do not influence or interfere with the performance of their role and avoid conflicts of interest (actual, potential or perceived) to help maintain community trust and confidence.

Electorate Officers are reminded of the range of duties specified in their position description or directed by their supervising Member of Parliament in accordance with their contract of employment and Section 30(4) of the Parliamentary Administration Act.

### **Use of Parliament provided resources**

Electorate Officers are reminded of their obligations under the Code of Conduct for Parliamentary Electorate Officers to demonstrate accountability by using work resources and equipment efficiently and only for appropriate purposes as authorised by the employer.

539. The October 2014 information sheet does not specifically direct Electorate Officers not to engage in party-political, electioneering or campaigning activities. Nor does it provide examples of conduct that might create a conflict of interests, or identify inappropriate uses of work resources and equipment.

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## Chapter 4

### Key issues arising from the evidence

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This chapter sets out the key questions and issues explored by the investigation, the evidence obtained and considered, and conclusions of fact about those matters.

These were whether casual Electorate Officers were used to support political or party duties, which includes consideration of whether Field Organisers employed as casual Electorate Officers were campaigning full-time, or otherwise delineated the two roles for which they were paid separately.

It also considers whether Members of Parliament have the authority to direct Electorate Officers to perform the types of duties carried out by the Field Organisers in 2014, and whether a distinction can be drawn between political, party-political and party activities.

Finally, it considers whether the 60:40 split arrangement breached the Members' Guide.

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## Were casual Electorate Officers used to support political or party duties?

540. The purpose of the Field Organisers' work was to win government for the ALP in the 58<sup>th</sup> Parliament, rather than to perform activities or representative responsibilities relevant to their nominating Members' roles in the 57<sup>th</sup> Parliament.
541. Whether these activities constituted 'political' work prohibited by the Members' Guide has been challenged on the basis that the work of Members of Parliament – and, by extension, of Electorate Officers – is unavoidably political. However, it is apparent that the work performed by Field Organisers on days from March to November 2014, and as claimed in time-sheets authorised by Members as being casual Electorate Officer work, was with a few exceptions not work performed in support of the nominating Members' parliamentary or electorate duties. The Field Organisers' work on those days supported their nominating Members' 'political or party duties' in achieving the ALP's objective of winning government at the state election on 29 November 2014.
542. It is clear from the evidence obtained by investigators and presented in this report that the ultimate objective of the Community Action Network campaign, from start to finish, was to assist ALP candidates to win election to the Legislative Assembly. The Field Organisers would recruit and coordinate volunteers to make direct contact with voters as part of the campaign.
543. That campaigning for the ALP was the job Field Organisers were employed to do is clear in the position description, Mr Donnelly's email of 29 January 2014, the Field Organiser training materials, and the reflections on the campaign by Field Organisers themselves.
544. As noted at paragraphs 389 to 425, the campaign was carefully planned, targeted and implemented, using vast amounts of data collected by volunteers and recorded in the Campaign Central database. Field Organisers recalled entering data related to 'event attendees, voter identification, prospective volunteers, issues, issues that people would raise'. Field Organiser Mr Mileto noted that this focus on unofficial key performance indicators, targets and data was different to previous campaigns on which he had worked.
545. Field Organisers reported to and were managed by assigned Regional Field Directors, who were employed by the ALP as part of the ALP's 2014 Victorian election campaign hierarchy. The Field Organiser position description, recruitment processes and training materials all support the conclusion that Field Organisers, and volunteers under their direction, were recruited, trained and encouraged to build a personal rapport with voters during telephone and face-to-face contacts. The objective of such activities was to persuade voters to cast their ballots for ALP candidates at the election. These actions were clearly political and party activities.

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## Did Field Organisers campaign full-time?

546. On the available evidence, the Field Organiser role was the sole or principal focus of most, albeit not all, of the Field Organisers who were also employed as casual Electorate Officers – even on dates for which they claimed in DPS time-sheets to have worked as Electorate Officers.

547. While employed as both full-time Field Organisers and casual Electorate Officers, Field Organisers' typical duties matched those set out in the '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document. Field Organiser duties were given priority, and performance against prescribed targets was monitored by ALP campaign management throughout the campaign.

548. One Field Organiser confirmed that the activities and time frames listed in 'A Day-in-the Life of a Field Organiser' (see Figure 14) were accurate:

**Investigator:** So this is sort of a day in the life and then it's a sort of weekday/weekend. Is that your recollection all week every week while you were performing this role, this is what you were doing?

**Mr Walker:** Yes, basically.

549. The Community Action Network campaign had four phases (set out in full in Figure 12), all building towards the state election. Field Organisers identified the final phase of the campaign and persuasion activities as campaigning:

**Investigator:** Just to take you back ... You were talking about using persuasion, basically from that time [3 August to 29 November] onwards. Is that right?

**Mr Walker:** Yes.

**Investigator:** Do you perceive that to be campaigning?

**Mr Walker:** Yes.

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**Investigator:** Were you confused about the work that you were doing on DPS time and the work that was – at other times in relation to campaign activities?

**Ms Hardy:** I wasn't confused about the work I was doing. I suppose I didn't – it was – I guess the way I saw it is that it all overlapped all the time, or almost all the time, rather than thinking about the demarcation.

[...]

**Investigator:** What parts would you say – you say it was almost all the same for the two roles.

**Ms Hardy:** Yes.

**Investigator:** What parts were outside [the scope of the Electorate Officer role]?

**Ms Hardy:** I think, like, if you are out door knocking on a Saturday doing persuasion door knocking

**Investigator:** Okay.

**Ms Hardy:** I think that's separate for example.

**Investigator:** Okay. Alright.

**Ms Hardy:** As in that's field.

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550. Although the activities conducted in each phase of the campaign can be understood in isolation, the evidence suggests that all activities were directed towards achieving the objective of phase four – to ‘Win the Vote’. At interview, several Field Organisers confirmed this to be the case:

**Investigator:** Are you able to talk us through how your work was changing from early March to October?

**Ms Hardy:** Well, I mean the goal was always to be building. So the whole time, your overarching goal is volunteer recruitment.

**Investigator:** Mmm.

**Ms Hardy:** But it’s also about training up volunteers to be leaders and to have a team of volunteer leaders.

**Investigator:** Mmm.

**Ms Hardy:** So that developed over time. And the final phase is persuasion. So your – The job of a Field Organiser is always volunteer recruitment but what those volunteers are then doing, I suppose, is what changes a bit. So you start doing more door knocking at the end, the volunteers stop doing volunteer recruitment calls and start doing persuasion calls.

**Investigator:** Okay.

**Ms Hardy:** And then you – As your team of leaders is trained up they can then run things as well.

**Investigator:** How far out was that, from the election?

**Ms Hardy:** Was what?

**Investigator:** When they started to do persuasion calls?

**Ms Hardy:** Maybe two months.

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**Investigator:** And so your primary responsibility of a Field Organiser is to recruit, manage and train volunteers to organise their communities and neighbourhoods into teams and persuade and motivate voters through making phone calls and door knocking.

**Mr Huang:** Mmm.

**Investigator:** Is that what you would have said your primary responsibility –

**Mr Huang:** Certainly, yes, that was an important responsibility. Yes.

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**Investigator:** [It seems] to me to be a part of a progression towards having a campaign-ready volunteer structure that could then go out in the 66 days prior to the election and campaign for the ALP. That, to me, is what you were employed to do and the functions that you were performing. Would you agree with that?

**Mr Simrajh:** That was part of my function, yes. I would agree with that.

**Investigator:** Is that the purpose of your function?

**Mr Simrajh:** Well, as we went over in my initial position description, I’m sure you can see that there are a lot of other elements that were involved in my job that weren’t necessarily just about that. But, yes, that was a role that I was filling.

**Investigator:** I see that, I’m just putting to you ... what the Field Organiser role is. Would you agree with me?

**Mr Simrajh:** That is the Field Organiser model of campaigning, yes, generally.

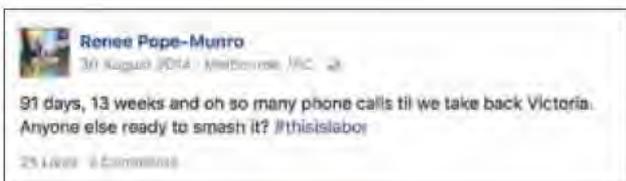
551. Mr Hitchcock noted that most of his work as a Field Organiser was volunteer management. He estimated that this work alone comprised ‘probably 90 to 95 per cent; 85 to 90 per cent’.

552. The Field Organiser recruitment and employment documents, social media posts (see Figure 18), and interviews conducted by investigators indicate that the Field Organiser role was full-time both on paper and in practice.

Figure 18: Facebook posts by Field Organiser on 1 August and 30 August, 2014



Time of post from source data:  
1:39 am, Friday 1 August 2014



Time of post from source data:  
7:35 pm, Saturday 30 August 2014

### Were the two roles delineated?

553. It is apparent from the evidence obtained in the investigation that, with a few possible exceptions, Field Organisers did not observe or maintain a delineation between their work activities in each role (Field Organiser and Electorate Officer) on a day-to-day basis.

554. From the available evidence, it appears that only Mr Mileto maintained any conscious separation in practice between the two roles. Mr Mileto was notable in stating that he kept his Electorate Officer role defined by working different hours on the days recorded in time-sheets submitted to DPS (9:00 am to 5:00 pm as an Electorate Officer, rather than noon to 8:00 pm as a Field Organiser). 'It was a question of hats,' he told investigators.

555. None of the other Field Organisers interviewed was able to demonstrate that a clear demarcation existed in practice between the work performed on dates claimed in time-sheets as casual Electorate Officer work and at other times during 2014. Some Field Organisers were unequivocal that no such demarcation existed.

556. The available evidence suggests that, with at most two or three exceptions, the Field Organisers' performance of tasks that could be termed Electorate Officer work was incidental to their work as a Field Organiser.

557. Documents obtained by investigators concerning the day-to-day duties of a Field Organiser support the conclusion that the role and work performed by Field Organisers did not change on days where Members of Parliament certified that Electorate Officer work had been performed.

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558. A clear distinction of the duties performed in practice on the dates and times certified on time-sheets submitted to DPS would have avoided the concerns which gave rise to the Legislative Council's Referral.

### Views of Field Organisers

559. The position descriptions for the Field Organiser and Electorate Officer roles included some similar duties, making it difficult for Field Organisers to maintain clear role distinctions at all times.

560. Several Field Organisers told investigators that there was a considerable overlap between the duties of Field Organisers and Electorate Officers, especially in relation to research. For Ms Hardy, the overlap was 'all the time, or almost all the time'.

561. She stated that gathering data was one notable area of crossover:

As an Electorate Officer we do things like organise street stalls and get volunteers along to do that, to come - like stalls at a community festival or at the shops.

[...]

Sometimes you would do a survey out to the community and people will send back in identifying their top priorities, and that gets all recorded in Campaign Central. If someone tells you - like, things that - if people call with a constituent issue you record that in Campaign Central. So certainly the gathering of that data is crossover.

562. Mr Barbour also saw the blurring of lines around research activities as a likely area of overlap:

So, Field Organisers would obviously be more focused on the political side of the equation rather than the pure qualitative/quantitative stuff that we are talking about. But I can also see an overlap. So, the research that I do now might be more focused on bills that are before the Parliament, and things of that nature, but as the election gets closer, I would be surprised if we are not learning about what the electorate cares about and where that is sitting and that is also research.

563. Mr Huang described the demarcation between duties of Electorate Officers and Field Organisers as 'a distinction without a difference'. When asked about whether researching to help get someone elected (which he conceded was his role as a Field Organiser) was different from researching for a Member of Parliament on issues related to constituents, he pointed out that the 'issues that will help you get re-elected are also the issues that a Member should possibly be paying attention to':

Those things are one and the same, really. If you look at it, right. So, if you have, say, like an issue where in this particular electorate, there aren't enough, you know, jobs, that will do two things, right. That is also - that is a genuinely important issue for the constituents in that electorate but it is also something that might make people upset with the Member - with the person and not re-elect them. So, I'm not sure how you can distinguish that.

[...]

So, I'd say that, like, issues that would be of interest to constituents in Frankston are issues that would be of interest to Mr Tarlamis. They are one and the same.

564. As a Field Organiser assigned to Yan Yean District, Mr Walker suggested that not only were there similarities but, in his case, they were probably more pronounced:

... I do think there are similarities between them [the Electorate Officer and Field Organiser roles]. Probably more in my case. I think I probably performed slightly outside the ordinary role at Yan Yean. I think there was probably a bit more of an involvement in some of the more day-to-day operations of an Electorate Officer in a campaign. But, you know, that's sort of incidental.

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565. Mr Walker gave examples of the duties he did as a Field Organiser and agreed there was a degree of commonality with the role of Electorate Officer:

'Administrative support to Member' from time to time. Yes, Danielle [Green, the Member for Yan Yean District] would have me arrange things, arrange her diary, arrange meetings, take care of this paperwork for her. 'Supervise volunteers' in terms of with regard to work, obviously. 'Management of online communications', I took care of Danielle's social media from time to time. 'Assist constituents', I did some of that. 'Research issues of interest to constituency', yes, that was sort of a part of the campaigning on particular issues; generally getting yourself across the details of it. 'Preparing press releases, newsletters, brochures'; yes, I did that. 'Represent or accompany the Member at community meetings or other events', I did some of that. 'Liaise with organisations, groups, and individuals', yes. I mean, my general take on it was, you know, that there is some crossover between what I did and the roles in respect of an Electorate Officer.

566. Field Organisers also stated that both roles involved community engagement, and that it could be difficult to draw a distinction between the work that might be performed in either role. Mr Simrajh, for example, pointed out that engaging with members of the community was a role central to both Field Organisers and Electorate Officers.

567. Several Field Organisers told investigators that they did not believe that a distinction could be drawn between work performed as an Electorate Officer and as a Field Organiser, or the times when they were working in each role:

**Mr Huang:** Well, I think, it's just basically there are some situations where it's obviously about being a Field Organiser and in some situations it's obviously about being an Electorate Officer. But obviously, you know, the task of speaking to constituents is a commonality, and so, you know, it's not - I can't say that at a given point I would put on a certain cap.

[...]

Look, I think the thing to note here is that you work for quite a few days in this blended role, right. You - well, blended is maybe not the right word to use for it. But it's basically a role where you have two caps laying there on the table, at any point you might have any of them on.

[...]

And so when you say, like 9 to 5, on a certain day, I certainly, I wasn't sitting there ready to take constituents' phone calls at 9 am. But if you take it in the sense that, 7.6 plus 7.6 is 15.2. And, you know, were there 15.2 hours of work in a week that could be characterised as assisting the Member and assisting constituents, I think you would find that - yes, I think I would probably be able to characterise it in that sense.

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**Mr Simrajh:** It's not the case that I would say, it's Tuesday and it's 3 o'clock, therefore this is Field Organiser time and I'm only going to do Field Organiser stuff. And it's not the case that I would be saying, you know, this is 5 o'clock on a Friday and so I'm only going to be [doing] Electorate Officer stuff. That's just not how the arrangements worked. No.

[...]

We would do all of this stuff throughout the course [of] the week and in the end if you were to tally up and you were to say, 'Well, I did two minutes here, 10 minutes there', it would probably work out to be reflective of those hours.

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**Mr Walker:** Yes, I would say there is some commonality in the duties and the roles that you perform, but in terms of time separate - in the terms of any distinction in the time you performed certain duties, no.

**Ms Hardy:** I would say ... like if you are out door knocking or at a campaign event, that's obviously a strictly Field Organiser thing. But, like, meeting with a community group I think there is overlap. ... When you are talking to people about ... the issues that they care about, and then recording that - so this person's main priority is education, this person's priority is public transport, planning. I think there's ... a lot of overlap, I suppose.

568. Social media posts show that being out and talking to people during the campaign was a Labor-branded activity. Figure 19 illustrates the apparent involvement of Field Organisers in campaigning activities at times when time-sheets submitted to DPS record that they were working as Electorate Officers.

Figure 19: Twitter posts showing Field Organisers participating in Labor-branded activities at times when DPS time-sheets record that they were working as Electorate Officers



Time of post from source data:  
10:50 am, Thursday 10 April 2014



Time of post from source data:  
10:22 am, Thursday 28 August 2014

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569. On being shown a copy of the Parliament of Victoria's Welcome Pack for Electorate Officers, Mr Hitchcock stated that he had not seen it during the Field Organiser training week nor before being employed as an Electorate Officer in 2015. Mr Hitchcock stated that he did not consider that he had been working as an Electorate Officer during 2014:

**Investigator:** This is a welcome pack, a Parliament of Victoria welcome pack. Do you recall receiving that then or seeing it since?

**Mr Hitchcock:** No, I don't recall receiving it then. But I recall seeing it since.

**Investigator:** Okay. When was it that you saw it?

**Mr Hitchcock:** I commenced work as an Electorate Officer in early 2015 for a Member of Parliament. That's when I saw it.

**Investigator:** Okay.

**Mr Hitchcock:** I believe on the intranet.

**Investigator:** And was that the first time you had worked as an Electorate Officer?

**Mr Hitchcock:** Well, yes. Yes.

**Investigator:** The first time you had actually been doing the job of an Electorate Officer?

**Mr Hitchcock:** Yes, yes.

570. However, some Field Organisers could identify a separation between the roles where action was taken with the purpose of persuading a person to vote for a particular party or candidate. Mr Barbour was asked if he felt the campaigning activities he engaged in as a Field Organiser would fit within the duties of an Electorate Officer. Initially, he replied: 'Where you draw the line between campaigning and electorate office work, that's not a matter for me'. He later conceded: 'If you are going to draw a distinction somewhere, that would probably be a sensible one'.

571. At interview, Mr Simrajh noted the similarities in role, but highlighted the additional work of a Field Organiser – recruiting and training volunteers, for example. An Electorate Officer, he said, would not be doing these things two years out from an election:

Well, it's the responsibility of an Electorate Officer, having worked as an Electorate Officer for a number of years, to be in the community, talking to members of the community, to be providing their Member of Parliament with feedback and information about the things that are important, the things that the Member of Parliament should be doing. I mean, I think that's an important element of being an Electorate Officer; being a part of the community, understanding what the community thinks is important. There is obviously, you know, in being a good Field Organiser there's a lot of that, too. But being a Field Organiser involves a great deal more activity in that, you know, you are out there recruiting volunteers, you are out there training them, you are out doing all these kinds of things that an Electorate Officer, you know, two years out from a state election probably would not be doing.

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## Mr Mileto

572. In contrast to other Field Organisers, Mr Mileto stated that he had worked as an Electorate Officer during the hours and days claimed in time-sheets submitted to DPS. In support of this, he described the following Electorate Officer tasks: answering the phone and meeting with constituents who had approached the Member to hear about their issues on things such as phone disconnections, trees and roads. He mentioned older people from a nearby aged accommodation centre coming in 'just for a chat'.

**Investigator:** How did you manage that because if you are working to targets, if you have to meet certain targets did they, for instance, say 'Okay, because you are working two days a week in the Field Organiser role and then you are working three days a week as an Electorate Officer, we are going to give you two-fifths of the targets that we normally set'. Is that the kind of arrangement?

**Mr Mileto:** No, not at all. Initially it was very manageable because the targets were low.

573. It is significant that Mr Mileto's evidence about the events that led to his resignation as a Field Organiser involved the ALP campaign hierarchy's assessment that he was spending too much time working as an Electorate Officer:

**Investigator:** So they were just telling you basically to work harder meeting your targets ...?

**Mr Mileto:** Yeah, work more with less.

**Investigator:** Right and you said they were unhappy that you were dedicating as much time as you were on your Electorate Officer duties. Did they say that much to you?

**Mr Mileto:** Oh yeah.

**Investigator:** Do you remember what they said to you?

**Mr Mileto:** In late July 2014 Nicola Castleman [the ALP Training Director] came to Gisborne and I met her at a cafe and she said 'Look, I think you are too close to the electorate office, to your electorate office staff and the Member'. I said, so I politely pointed out to her that I'm employed as an Electorate Officer. I work with these people. What do you expect me to do?

## Mr Mintern's understanding of the delineation

574. Mr Mintern, then Mr Lenders' Electorate Officer, told investigators that he understood that Field Organiser work, as distinct from Electorate Officer work, would be party-political activity:

**Mr Mintern:** I was aware that they were one of the ALP's main campaign tools, you know, on those other days. So, using the knowledge that people in that area cared a lot about health or whatever it may be, that the candidate would concentrate on health that week or whatever it might be.

**Investigator:** And that's party-political activity compared to Electorate Officer activity, is that how you would define it?

**Mr Mintern:** If they were going out, yes, and that's where the distinction was important to be explained.

**Investigator:** If they were going out?

**Mr Mintern:** On the two days they were employed as Electorate Officers that they should only be collecting the information and surveying.

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575. At interview, Mr Mintern also drew attention to grey areas for Electorate Officers in relation to what is party-political activity. He gave the example of Parliament approving the use of language:

You are always conscious of it, and I guess that ... communications is an example of where that is a really complicated grey area in itself.

[...]

What's the judgment of party political when Parliament, you know, approves the use of the language 'Liberal-National - the Baillieu Liberal-Nationals Government has done X or not done X'? So you're always conscious of it and do your best to stay on the right side of it. That's using it, the Members' Guide, sometimes checking and sometimes if that's crossed, Parliament will send invoices back to the Member and say, 'Crosses the line, you need to pay for this out of your salary'.

576. Even so, Mr Mintern told investigators that he had understood there were to be 'two specific days where the work was quite different'. When investigators showed Mr Mintern the daily schedule for Field Organisers in the '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document, he responded:

**Mr Mintern:** I have never seen this document, no.

**Investigator:** No. Does it surprise you?

**Mr Mintern:** A little bit. I thought there was a deeper understanding about the separation. That's - you know - I certainly understood that there was a clear separation.

## Mr Lenders' understanding of the delineation

577. Mr Lenders noted that the split of duties between Field Organiser and Electorate Officer was not always clear-cut. He said that some areas of work are 'grey'; others are not. He told investigators that this lack of delineation was the reason for the 60:40 split arrangement:

The reason for the design was the duties that a Field Officer [*sic*] did, some of them clearly fall under the scope of what an Electorate Officer does. Clearly. You know, collecting information on behalf of the Member, liaising with community; all those type of things. Some of them when it comes to a campaigning thing are grey. So, you know, you could argue they would all fall under the purview of what an Electorate Officer could do.

578. He gave an example based on community contacts concerning TAFE cuts undertaken by his own Electorate Officers to illustrate the complexity of distinguishing between Field Organiser duties and Electorate Officer duties.

So, you know, getting the volunteers to ring information, to get information on TAFE, to put it on to a database. You know, for me to go out and organise for, you know, leaflets to be handed out at a railway station saying if you object to TAFE [cuts], sign this petition. All of those are things an Electorate Officer of mine would have done. Whether either of these people realise that that's what an Electorate Officer would be doing, I can't answer. I assume they would, but I can't answer. But the work is stuff that I could equally have got [another Electorate Officer] to be doing for me. And that work completely fits the criteria of what's expected of an Electorate Officer.

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579. However, after being shown the '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document, Mr Lenders conceded that this separation was not observed in practice:

**Mr Lenders:** Look, the – the design of this was to try and separate the two. The design was to separate the two. The practice is they have morphed.

**Investigator:** I think you said earlier that you are absolutely confident that the 40 per cent would have been worked.

**Mr Lenders:** Yes.

**Investigator:** But did you have any doubts about whether this was on the line or shades of grey, or –

**Mr Lenders:** Look, my view on most of this, if you want to take it to the extreme view and you had to defend full-time Electorate Officers doing Field Officer [*sic*] work, I think you could defend it but it would be a very tough call.

580. Mr Lenders told investigators that he believed that while the arrangement would have resulted in a legitimate use of Electorate Officer resources by each of the nominating ALP Members of Parliament, in implementation it had 'morphed' into an arrangement that did not result in the employees performing Electorate Officer work at the times and dates recorded on their DPS time-sheets.

581. On being shown relevant time-sheets he did not dispute that Electorate Officers were doing Field Organiser work: 'This is the data collection, there is the proselytising or the Field Officer [*sic*] work. I don't think there's any question that they morphed.' Nevertheless, Mr Lenders asserted that the 60:40 split of duties had been observed in substance if not in form.

### Mr Jennings' understanding of the delineation

582. On 17 September 2015, Mr Jennings was asked a question without notice in Parliament about allegations that Field Organisers had been paid by the Parliament for working as Electorate Officers two days per week while they were engaged in campaigning. In his response to the question, Mr Jennings commented that:

it may well be not beyond the pale that somebody who is employed under clear direction and with the clear expectation of acquitting their work responsibility may in fact be confused about the demarcation between the work they do on the payroll and the work they do at other times in relation to campaigning activities. I am saying to you that that accounts for the discrepancy. I stand by my answer and I stand by my colleagues, who believe that the employment relationship has been entirely in accordance with the guidelines and the expectations of the Parliament.<sup>27</sup>

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<sup>27</sup> Victoria, *Parliamentary Debates*, Legislative Council, 17 September 2015.

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583. Mr Jennings told investigators that he and Mr Lenders had discussed the proposed concurrent employment of Field Organisers as Electorate Officers, and that both understood that Field Organisers needed to be clear about which role was being performed at any given time:

**Mr Jennings:** I take my responsibility for what has occurred and I continue to do so. But what I'm saying to you is that there was a conversation, which was a two-way conversation, about the way in which the expectation could be acquitted from the perspective of what might be the augmenting of activity, which would be on an Electorate Officer FTE, that element to the work, and how that could be in some ways seamlessly integrated with the actions of the Community Action Network. But that seamless transition should be very clear in the person who is employed in relation to how they acquit those aspects of the work. So that they are clear about the dividing line. Because I think that's the only, personally I think that's the only test. Personally. And so we had a conversation about that and -

**Investigator:** This is you and Mr Lenders?

**Mr Jennings:** Yes. And I believe that there was an understanding about that.

### Were the different roles explained to Field Organisers?

584. At interview, Mr Lenders agreed that allocating the Wednesday and the Thursday to Electorate Officer duties was 'a broad-brush' approach at the start so Field Organisers could see at least 40 per cent of their working week would be allocated as an Electorate Officer.

585. However, in his statutory declaration of 4 December 2017, Mr Lenders was adamant that he had 'a clear recollection of explaining the need to have the delineation between performing the electorate officer roles and the roles as field organisers'.

586. Mr Mintern attended the first training day for Field Organisers on 3 March 2014 with Mr Lenders. Mr Mintern told investigators that Mr Lenders had told the Field Organisers that they were to maintain a separation between the duties performed on days when they completed time-sheets claiming hours of work as casual Electorate Officers:

So, he [Mr Lenders] explained the structure of the three days a week employed by the ALP for campaign duties and the two days a week as an Electorate Officer, and explained the distinction between the two. And that on the two days a week that they were employed as an Electorate Officer they were conducting research and seeking community attitudes and views, and recording them on Campaign Central.

[...]

And that was, sort of, distinct from what they were doing on the other days, sort of, for the ALP.

[...]

He explained the difference between the days, and on the two days a week that they were an Electorate Officer that it was about the information gathering. And that the Campaign Central entries. Yes.

587. None of the Field Organisers interviewed by investigators or who provided responses to requests for information recalled Mr Lenders or Mr Mintern explaining the need to only perform specific duties on the days claimed in time-sheets submitted to DPS. Other than Mr Mileto, none of the Field Organisers told investigators that they performed different duties on those days, or that they dedicated or recorded the specific times when they were working as an Electorate Officer rather than as a Field Organiser.

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588. Nor did they recall Mr Lenders or Mr Mintern explaining the nature of the different duties or how the delineation would work:

**Mr Walker:** I think there was a general perception that getting an idea of what people's issues were, collecting petitions, door knocking. You know, that kind of stuff, was something that would fall within the remit of an Electorate Officer.

**Investigator:** And when you say 'general perception', was that explained to you?

**Mr Walker:** No, more just, I guess, a conversation, you know, sort of an ongoing conversation between other Field Organisers and/or the Regional Field Director. I think there was – it was sort of understood that that was, you know, not completely incongruous.

589. Investigators found no evidence that Field Organisers had asked for clarification about how the arrangement would work in practice.

**Investigator:** Did somebody ask how this was going to work in practice?

**Mr Walker:** I don't really recall if anybody asked. I mean, I think there was an understanding the pay details were being handled by Jadon [Mintern]. I think we were given a reasonably clear understanding of what we were expected to do, which is sort of roughly, as you saw in the document about what our responsibilities were from day-to-day and on weekends. And, as I said, I think there was probably some understanding that some parts of our role weren't incongruous with that expected of an Electorate Officer, but ultimately that was, you know, a by-product of us performing our roles as Field Organisers and not necessarily as being directed.

590. On the evidence before the investigation, with a small number of possible exceptions, it is difficult to accept the claim that Field Organisers were instructed or encouraged to dedicate specific hours or days of work to Electorate Officer duties, or to identify and record the hours or days of such work.

### **What efforts did Members of Parliament make to delineate Electorate Officer and Field Organiser roles?**

591. Six Members took at least some steps to separate the work performed by the Field Organisers in their campaigning roles from their work as casual Electorate Officers, with varying degrees of success.

#### **Joanne Duncan**

592. There is strong evidence that Mr Mileto did maintain a separation between his duties as an Electorate Officer and his work as a Field Organiser. Mr Mileto maintained that his Member of Parliament, Joanne Duncan, then the Member for Macedon, was 'particular about what went on' and did not permit campaigning from her electorate office. Mr Mileto was the only Field Organiser to tell investigators that he treated the two roles as separate, that different work was involved in each role, and that it 'was a question of hats' as to which role he was performing at any given time.

593. The circumstances leading up to Mr Mileto's resignation from his role as a Field Organiser also support the conclusion that Mr Mileto did maintain a separation between his two roles.

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## Cesar Melhem

594. Mr Melhem's engagement of Ms Wade as a casual Electorate Officer in March and April 2014, alternating with her engagement as a casual Electorate Officer for Mr Carbines, differed from the engagement of other Field Organisers in similar roles by other Members from March to October 2014. While Mr Melhem's statement is clear that Ms Wade worked in his office doing Electorate Officer work on the days and times claimed, his evidence does not provide a complete picture of why Ms Wade's employment arrangements differed from those of the other Field Organisers.
595. Mr Melhem's evidence did not explain why Ms Wade worked for him as a casual Electorate Officer for only 12 days. The documents Mr Melhem provided did not identify any work performed by Ms Wade for him.

## Gayle Tierney

596. Evidence provided by both Ms Tierney and her Electorate Officer Mr Feaver indicate that Mr Feaver did some work as an Electorate Officer for Ms Tierney during 2014. Ms Tierney submitted multiple examples of the types of Electorate Officer work which she stated that Mr Feaver performed for her.
597. From this evidence it is clear that Mr Feaver was not performing Electorate Officer duties on all of the days and times recorded in time-sheets certified by Ms Tierney from March to October 2014. Ms Tierney conceded that she was not aware that Mr Feaver had attended Field Organiser training from 3 to 7 March 2014, despite signing a time-sheet certifying that he had worked as an Electorate Officer on 5 and 6 March 2014.

598. Mr Feaver's evidence was that, on the days when he worked from Ms Tierney's electorate office, he would work as an Electorate Officer during the morning and as a Field Organiser in the afternoon. Mr Feaver also stated that he worked on the ALP's campaigns in both the South Barwon and Bellarine Legislative Assembly districts at different times. It is noteworthy that, following the 2014 election, the Member for Bellarine thanked Mr Feaver by name for his work on the Bellarine campaign.
599. Ms Tierney's evidence was that she 'was flexible about the hours' that Mr Feaver worked as an Electorate Officer, provided that he did the work requested of him. Ms Tierney did not recall signing Mr Feaver's time-sheets and stated that she did not 'have a record of the hours he worked on the days in question'. Documents which Ms Tierney provided also indicated that Mr Feaver was tasked to perform work as an Electorate Officer on at least two Sundays during 2014.

600. Ms Tierney provided evidence that a demarcation in the roles was intended, and that some Electorate Officer work was done for her by Mr Feaver, although not on the hours and days claimed.

## Margaret Lewis

601. Ms Lewis was not in a position to personally supervise Mr Walker and Mr Waters after being appointed to a casual vacancy in the Legislative Council in June 2014. Based on the advice provided by Mr Mintern, she understood that Mr Walker and Mr Waters would respectively be working in the offices of, and supervised by, Danielle Green, Member for Yan Yean and Jacinta Allan, Member for Bendigo East.

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602. When Mr Walker and Mr Waters spoke to investigators before Ms Lewis provided her statutory declaration, neither of them said Ms Lewis had explained the requirement that they perform Electorate Officer work at times certified on their DPS time-sheets.

603. Mr Walker stated:

I think it was a reasonably clear understanding that were you employed to be a Field Organiser, you know, five days a week, as directed and that the pay details were ancillary to that. But, you know, that the two days a week may or may not – the roles of an Electorate Officer may or may not have coincided with that of a Field Organiser, but you are employed five days a week as a Field Organiser and you are paid five days a week.

604. Mr Waters stated:

**Mr Waters:** Did I work for Marg Lewis?

**Investigator:** Yes. Like, did you actually report to Marg Lewis at any stage?

**Mr Waters:** I spoke to Marg Lewis. But I – I didn't receive explicit directions from Marg Lewis.

**Investigator:** So what are the kind of things you spoke to Marg Lewis about?

**Mr Waters:** I spoke to Marg just about what my role was and what I would be doing. But there wasn't an explicit direction from Marg.

[...]

**Investigator:** Did you notice any practical distinction between the work that you did on a Wednesday or Thursday compared to the work that you did Monday – sorry, Tuesday?

**Mr Waters:** No.

605. Neither Mr Walker nor Mr Waters told investigators that they maintained a separation in practice between the work they performed as a Field Organiser and work completed as an Electorate Officer.

### Jenny Mikakos

606. Ms Mikakos stated that she had trusted Mr Lenders' advice about the proposed employment of a casual Electorate Officer who would work from the office of the then Member for Melbourne, Jennifer Kanis. Ms Mikakos understood that this arrangement was a legitimate use of her Electorate Office and Communication Budget, 'being an extension of the existing longstanding pooling arrangements'. Ms Mikakos told investigators that she had expected that Ms Kanis would be responsible for maintaining the delineation between Mr Henderson's work as an Electorate Officer and as a Field Organiser.

607. On the basis of those assumptions, Ms Mikakos was not in a position to ensure that this delineation was maintained in practice. From Ms Mikakos's response, it appears that she did not fully understand the arrangements which were in place in respect of Mr Henderson's employment. For the same reason, Ms Mikakos was likewise unable to verify Mr Henderson's work activities when certifying his time-sheets.

### Johan Scheffer

608. Mr Scheffer told investigators that he took steps to ensure that his Electorate Officer, Ms Gonzalez, did not perform Field Organiser duties during the times when she was employed by the Parliament. These measures, he stated, included providing DPS documents to Ms Gonzalez and taking her through their contents, as well as confirming that she understood how to complete DPS time-sheets. Mr Scheffer also stated that Ms Gonzalez gave him a clear commitment that she would keep the two roles separate.

609. Mr Scheffer agreed that Ms Gonzalez had worked from Mr Merlino's electorate office during 2014, and that he was not in a position to supervise her day-to-day work. Mr Scheffer stated that Ms Gonzalez had agreed to report to another of his Electorate Officers about the work she had performed. However, Mr Scheffer did not provide evidence that such reports had been provided, that his staff had communicated with Mr Merlino's staff about Ms Gonzalez's work, or that these arrangements were effective in maintaining a separation between Ms Gonzalez's work as an Electorate Officer and as a Field Organiser.
610. Ms Gonzalez did not provide any information to investigators, despite two separate requests.
611. Ms Gonzalez's comments about her work as a Field Organiser, as reported in a news article in December 2014, are also relevant. Mr Scheffer characterised Ms Gonzalez's contacts with constituents about cuts to TAFE funding as relevant to a key issue in his electorate. However, in the article, Ms Gonzalez noted that the key to persuading voters was to use one's personal story, and that hers directly related to the issue of TAFE cuts and closures. It is difficult to accept that an effective delineation could be maintained between Ms Gonzalez's work in each role concerning the same issue, particularly when Ms Gonzalez had reportedly recruited approximately 300 volunteers to assist her voter-persuasion work as a Field Organiser in the Monbulk District and would be discussing substantively the same matters in conversations with constituents on any given day.
612. The available evidence suggests that the delineation of duties outlined by Mr Scheffer could not be effectively maintained in practice throughout Ms Gonzalez's employment as a casual Electorate Officer and Field Organiser in 2014.

## Did MPs have authority under section 30(4) to broaden Electorate Officers' duties?

613. The investigation considered whether Members of Parliament had the authority to direct Electorate Officers to perform the types of duties carried out by the Field Organisers in 2014.
614. Section 30(4) of the *Parliamentary Administration Act 2005* (Vic) is relevant in this regard, as it gives the nominating Member of Parliament the power to determine an Electorate Officer's duties and responsibilities, despite not being the Electorate Officer's employer.

### DPS's view: A transfer of control without responsibility

615. DPS Secretary Peter Lochert told investigators that DPS understood the introduction of section 30(4) into the *Parliamentary Administration Act* in June 2013 meant that the power of Members of Parliament to direct the duties and responsibilities of their Electorate Officers could not be restricted by any guidelines or rules issued by DPS:
- [...] our point of view, and our interpretation, is that it [section 30(4)] basically transferred control, effective control, but no responsibility over to their Member. [...] So, for us, what that means is you can employ them, you can give them some rules, but the Member will overrule the rules.
616. Mr Lochert told investigators that he had not sought legal advice about the effect of section 30(4) when it was inserted into the *Parliamentary Administration Act*.

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## Is the Members' Guide inconsistent with section 30(4)?

617. As noted in the previous chapter, Members of Parliament interviewed by investigators offered both broad and narrow interpretations of section 30(4):
- Some agreed with DPS's view, on the basis that statute prevails over a policy document where the two are inconsistent (the 'broad interpretation').
  - Others considered that section 30(4) only clarified existing arrangements for managing Electorate Officers, and did not expand the range of duties and responsibilities that could be assigned to Electorate Officers beyond assisting a Member of Parliament with their official duties (the 'narrow interpretation').
618. My view is that the Members' Guide's instructions about the permitted duties of Electorate Officers are not necessarily inconsistent with section 30(4).
619. Section 30(4) gives Members of Parliament the power to direct Electorate Officers, despite not being their employers. The Guide instructs Members of Parliament about how this power should be exercised in line with the Parliament's expectations – that is, to assist with Members' parliamentary and electorate duties.
620. The stated purpose of the Parliamentary Administration Act is to 'provide a framework for good governance in the administration of the Parliament of Victoria' (section 1). The narrow interpretation would support this purpose, as it would preserve other governance arrangements relating to Electorate Officers' work. The broad interpretation would supplant those arrangements with the decisions of individual Members. This suggests that the narrow interpretation is more likely to be correct, as an interpretation which promotes the purpose or objectives of an Act should be preferred over one which would not.<sup>28</sup>
621. For these reasons – and based on the assumption that the section is not inconsistent with the Enterprise Agreement (see the analysis below) – it appears that the correct reading of section 30(4) of the Parliamentary Administration Act is that it permits Members to direct the duties of Electorate Officers employed to work for them, even though the Presiding Officers of the Parliament are the Electorate Officers' employers. It does not appear to expand the range of duties which Members may direct Electorate Officers to perform beyond those set out in the position description and the Grade Descriptors, or otherwise incidental to the position.
622. In other words, section 30(4) of the Parliamentary Administration Act provides Members with a broad but not unlimited power to determine the duties of each Electorate Officer employed to work for them.
623. This view of the interaction between the Members' Guide and section 30(4) was also held by the majority of current and former Members of Parliament interviewed by investigators.

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<sup>28</sup> Interpretation of Legislation Act 1984 (Vic), s 35.

### Is a broad interpretation of section 30(4) inconsistent with the Enterprise Agreement?

The Enterprise Agreement prevails over state laws such as the *Parliamentary Administration Act 2005* (Vic), to the extent of any inconsistency.<sup>29</sup> Clause 21 of the Enterprise Agreement states that Electorate Officers' duties include those set out in the position description and other duties as directed, consistent with their skills and applicable Grade Descriptors.

Consistent with the High Court's decision in *Commissioner for Government Transport v Royall*,<sup>30</sup> the scope of these duties would not include duties which are outside the position description and Grade Descriptors but otherwise within the capability of the Electorate Officers.

The Field Organisers employed as casual Electorate Officers in March 2014 were employed at a Grade 1 classification. Mentoring and coaching of less experienced volunteers is a type of work that sits within the activities of a Grade 2 Electorate Officer. It is not listed in the Grade Descriptors as applicable to a Grade 1 Electorate Officer.

To the extent that it would alter, impair or detract from the operation of the Enterprise Agreement by expanding the range of duties that an Electorate Officer can be directed to perform, the broad interpretation of section 30(4) appears to be inconsistent with the Enterprise Agreement. Accordingly, even if the broad interpretation were correct, it may be invalid to the extent that it purports to authorise Members of Parliament to direct Electorate Officers to perform duties (such as party or party-political activities) beyond those contemplated by the Enterprise Agreement.

Given that no Members of Parliament commented on the proposed insertion of section 30(4) during debate on the Parliamentary and Public Administration Legislation Amendment Bill, it seems improbable that the Victorian Parliament would have legislated inconsistently with the Enterprise Agreement and that such a step would go unremarked upon while that Enterprise Agreement was in the process of being finalised.

### Were Field Organisers directed by Members of Parliament?

624. The Members' Guide states that Electorate Officers are funded by the Parliament to support Members in their parliamentary and electorate duties.
625. Section 30(4) of the Parliamentary Administration Act provides the statutory basis for Members to determine Electorate Officers' duties and responsibilities. However, the evidence obtained by the investigation indicates that Field Organisers were not working under the direction of their nominating Members from March to November 2014.

626. As discussed, the investigation's evidence shows that Field Organisers were tasked by and took direction from their assigned Regional Field Directors and the ALP's campaign management team. With a few possible exceptions, Field Organisers did not take direction from their nominating Member of Parliament or from other Electorate Officers employed to work for that Member.

<sup>29</sup> *Fair Work Act 2009* (Cth), s 29(1).

<sup>30</sup> *Commissioner for Government Transport v Royall* (1966) 116 CLR 314.

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627. On the available evidence, it appears that most Field Organisers were directed solely by persons employed by the ALP – and wholly outside the parliamentary employment arrangements – to work on the 2014 election campaign.
628. It follows that section 30(4) of the Parliamentary Administration Act would have no application to any such work completed by the Field Organisers, even if it did expand the duties that could be assigned to Electorate Officers, as the Field Organisers’ duties were not directed by the Member of Parliament.

### Can Members of Parliament delegate the direction of duties?

629. Mr Lochert confirmed to investigators that there is no formal delegation process for the direction of duties in the electorate offices. When investigators asked Mr Lochert if a Member could delegate to somebody other than an Electorate Officer the authority to supervise another Electorate Officer, he replied:

**Mr Lochert:** Well, we are silent on that. There’s no capacity to delegate it. There’s no prohibition from delegating it either.

[...]

We would go under 30(4) on that, I suspect.

**Investigator:** Has anyone asked you whether that –

**Mr Lochert:** No, it’s never come up.

630. In practice, Members’ work schedules are hectic, and Members are often away from their Electorate Office for parliamentary sitting days, constituent events, parliamentary committee work, and responsibilities as a Minister or Shadow Minister. Mr Leane told investigators that he relied on his electorate office staff to perform appropriately in such absences:

I’m very reliant on people doing what I expect them to do and I’m – and I’m confident that they do.

631. The day-to-day functions of a Member’s electorate office are performed by their Electorate Officers, at the Member’s direction. There may be circumstances where it is necessary for the proper functioning of the Electorate Office for the Member to authorise their Electorate Officers to perform administrative or managerial functions in the Member’s absence.
632. Mr Jennings explained his view of the typical sequence of delegation as follows:

**Mr Jennings:** The day-to-day reality in relation to my engagement with my electorate office, every single day I delegate a whole series of responsibilities to them. This, you know, is a more high-profile instance of where that delegation may have – may lead to a series of questions that warrant answers and some reflection on, but, you know, delegation works every day.

**Investigator:** Does that include delegating to someone outside the parliamentary organisation?

**Mr Jennings:** I never saw that I delegated that responsibility outside the parliamentary sequence. I – as far as I was concerned, despite what you put to me, the delegated structure as far as I was concerned was within the parliamentary structure.

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633. However, this power cannot reasonably be interpreted as enabling Members to authorise or delegate the performance of their administrative or managerial responsibilities to a person who is not employed by the Parliament. The stated purpose of the Parliamentary Administration Act and the other provisions in section 30 of that Act make clear that the purpose of that Act is to 'provide a framework for good governance in the administration of the Parliament of Victoria', and that Electorate Officers are employed by the Presiding Officers to work for a Member of Parliament.
634. In practice, Field Organisers' day-to-day tasks were managed and directed by Community Action Network Regional Field Directors employed by the ALP. Their performance was measured and managed by their Regional Field Directors and senior ALP Community Action Network management. Furthermore, most of the Field Organisers do not appear to have worked in the Electorate Office of their nominating Member, despite the letters of offer prepared by DPS designating their location of work as a casual Electorate Officer.
635. The Members' power to authorise or delegate their management responsibilities, under section 30(4) or otherwise, cannot reasonably extend to enabling ALP Community Action Network management to direct their Electorate Officers. The Community Action Network's activities were party work rather than parliamentary or electorate work. The day-to-day control of the Field Organisers engaged as casual Electorate Officers was exercised by the ALP's campaign hierarchy.

## Can a distinction be drawn between political, party-political and party activities?

636. The Members' Guide does not define the terms 'parliamentary duties', 'parliamentary or electorate purposes', or 'party or political activities' as they relate to the use of the Electorate Office and Communication Budget. Similarly, the Members' Guide does not explain the meaning of, or the difference between, 'parliamentary and electorate duties' and 'political or party duties' in respect of Electorate Officer work.
637. The vast majority of Field Organisers and Members of Parliament told investigators that Electorate Officer work was inherently political, and that the Members' Guide's direction that Electorate Officers should not engage in political activity was difficult – if not impossible – to satisfy.

### Field Organisers' views

638. The following quotes are typical of Field Organisers' views given at interview:

**Mr Simrajh:** It is a folly to think that there is this enormous distinction between the electorate office as being the office of the MP and cannot include – have anything in it that may be party political or related to the re-election of the Member. In my experience, having worked for the Parliament of Australia, it is perfectly legitimate and expected that an Electorate Officer would be working towards the re-election of the Member of Parliament. I don't know why the rules are here in Victoria the way that they are. That there would be this idea that you would be an Electorate Officer and your job is obviously, you know, reliant upon your Member of Parliament winning the election and there would be an expectation on you by the Parliament that you would not be able to use any time which you might have to secure that re-election. Because being a good Member of Parliament, being a good Electorate Officer, naturally flows on to being re-elected.

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That is to say that, well, an Electorate Officer that might be doing, you know, good work in the community, 'Oh, they are campaigning for their Member of Parliament'. Well, are they just doing their job? It is an impossible demarcation to have.

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**Mr Barbour:** If we go back to the example you gave before about a constituent coming into the office or calling or whatever about a road issue, the action that we take would be to make the Member look good with a view to, in four years, that they will get re-elected. I don't know whether that would be defined as partisan or political, or anything of that nature, so that's why I'm a little bit reluctant to talk about a clear demarcation, because a lot of what we do is about making the Member look good, a lot of what we do is about making sure that in a number of years, or whenever the election is, that their prospects for re-election are heightened rather than us sitting around for four years doing nothing.

[...]

It's hard to say. Certainly there is crossover. Where there is the delineation between the roles probably is where it becomes blatantly partisan. That isn't something that an electorate officer would, generally speaking, be engaged in. But what is defined as partisan and what is defined as helping the Member in their role so that they get re-elected, I don't know where you would make that distinction.

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**Mr Waters:** The current guidance is – is an oxymoron. [...] Well, what I've read is that someone must serve the Member but someone must not be political. So, I can't see how you could serve a Member that's part of a political system and not be political.

## Members of Parliament's views

639. Mr Jennings was particularly firm in his statement that it is impossible for Members and Electorate Officers not to engage in political activity:

The action that takes place each and every day within an electorate office is political. The nature of the Guide to actually say that you can't engage in political activity, you can never satisfy it. No one can ever satisfy it because, in fact, we live in a political world. And that's the reason why I say those things about your work. You don't intend to be political.

[...]

So, what I'm just saying to you is, that the Members' Guide in relation to saying that the work is not political in reality is a nonsense.

[...]

the notion that the work can ever, ever satisfy the test of not being political is a pretence that no one – no one can survive. No one. There is not one MP's office, there is not one Electorate Officer who will be able to attest that their work is not political by its very nature. Not one.

[...]

So, in my mind the dividing line is being respectful, engaging, responsive by being a professional. That has its own political value, although it's not overtly political behaviour.

640. However, other current and former Members of Parliament interviewed considered that the difference could be more clearly distinguished.

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641. Dr Napthine, for example, argued that if ‘you’re politically active enough to be wanting to do that sort of work [Electorate Officer work], you are politically astute enough to know where to draw those lines and make sure it’s clear. And if you are blurring them, ... you are doing it deliberately’:

There should be no confusion [...] Electorate Officers are often people involved in politics because of the very nature of [the] people you attract to [be] Electorate Officers, but they should be doing any campaigning work clearly and distinctly in their own time.

642. Current and former Members of Parliament from all parties represented in the 57<sup>th</sup> Parliament were clearer about what constituted ‘party’ or ‘party-political’ activities, and considered these to be outside the scope of permissible Electorate Officer duties:

**Ms Maddigan:** Electorate Officers aren’t stupid. I think Electorate Officers, in my experience, know exactly what is their – what is the duty relating to their Member of Parliament and what is election campaigning.

**Mr Jennings:** Party-political duties, that’s my line. That’s the line that I’m clear about. This is the line that I’m saying is potentially not clear enough in relation to this. It’s not clear enough in relation to the use of [the] public’s resources.

**Ms Pennicuik:** I don’t think the line is about political. The line is about party work. Right. The line is there. And I’ve had a very – and I run a very strict line on that. So, my Electorate Officers are not allowed to do Party work. They are allowed – because people have a democratic right to do things, they are allowed to go out on a Saturday, you know, which is not a working day, and distribute leaflets or whatever. ... But they’re not allowed to be involved in the production of those leaflets, the organisation of how that happens; nothing to do with that.

643. Mr Jennings suggested that the distinction between ‘political’ and ‘party-political’ activities could be better differentiated in the Members’ Guide:

**Investigator:** Do you think the definitions need to be tightened up so that people understand them better?

**Mr Jennings:** [...] I’ve consistently said we operate in a political world. The word ‘political’ [...] I think what it means in the [...] practical sense is party political, and [we need to] differentiate between those two things. That’s what I think is the intent, or should be the intent.

644. Mr Ryan disagreed that the distinction between permissible and impermissible Electorate Officer duties was difficult to draw:

If we get to the stage where the Parliament of Victoria has got to somehow specifically set these things out in a manner that would require ultimate examination and definition in the High Court of the nation, for heaven’s sake, that would be a sad state of affairs. Everybody knew the conventions and the rules applicable to the use of Electorate Officers.

## The role of campaigning

645. Field Organisers and Members of Parliament considered that Electorate Officer work has an inherent political aspect. Opinions varied on the permissible degree and nature of this political component of Electorate Officer work.

646. Some Field Organisers and Members of Parliament stated that an Electorate Officer’s interactions with constituents reflected on the Member for whom they worked, and that there may be some coincidental political benefit from such contacts. Others indicated that it was entirely appropriate for an Electorate Officer to be working towards the re-election of their Member.

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**Mr Ryan:** The task of an Electorate Officer is to be there to represent the Member in his or her role, as in turn representing the interests of those who reside in the electorate. That's the task. And that ought to be the primary function in the way that it happens. In as much as that could be somehow defined as being campaigning – and I can see how you can make that case as we have already talked about – then one would have to say, yes, strictly speaking, you could read it that way. But conventionally – I mean, there's no – there's no shades of grey about this. It's a fiction. Everybody in that place as a Member of Parliament knew precisely where the obligations lay of their Electorate Officers.

647. Field Organisers and current and former Members of Parliament interviewed by investigators acknowledged that Members are 'always campaigning':

**Mr Waters:** Each Member of Parliament is always campaigning. Each staffer that is serving that Member of Parliament, by extension, is always campaigning. Anyone that's involved in the political system through the Parliament is, by extension, campaigning.

**Mr Simrajh:** Every day I show up to – well, in my previous capacity as an Electorate Officer, every day in which I'm showing up to work for the Member of Parliament and I'm doing a good job, and I'm talking to constituents, and I'm talking to them about what the Member of Parliament thinks is important and what she's doing about them and what he might be doing about them, that's securing the re-election of the Member.

648. Both Mr Leane and Mr Lenders suggested this 'continuous campaigning' might be particularly true for Members in Opposition. However, Ms Fyffe made the point that campaigning takes different forms. She distinguished donating hampers ('soft campaigning') from handing out how-to-vote cards ('direct campaigning'). It is soft campaigning that continues throughout the life of each Parliament, she said.

There is a soft campaigning which goes on from the minute your office opens. They are presenting you in a good light to the various community groups and, you know, we get asked to make donations, for instance. I donate about 50 hampers a year. We make them up in the office. So I like it if there is someone asked – a kinder asks for a hamper, I like [my Electorate Officer] to say 'Would you like Christine to come to the event and present it when the raffle is drawn?' So that's that soft campaigning that goes on all the time. [...] That goes on all the time. But this direct campaigning, you are going out there, you are going out and handing out how-to-vote cards and so on, that's no.

649. At interview, Ms Maddigan and Dr Naphine gave scenarios that showed it can sometimes be hard to distinguish campaigning from doing the job as a local Member (for example, taking up a petition on local issues or lobbying to protect the powers of the Auditor-General). But Ms Maddigan, like Ms Fyffe, said she would have thought that 'politically campaigning to an election is well outside the line'.

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## Possible definitions

650. On the evidence obtained by investigators, 'party' and 'party-political' activities can be more readily identified and separated from the proper work of Electorate Officers than many of the 'grey' areas mentioned by Field Organisers and Members of Parliament.

## Party activities

651. As discussed in the 2016 federal review of parliamentary entitlements, 'party' activities would include internal party administration, attendance at local branch and party meetings, serving on party committees, and recruiting new members and parliamentary candidates. Work performed by employees of a political party, at the direction of political party officials, or which is principally intended to accrue a benefit for a political party (as distinct from assisting with a Member's parliamentary or electorate duties) would also constitute 'party' activity.

## Party-political activities

652. 'Party-political' activities would include electoral campaigning, activities designed and implemented with the objective of improving a candidate's chances of election or re-election, and structured programs coordinated by a party and directed at winning government.

## Did the 60:40 split breach DPS guidelines?

653. Evidence indicates that, in early 2014, Mr Lenders twice raised with DPS the possibility of expanding the existing ALP staff pool to include contributions from Members' Electorate Office and Communication Budgets to enable the employment of additional casual Electorate Officers.
654. Mr Lochert told Mr Lenders that this was not permitted. Despite Mr Lochert's response, the available evidence indicates that Mr Lenders (in consultation with the ALP Campaign Committee) implemented a strategy to persuade other ALP Members of Parliament to engage Field Organisers as casual Electorate Officers. According to Mr Lenders, the purpose of this strategy was to maximise the resources available to assist the ALP's election campaign.
655. As Table 1 and Figure 17 show, those Field Organisers were paid from the nominating Members' Electorate Office and Communication Budgets in accordance with time-sheets submitted to and processed by DPS. In most cases, these time-sheets were signed and certified by the nominating Members even though these casual Electorate Officers were working as full-time Field Organisers.

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656. This arrangement contravened the prohibition in the Members' Guide that '[t]he Parliament does not fund positions to support the Member's political or party duties'. The arrangement appears to have been an artifice to remunerate Field Organisers, in part from parliamentary funds.
657. In their responses to the draft report, Mr Lenders, Ms Tierney and Mr Scheffer denied that these arrangements were an artifice.
658. Mr Lenders told investigators that the arrangement he had proposed to ALP Members 'was not intended to operate to secure public funding for paying electorate officers to undertake field organiser duties'. He said he did not agree, at the point that time-sheets were handed out (or at any other point), that he was attempting to establish an artifice. Mr Lenders maintained that he had spoken:
- with each of the MPs involved [...] about the need to delineate between the time that they were performing field organiser responsibilities and when they were performing their roles as electorate officers. I explained that this delineation was necessary to ensure the legitimacy of their employment as electorate officers.
659. Ms Tierney contended that, from her perspective, 'the arrangement was not an artifice, it was an arrangement which gave me an additional resource to service my large electorate which extended to the South Australia border, only had 2 ALP Legislative Council members and in which, out of the 11 Legislative Assembly districts, there were only 2 ALP members'. Ms Tierney stated that the Field Organiser whom she nominated for employment as a casual Electorate Officer, Mr Feaver, worked under her direction or the direction of other members of her staff. Separately, Mr Feaver's statutory declaration of 30 November 2017 asserted that during his employment as an Electorate Officer:
- Ms Tierney was insistent that I perform electorate officer duties. In performing these duties, I would work with her or with her office staff. As the South Barwon electorate was within Ms Tierney's Upper House electorate and was her duty seat, she took a particular interest in issues arising in that electorate and the success of Mr Richards' campaign.
660. Mr Scheffer stated that he believed that the description of these employment arrangements as an 'artifice' was incorrect in his case. Mr Scheffer stated that he was concerned to ensure that the Field Organiser he had nominated for employment as a casual Electorate Officer 'would not be performing her field organiser role during the times when she was employed by the Parliament', and that he discussed this delineation of roles with Mr Lenders. Mr Scheffer added that:
- When Ms Gonzales started working as an electorate officer, [another of my Electorate Officers] and I met with her. I explained to Ms Gonzales that, under no circumstances, should she undertake tasks that were party political on the days she was employed as an electorate officer. I impressed upon her the seriousness of breaching this directive.

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Ms Gonzales gave me a clear commitment that she would keep the 2 roles separate, and it was then that she agreed to provide [my other Electorate Officer] with reports on the electorate officer tasks she was completing while working in Mr Merlino's electorate office.

After Ms Gonzales started working in Mr Merlino's electorate office, [my other Electorate Officer] kept in touch with Ms Gonzales who reported to [her] on my behalf on the work she was doing. This included work on the closure of TAFE campuses and following up with constituents. I was also aware that [my other Electorate Officer] spoke with [Mr Merlino's Electorate Officer] who we understood was supervising Ms Gonzales' work.

661. In describing the 60:40 split arrangement as an artifice, I do not suggest that any participating Member of Parliament set out to deceive, or that no work was performed for any of them that could legitimately be claimed to be electorate officer work. The examples of claimed electorate office work are set out in detail elsewhere in this report. However, on the significant weight of evidence in this report of the full-time nature of the Field Organiser role, I maintain that the arrangement itself was an artifice.

662. As discussed under the heading 'Partially pre-filled time-sheets', pre-completed time-sheets signed by Field Organisers and Members of Parliament were submitted to DPS to authorise payments. Those time-sheets asserted that Field Organisers had worked as Electorate Officers for 7.6 hours a day on two days each week.

663. Investigators also obtained several handwritten time-sheets authorising payments to Field Organisers for Electorate Officer work. The hours of work claimed in these time-sheets do not reflect Field Organisers' typical working hours as set out in the '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document - that is, from noon to 8:30 pm from Tuesday to Friday, and from 9:00 am to 6:00 pm on Saturdays.

### **Were the arrangements sanctioned?**

664. The correspondence between Mr Lenders and DPS in January 2014 (discussed in Chapter 2) shows that Mr Lenders was aware that any changes or expansions to formalised pooling practices required approval from the Presiding Officers via DPS.

665. Mr Lenders' evidence at interview was that DPS informed him that any increase to the approved ALP staff pool would require additional contributions from a Member's entitlement to the equivalent of two full-time Electorate Officers, as explained in clause 9 of the Members' Guide. This would require putting existing part-time or full-time Electorate Officers onto casual contracts, and allocating the full-time equivalent (FTE) fraction which had been used to employ them to the approved ALP staff pool.

666. Mr Lenders stated to investigators that Mr Lochert informed him that Electorate Officers employed on casual contracts and paid from a Member's Electorate Office and Communication Budget could not be used to augment the approved ALP staff pool. Mr Lenders did not consider that putting his existing permanent Electorate Officers into a casual employment arrangement would be feasible, as this would have disrupted their employment conditions and entitlements.

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667. There is no evidence that Mr Lenders explained the purpose of the proposed arrangements to DPS, and Mr Lenders' evidence to investigators was that he did not explain the intended purpose of augmenting the approved ALP staff pool to Mr Lochert in any conversations in 2014. Mr Lenders stated that he was reluctant to provide more specific details to Mr Lochert:

because he was responsible to the President of the Legislative Council and the Speaker of the House and may have felt bound to report my discussions to them. While both the President and the Speaker are nominally impartial, they remained members of the Coalition parties and, I was concerned, that they might pass information to the Coalition parties.

668. The available evidence shows that, instead of expanding the existing approved ALP staff pool, Mr Lenders and other ALP Members of Parliament nominated Field Organisers to be employed as casual Electorate Officers using the ordinary processes set out in the Parliamentary Administration Act.

669. The DPS internal memorandum of 17 February 2014 refers to the Members' Guide and to the statement that Electorate Officers are provided to assist with parliamentary and electorate duties. The reputational risks identified in the memorandum explicitly refer to Electorate Officers being used to perform non-parliamentary duties. It is plain that the proposed arrangements were not sanctioned.

### **Were Field Organisers employed through the approved ALP staff pool?**

670. The evidence obtained by this investigation indicates that in all but one instance, there was no connection between the approved ALP staff pool and the employment of Field Organisers as casual Electorate Officers in 2014. The only Field Organiser to be employed using the approved ALP staff pool was initially employed on casual Electorate Officer contracts for Mr Carbines and Mr Melhem. This Field Organiser ceased working for Mr Melhem in April 2014 and accepted a part-time Electorate Officer position in the ALP staff pool starting in May 2014. The same Field Organiser also accepted a part-time Electorate Officer position working for Mr Carbines in July 2014. This was discussed in paragraphs 218 to 223.

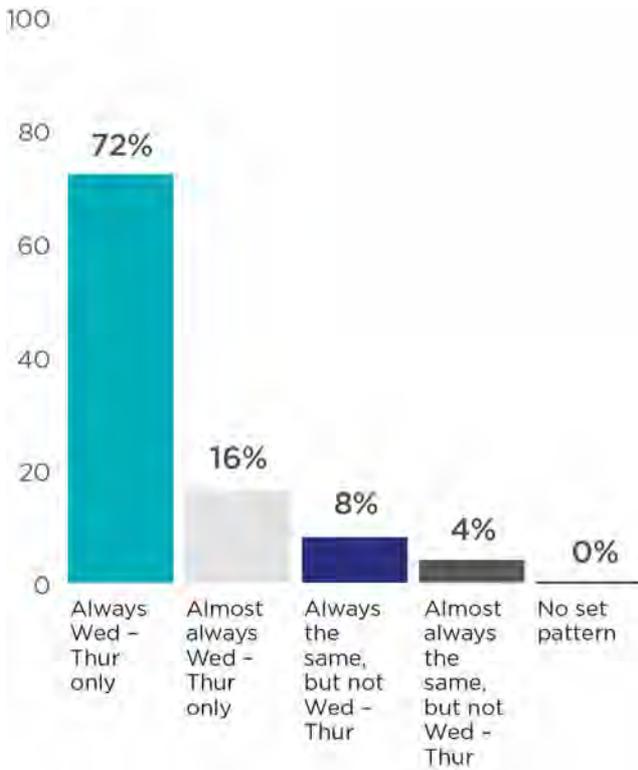
671. Mr Lochert confirmed that ALP Members continued to sacrifice fractions of their FTE staff entitlements to the approved ALP staff pool of Electorate Officers, with the exact fractions varying over time. The pooling arrangements described by ALP Members of Parliament were corroborated by documents received from DPS concerning the employment of one Field Organiser from May 2014, and of at least three other Field Organisers employed as Electorate Officers following the 2014 election. Mr Lochert confirmed that the Field Organiser re-employed as a part-time Electorate Officer in May 2014 was engaged under the approved ALP staff pool arrangement.

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672. The term 'pooling' has been used to describe a variety of resource-sharing arrangements during this investigation. However, collaboration between Members of Parliament and/or their respective Electorate Officers on parliamentary projects and issues of concern across multiple electorates is distinct from the DPS-administered aggregation of Members' staffing entitlements which have been approved by the Presiding Officers. The former reflects Members of Parliament performing their representative and parliamentary duties using the resources made available to them for those purposes, whereas the approved ALP staff pool reflects a limited transfer of Members' staffing entitlements to the direction and control of the parliamentary party leadership.
673. None of the Field Organisers was employed as a casual Electorate Officer from the approved ALP staff pool, or any other recognisable pooling arrangement. Their employment was funded from individual Members' Electorate Office and Communication Budgets.

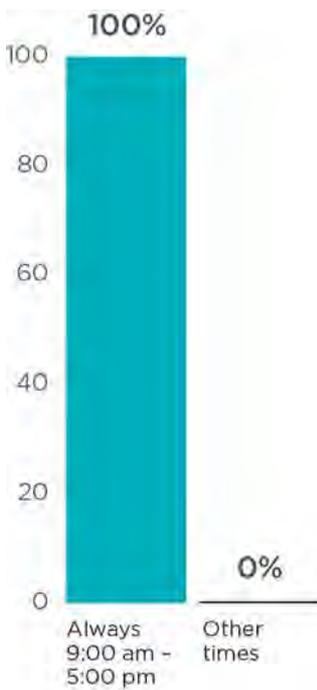
## **Were accurate time-sheets submitted to DPS?**

674. The dates and hours of work claimed in the casual Electorate Officer time-sheets do not reflect the work actually performed by the Field Organisers in 2014. Pre-completed time-sheets signed by Field Organisers and Members of Parliament were submitted to DPS to authorise payments. Those time-sheets asserted that Field Organisers had worked as Electorate Officers for 7.6 hours a day on two days each week.
675. The hours of work claimed in handwritten time-sheets obtained by the investigation also do not reflect Field Organisers' typical working hours as set out in the '2014 Victorian Field Program Field Organiser Roles & Responsibilities' document – that is, from noon to 8:30 pm from Tuesday to Friday, and from 9:00 am to 6:00 pm on Saturdays.
676. The consistency of the details recorded in time-sheets submitted by Field Organisers employed as casual Electorate Officers is shown in Figure 20.

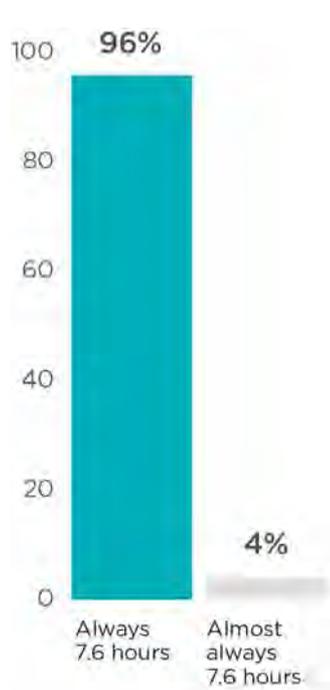
Figure 20: Days of the week certified on DPS time-sheets as Electorate Officer work



Start and finish times



Hours per shift



- 
677. Mr Mintern's evidence explains the near-uniformity and consistency of these time-sheets over the eight months from March to October 2014. Mr Mintern told investigators that, under direction from Mr Lenders, he had prepared the time-sheets before 3 March 2014, that they reflected his understanding that 'a working day at Parliament is 7.6 hours', and that he had pre-filled the typed dates, hours and reasons for payment on those time-sheets.
678. Together with the evidence set out at paragraphs 230 to 254 and 546 to 573, Mr Mintern's statements and the data in Table 1 and in Figure 20 support the conclusion that time-sheets submitted to DPS were generally not accurate in respect of the hours and days during which the Field Organisers were performing Electorate Officer duties.

### **Provisions for employment of casual Electorate Officers**

679. Clause 9.1.4 of the Members' Guide states:

To assist with short term needs, Members may also engage Casual Electorate Officers for a maximum period of 570 hours over a 12 month period – financial year (minimum daily engagements of 3 consecutive hours).

680. The duration of the Field Organisers' employment as casual Electorate Officers, and the regularity of the dates and hours claimed on time-sheets throughout that period, is not indicative of a casual employment relationship to meet 'short term needs' as contemplated by the Members' Guide. These arrangements are more akin to part-time fixed-term employment. This conclusion is supported by the fact that, with the exception of one employee, no time-sheets were submitted to DPS to authorise payment for casual Electorate Officer work by Field Organisers after 30 October 2014.

681. Furthermore, the advertisement, position description, and the letter of offer relating to the Field Organiser role all describe that role as full-time.
682. No independent evidence has been obtained by or provided to the investigation to suggest that the full-time nature and duties of the Field Organiser role were varied at any time from March 2014 to 29 November 2014. As discussed, with a few possible exceptions, Field Organisers do not appear to have distinguished between work performed as Field Organisers and as Electorate Officers. The available evidence supports the conclusion that their systematic and regular work was in the Field Organiser role, on a full-time basis, until the 2014 state election.

### **Certification requirements**

683. The standard casual Electorate Officer time-sheet includes a statement above the Member of Parliament's signature: 'I certify the above details to be correct and I authorise that, where appropriate, payment be made from my Electorate Office Budget'. Clause 8 of the Members' Guide states that:

A member must be able to certify that the usage was within the established guidelines and that the funds have been used for Parliamentary or electorate purposes. The certification process is an integral part of the accountability framework that serves to protect members from unwarranted criticism regarding their use of budget allocations.

While parliamentary officers may provide advice, training or assistance, it remains the responsibility of the Member to satisfy themselves that their use of parliamentary entitlements is lawful, and it may be in the Member's interest to satisfy themselves that it is publicly defensible.

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684. It appears that, with limited exceptions, the certification process was not faithfully complied with in respect of the partially pre-filled time-sheets authorising payments to be made by DPS to the Field Organisers. Mr Mintern told investigators that, at Mr Lenders' direction, he had prepared the pre-filled time-sheets to be handed to Field Organisers on 3 March 2014. These time-sheets included dates and hours of work for all of the period from 5 March 2014 to 30 October 2014. These time-sheets appear to have been signed in bulk by the Field Organisers in March 2014. With a few possible exceptions, the Members signing the time-sheets do not appear to have directed the duties of the Field Organiser (in any capacity) on the dates claimed. Mr Mintern explained the preparation and handling of the pre-filled time-sheets as follows:

**Mr Mintern:** [...] it's tough getting everyone lined up to get a form in on time, especially when it is so regular and consistent as I understood these were going to be; it was two days a week every week. So, that's where the time-sheets ideas came from. So, they were essentially ready to go for the the Member each week.

**Investigator:** For the whole period?

**Mr Mintern:** Yes. Yes. Until caretaker period was to start.

**Investigator:** Yes. And you said that was your idea to include them in the packs?

**Mr Mintern:** Yes

**Investigator:** What details did the attendees at the training fill out on the time-sheets prior to handing them back to you?

**Mr Mintern:** Their name and their signature.

**Investigator:** So, basically, it [the folder containing employment documents and pre-filled time-sheets] went from you to the attendee at the training. They filled out all the details, signed the time-sheets; that sort of thing. Handed it back to you, and then from you it went, as a complete folder still, to the nominating MP.

**Mr Mintern:** That's right.

685. The evidence shows that DPS and the Presiding Officers are not in a position to verify or confirm the accuracy of hours claimed in any casual Electorate Officer time-sheets submitted to DPS. As noted in paragraphs 255 to 257, Mr Lochert told investigators that there are 128 Members of Parliament and 700 to 800 Electorate Officers across Victoria, and that DPS's staff of 147 is responsible for managing the administrative and employment arrangements for all of them. Mr Lochert stated that DPS had to rely on the Members' certification of time-sheets.

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686. Ms Fyffe said the only way that DPS or the Presiding Officers would know of misuse is through 'political gossip and conversations', because:

there is no way that parliamentary services or the Presiding Officers can monitor what the Electoral [sic] Officers are doing or where they are doing it from. There is no system.

687. Mr Atkinson said that while Presiding Officers are technically responsible for Electorate Officers, the employment decisions are made by the Members of Parliament themselves:

They select, recruit, select and supervise the staff themselves and in very few cases do they ever even seek the support or assistance of the organisational development departments within the Parliament in that recruitment process.

[...]

You know, there is an apparent difficulty or potential difficulty in a situation where staff are employed by one person in an unfettered manner but the final accountability in respect of any relationship coming to grief, or a misdemeanour issue, that the responsibility resides with the DPS, Presiding Officers.

688. The practical consequence is that neither the Presiding Officers nor DPS can independently verify the hours and type of work claimed by casual Electorate Officers, and must rely on the Member of Parliament's certification that this information is correct.

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## Chapter 5.

# Conclusions and observations

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This chapter sets out the overall conclusions of the investigation: that 21 Members of the 57th Parliament breached one or more provisions of the Members' Guide.

The conduct contravening the Members' Guide included the use of casual Electorate Officers for party-political purposes, the inaccurate certification of Electorate Officer time-sheets, transfers of Members' Electorate Office and Communication Budgets, and retiring Members of Parliament authorising payments to communicate on behalf of a new candidate.

The chapter also includes observations about the conduct and motive of Members, including reflections on the landscape in which these breaches occurred.

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## Conclusions

689. The evidence in this investigation paints a clear picture of a well-organised campaign by the ALP to recruit and deploy Field Organisers in the run-up to the 2014 Victorian state election. It is also clear that, with some variance for individual circumstances, 21 of those Field Organisers were paid by DPS for two or three days a week between 4 March and 30 October 2014, as Electorate Officers, which amounted to some \$387,842 of parliamentary funds.
690. This '60:40 split' arrangement appears to have been the brainchild of Mr Lenders, in consultation with the then ALP State Secretary Mr Carroll. The evidence suggests that the split was devised after Field Organisers were recruited in December 2013, and before their initial training week in March 2014. It is hardly surprising that those Field Organisers who recall Mr Lenders addressing the group on the first day of training were startled to learn of their pay arrangements, and equally unsurprising, given Mr Lenders' status within the party, that it was accepted with few questions.
691. While the roles of a Field Organiser employed by a political party and an Electorate Officer employed by the Parliament are plainly different, there is obviously some crossover, particularly in research and community engagement. On that basis, the 60:40 split could have operated legitimately; it is important to note that the planned cut-off for Electorate Officer payments was 31 October 2014, when the 57th Parliament ceased one month before the election.
692. However, the legitimacy of the 60:40 split depended on those involved being clearly instructed to perform Electorate Officer duties on the dates they were paid out of parliamentary funds. While Mr Lenders and Mr Mintern say that he did explain this on 3 March 2014, no-one else present at the training remembers this taking place and, in any event, for at least the vast majority, it did not happen. In one of the four instances when a demarcation was claimed, it is telling that the Field Organiser involved was told by the ALP's campaign leadership that he was spending too much time on his Electorate Officer duties.
693. In at least 18 other instances when Field Organisers were co-employed as casual Electorate Officers, the 60:40 split appears to have been an artifice to secure partial payment for Field Organisers out of parliamentary funds. Although Field Organisers and ALP Members of Parliament alike defended the arrangement on the basis that the work overlapped and was useful to the nominating Member, there was for the most part no practical demarcation in what was, on any interpretation, political campaigning. Field Organisers employed as casual Electorate Officers in 2014 worked at the direction of ALP campaign staff, and were expected to do so on a full-time basis.

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## Implementation of the Lenders arrangement

694. Although Mr Lenders claims that his arrangement ‘morphed’ into something that was not intended, it appears that there was no attempt at the outset to separate the roles. Field Organisers received no training in Electorate Officer work at the training week (although one claimed to have received on-the-job training during 2014). Most did not receive the Electorate Officer handbook at any time during 2014, and most never used the parliamentary email system.
695. In response to the draft report, Mr Jennings stated that he disagreed that there was no attempt to separate the roles and that ‘there was clearly an attempt to do so, though it ultimately did not result in the delineation that was initially proposed.’ Notwithstanding this, on any view of the evidence, any attempt to delineate the roles was perfunctory.
696. While Field Organisers employed as casual Electorate Officers had varying levels of contact with their nominating Member, ranging from none to moderate and including occasional tasking, it is apparent in almost every case that any contact and tasking was incidental to the Field Organisers’ core role: reporting daily to ALP headquarters and meeting campaign targets.
697. Nor was the arrangement approved by DPS, which administered the ALP staff pool, or by the Presiding Officers of the Parliament. While Mr Lenders had approached the Secretary of DPS about expanding the pool, he had been advised it could not be done with contributions from Members’ Electorate Office and Communication Budgets. Mr Lenders’ consistent evidence was that he had not spoken with the Presiding Officers about the proposed arrangement at any stage.
698. Of the 23 ALP Members of the 57<sup>th</sup> Parliament who nominated and employed 21 Field Organisers for employment as casual Electorate Officers, paid by DPS in accordance with time-sheets submitted for dates of work from March to November 2014, initial evidence suggested that 22 signed time-sheets for Electorate Officers engaging in party and political activities on those dates as Field Organisers, contrary to the Members’ Guide.
699. This was put to each of the Members of Parliament involved, to which seven elected to respond in writing. As set out in the previous chapter, four of those responses accepted that there was no practical demarcation between the Field Organiser role and the Electorate Officer role. Consistent with the evidence of Mr Jennings and Mr Leane, three responding Members believed the arrangement to be an extension of an approved staff pooling arrangement. As noted in paragraph 410, in response to the draft report, the ALP’s lawyers stated that findings and conclusions cannot be properly made on the incomplete evidence available to the investigation. For the reasons set out in paragraph 411, I disagree.

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700. I accept that the Members of Parliament who signed time-sheets authorising payments to Field Organisers derived little or no personal benefit from the use of parliamentary funds for campaigning purposes, which almost invariably benefited the election prospects of other Members or candidates. I also accept that they agreed to part with a portion of their budget entitlement in good faith, following discussions with Mr Lenders, believing it to be legitimate. Regardless of their intentions, however, they were wrong, and their actions breached the Members' Guide.

## Conduct contravening the Members' Guide

### Use of casual Electorate Officers for party-political purposes

701. Clause 9 of the Members' Guide states that Electorate Officers are provided to support Members 'in their parliamentary and electorate duties. The Parliament does not fund positions to support the Member's political or party duties'.

702. Electorate Officers' work is inherently political in some respects, given that they work for Members of Parliament. Helping constituents and identifying issues of concern to a community can confer a political benefit to an Electorate Officer's nominating Member, even though those tasks are connected with the Member's duties as a local representative. There are also circumstances where it would be appropriate for Members of the Legislative Council and the Legislative Assembly to combine their resources in respect of proposed legislation and issues which affect their mutual constituents. Several Field Organisers and Members who provided information to investigators identified TAFE closures as one such issue during the 2014 election campaign. Despite their political aspects, these examples are consistent with Members using the resources provided to them in the performance of their parliamentary and electorate duties.

703. While there is no clear, practical boundary on Electorate Officers' support of Members' political duties, given the inherently political nature of the Member's role, it is difficult to see how the use of Electorate Officers paid for by the 57<sup>th</sup> Parliament to campaign for candidates for the 58<sup>th</sup> Parliament can be other than the use of Electorate Officers for a political purpose outside a Member's usual parliamentary duties.

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704. The evidence indicates that 19 ALP Members of the 57<sup>th</sup> Parliament breached Clause 9 of the Members' Guide. These Members were:

#### **Legislative Assembly (57<sup>th</sup> Parliament)**

Beattie, Elizabeth  
Member for Yuroke District  
Carbines, Anthony  
Member for Ivanhoe District  
D'Ambrosio, Liliana  
Member for Mill Park District  
Eren, John  
Member for Lara District  
Helper, Jochen  
Member for Ripon District  
Pakula, Martin  
Member for Lyndhurst District  
Pandazopoulos, John  
Member for Dandenong District  
Thomson, Marsha  
Member for Footscray District

#### **Legislative Council (57<sup>th</sup> Parliament)**

Broad, Candy  
Member for Northern Victoria Region  
Elasmar, Nazih  
Member for Northern Metropolitan Region  
Jennings, Gavin  
Member for South-Eastern Metropolitan Region  
Leane, Shaun  
Member for Eastern Metropolitan Region  
Lenders, John  
Member for Southern Metropolitan Region  
Lewis, Margaret  
Member for Northern Victoria Region  
Mikakos, Jenny  
Member for Northern Metropolitan Region

Somyurek, Adem  
Member for South-Eastern Metropolitan Region  
Tarlamis, Lee  
Member for South-Eastern Metropolitan Region  
Tee, Brian  
Member for Eastern Metropolitan Region  
Viney, Matthew  
Member for Eastern Victoria Region

705. Three other Members, Mr Melhem, Mr Scheffer and Ms Tierney, claimed there was a demarcation in the roles, and that they had given specific instructions to their Electorate Officers also employed as Field Organisers to that effect. The evidence in all three cases was provided at a late stage in the investigation, when to further investigate their responses would have added material delay. While the level of evidence to support their claims was variable, and does not definitively support that all payments authorised on their behalf supported their parliamentary duties, I make no adverse finding against them.

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## Certification of casual Electorate Officer time-sheets

706. Clause 8 of the Members' Guide makes Members of Parliament responsible for ensuring that all expenditure from the Electorate Office and Communication Budget is 'managed within the allocated budgets and in accordance with all relevant legislation and guidelines'. The same clause of the Members' Guide also states that, in relation to expenditure from the Electorate Office and Communication Budget: 'A member must be able to certify that the usage was within the established guidelines and that the funds have been used for parliamentary or electorate purposes'. The Members' Guide also advises that 'it may be in the Member's interest to satisfy themselves that it is publicly defensible'.
707. Time-sheets submitted for Electorate Officer work claimed by the Field Organisers from March to November 2014 uniformly give the hours of work as 9:00 am to 5:00 pm, usually on each Wednesday and Thursday. The evidence indicates that the hours of work Field Organisers performed were typically from noon to 8:30 pm on Tuesday to Friday, and 10:00 am to 6:30 pm on Saturday.
708. Seventeen Members of Parliament signed time-sheets authorising DPS to pay eighteen Field Organisers for two days of casual Electorate Officer work during the Field Organiser training week from 3 to 7 March 2014. It is beyond doubt that these eighteen Field Organisers did not perform Electorate Officer duties on the dates claimed in time-sheets during this week.
709. Some witnesses told investigators that their perception was that accurate time recording was not required, because a day's work as an Electorate Officer is uniformly recorded as 7.6 hours, and many described it as a common and recognised practice across many industries. While this may be true, it does not absolve the Members of Parliament who signed time-sheets to authorise payments of their personal responsibilities in relation to the stewardship of public funds. It is also questionable whether the use of pre-filled time-sheets prepared in late February or early March 2014 for dates and times of work between March and November 2014 is publicly defensible.
710. The evidence indicates that 21 Members of Parliament who signed time-sheets authorising DPS to pay 20 Field Organisers from their Electorate Office and Communication Budgets for work performed between March and November 2014 failed to comply with the certification requirements of clause 8 of the Members' Guide.

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711. These Members were:

**Legislative Assembly  
(57<sup>th</sup> Parliament)**

Beattie, Elizabeth  
Member for Yuroke District

Carbines, Anthony  
Member for Ivanhoe District

D'Ambrosio, Liliana  
Member for Mill Park District

Eren, John  
Member for Lara District

Helper, Jochen  
Member for Ripon District

Pakula, Martin  
Member for Lyndhurst District

Pandazopoulos, John  
Member for Dandenong District

Thomson, Marsha  
Member for Footscray District

**Legislative Council  
(57<sup>th</sup> Parliament)**

Broad, Candy  
Member for Northern Victoria Region

Elasmar, Nazih  
Member for Northern Metropolitan Region

Jennings, Gavin  
Member for South-Eastern Metropolitan  
Region

Leane, Shaun  
Member for Eastern Metropolitan Region

Lenders, John  
Member for Southern Metropolitan Region

Lewis, Margaret  
Member for Northern Victoria Region

Mikakos, Jenny  
Member for Northern Metropolitan Region

Scheffer, Johan  
Member for Eastern Victoria Region

Somyurek, Adem  
Member for South-Eastern Metropolitan  
Region

Tarlamis, Lee  
Member for South-Eastern Metropolitan  
Region

Tee, Brian  
Member for Eastern Metropolitan Region

Tierney, Gayle  
Member for Western Victoria Region

Viney, Matthew  
Member for Eastern Victoria Region.

712. Mr Melhem, as noted earlier, denied the allegation and the investigation has no direct evidence to the contrary. While limited evidence is available in respect of both Mr Scheffer and Ms Tierney, they signed time-sheets certifying that Ms Gonzalez and Mr Feaver had performed Electorate Officer work for them on dates and at times when Ms Gonzalez and Mr Feaver attended the Field Organiser training week in March 2014.

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## Transfers of Electorate Office and Communication Budget

713. Clause 8 of the Members' Guide states that '[t]he Electorate Office and Communication Budget may not be transferred, as a whole or in part between Members'.
714. The use of casual Electorate Officers to perform Field Organiser work falls outside the approved ALP staff pooling arrangement. The payments made by DPS to these Field Organisers came from the Electorate Office and Communication Budgets of their nominating Members. Twelve Field Organisers were assigned to Legislative Assembly districts where the ALP candidate for election was the incumbent Member of Parliament before the 2014 state election, but was not the Member signing their time-sheets.
715. The candidates for election in those Legislative Assembly districts received the benefit of the Field Organisers' work in the course of seeking re-election, which was paid for in part from another Member's Electorate Office and Communication Budget. This was effectively a transfer of part of the Electorate Office and Communication Budget of the ten Members who signed the time-sheets. These arrangements contravene clause 8 of the Members' Guide.
716. These Members were:
- Legislative Assembly  
(57<sup>th</sup> Parliament)**
- D'Ambrosio, Liliana  
Member for Mill Park District
- Eren, John  
Member for Lara District
- Helper, Jochen  
Member for Ripon District
- Pandazopoulos, John  
Member for Dandenong District
- Thomson, Marsha  
Member for Footscray District
- Legislative Council  
(57<sup>th</sup> Parliament)**
- Broad, Candy  
Member for Northern Victoria Region
- Elasmar, Nazih  
Member for Northern Metropolitan Region
- Lewis, Margaret  
Member for Northern Victoria Region
- Mikakos, Jenny  
Member for Northern Metropolitan Region
- Somyurek Adem  
Member for South-Eastern Metropolitan Region
717. Mr Lenders disagreed with the contention that these arrangements effectively amounted to 'a transfer of part of the Electorate Office and Communication Budget' between Members. Mr Lenders added that it was common for Members of the Legislative Assembly and the Legislative Council to share resources, including electorate office premises, equipment and staff. Mr Lenders also asserted that Members of the Legislative Council, in carrying out their parliamentary duties, would often work closely with Members of the Legislative Assembly whose districts were located in their region, and would often focus their attention on marginal Legislative Assembly districts.

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718. The types of resource-sharing arrangements between Members described in the preceding paragraph are not inappropriate or prohibited by the Members' Guide. Nonetheless, there are limits to the matters about which Members could properly collaborate using parliamentary funds. It is reasonable, even desirable, for Members of Parliament to cooperate and share resources in cost-effective ways to represent the interests of their mutual constituents. The same is true in respect of Members performing their parliamentary duties, such as scrutinising draft legislation. It is quite another thing, however, to contend that it would be appropriate for Members of Parliament to use their Electorate Office and Communication Budget to assist other Members' efforts to be re-elected to the next Parliament.
719. Mr Lenders contended that the ALP staff pool administered by DPS also involved 'the transfer of electorate officer budget from MPs to the pool and for electorate officers in the pool to perform work for someone other than the MP who contributed his or her electorate officer budget to the pool'. This argument conflates Members' entitlements to the equivalent of two full-time staff with the use of their Electorate Office and Communication Budgets. These are different entitlements which are dealt with separately in the Members' Guide.
720. The ALP staff pool administered by DPS also had the formal sanction of Parliament. By Mr Lenders' own account, having been told his proposal to expand the ALP staff pool using Electorate Office and Communication Budget allowances was not permissible, he took a different approach and proceeded to promote to ALP Members an alternative arrangement to use this budget without further reference to DPS or the Presiding Officers. Neither DPS nor the Presiding Officers were ever informed of the work that these Electorate Officers would be tasked to perform or their involvement as Field Organisers in the Community Action Network.
721. Eight Members of Parliament signed time-sheets authorising payments to eight Field Organisers assigned to work in Legislative Assembly districts where the candidate for election in 2014 was not a sitting Member of Parliament. There is no express direction in the Members' Guide prohibiting Members from transferring their Electorate Office and Communication Budget to another person who is not a Member of Parliament.
722. The most plausible explanation for this, given the outright prohibition on transfers of this budget between Members, is that the pay arrangement for these Field Organisers was so novel that the Presiding Officers did not consider such a direction would be necessary.
723. These Members were:
- Legislative Assembly  
(57th Parliament)**
- Beattie, Elizabeth  
Member for Yuroke District
- Pakula, Martin  
Member for Lyndhurst District
- Legislative Council  
(57th Parliament)**
- Jennings, Gavin  
Member for South-Eastern Metropolitan Region
- Leane, Shaun  
Member for Eastern Metropolitan Region
- Lenders, John  
Member for Southern Metropolitan Region
- Tarlamis, Lee  
Member for South-Eastern Metropolitan Region
- Tee, Brian  
Member for Eastern Metropolitan Region
- Viney, Matthew  
Member for Eastern Victoria Region

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## Retiring Members of Parliament authorising payments to Field Organisers

724. Clause 8.2.2 of the Members' Guide prohibits the use of a retiring Member of Parliament's budget to communicate on behalf of a new candidate.
725. For the purposes of the investigation, a Member of Parliament was considered to be 'retiring' if they did not contest the 2014 state election.
726. Between March and November 2014, seven retiring Members signed time-sheets, or had time-sheets signed under delegation on their behalf, authorising payments to nine Field Organisers from their Electorate Office and Communication Budgets for hours worked as casual Electorate Officers, in circumstances where those Field Organisers do not appear to have been performing duties for their nominating Member.
727. These now-retired Members were:

### Legislative Assembly (57<sup>th</sup> Parliament)

Beattie, Elizabeth  
Member for Yuroke District

Helper, Jochen  
Member for Ripon District

Pandazopoulos, John  
Member for Dandenong District

### Legislative Council (57<sup>th</sup> Parliament)

Broad, Candy  
Member for Northern Victoria Region

Lenders, John  
Member for Southern Metropolitan Region

Lewis, Margaret  
Member for Northern Victoria Region

Viney, Matthew  
Member for Eastern Victoria Region.

728. It is not clear whether this prohibition applies only to assisting a new candidate in a retiring Member's own electorate, or whether it applies to communicating on behalf of new candidates in any electorate. None of the retired Members listed above authorised payments to Field Organisers assisting candidates for election in their own Legislative Assembly district or Legislative Council region. If the narrower interpretation is adopted, none of the retired Members named above would have contravened clause 8.2.2 of the Members' Guide. However, if this prohibition does not extend to the use of a retiring Member's Electorate Office and Communication Budget to communicate on behalf of new candidates in other electorates, it is likely that this would only be because Parliament had not contemplated that such a direction would be necessary, given the requirement for Members to use that budget only for their own parliamentary or electorate purposes.

## Use of electorate offices for Field Organiser work

729. Clause 10 of the Members' Guide notes that:

The Parliament of Victoria provides each Member of Parliament with an office within their region or district. The office and resources provided by Parliament are to be used for the purpose of supporting the Member in representing constituents and discharging their Parliamentary responsibilities. Offices and resources may not be used for commercial business purposes.

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730. From the available evidence, it appears that most Field Organisers worked from an electorate office for at least part of 2014, which was not necessarily that of their nominating Member of Parliament. Many of these Field Organisers relocated to a campaign office during 2014. At least two Field Organisers appear to have never worked from an electorate office, and at least one worked in the electorate office of their nominating Member throughout 2014 until the election. There was limited evidence that some Field Organisers worked from other premises during the campaign.

731. It appears therefore that the electorate offices of at least six current and former Members of Parliament were used by Field Organisers to conduct campaigning activities which were not activities supporting those Members' representative and parliamentary duties. It is not possible on the available evidence to identify all the current and former Members of Parliament from whose electorate offices the Field Organisers worked between March and November 2014.

## Observations

732. While on the available evidence, there is no doubt that the Members' Guide was breached as set out above, it is important to consider the motive and consequences in relation to individual breaches, as well as the wider landscape. The Members' Guide is not an enforceable document; it provides 'guidance' which, it would appear, few Members have even read. While the axiomatic statement that 'ignorance of "the law" is no excuse' comes into play, the question must be asked: how relevant and useful is this guidance, if it is poorly understood and widely ignored?

733. The issue is particularly pertinent when considering the restriction on 'political or party' activity. I accept the arguments put forward by a number of Members that Electorate Officer work is inherently political; this is confirmed by their own employment arrangements, where they are exempt from the prohibition on discriminating between candidates on the basis of political belief or activity in the offering of employment.<sup>31</sup>

734. I agree with the observations of Mr Jennings that everything Members of Parliament do, and therefore everything Electorate Officers do to support them, has a political aspect and could potentially be characterised as a form of campaigning. That said, I believe a distinction can be drawn between political activity, which would encompass much traditional Electorate Officer work, and party-specific activity, which would not. A distinction is clearly anticipated in the Members' Guide but the current articulation does not reflect this.

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<sup>31</sup> *Equal Opportunity Act 2010 (Vic)*, s 27.

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735. The other argument that surfaced regularly during the investigation was that this was simply an extension of a traditional pooling arrangement, and that 'they all do it'. It was not, and other political parties did not have similar arrangements. But the fact that the ALP had operated a DPS-administered staff pool since the early 2000s, which succeeded a separate formal staff pooling arrangement that had started in the early 1990s, muddied the waters, and Members signing up to the 60:40 split arrangement not unreasonably thought they were on familiar ground.
736. The Members of Parliament who signed time-sheets authorising payments to Field Organisers derived little or no personal benefit from the use of parliamentary funds for other people's campaigns, and I accept the assertions of those who provided evidence that they believed the arrangement was a legitimate use of their budget entitlement. Regardless of their intentions, they were wrong; the effect of their acquiescence was that public money was used for an inappropriate purpose.
737. Nor did Mr Lenders derive any personal benefit from his nominated Electorate Officers campaigning for other candidates; he was, in any event, retiring from Parliament at the 2014 election. But on the evidence available, he carries the greatest share of responsibility for breaches of the Members' Guide. As a senior Member of Parliament, former Minister and Treasurer, and Leader of the Government in the Legislative Council, he should have known better. He sought advice from DPS but did not pursue it, and his involvement and personal stature would have been instrumental in giving credibility to the arrangement. There is undoubtedly a blurred line between permissible and impermissible uses of parliamentary funds, and what is or is not political or party activity prohibited by the

Members' Guide. However, in seeking to maximise the use of resources available to the Party for the 2014 campaign, Mr Lenders crossed this line.

738. In response to the draft report Mr Lenders said:

As to what was permissible and what was impermissible, I accept responsibility for not taking steps to ensure that the MPs who employed casual electorate officers, and the ALP, delineated the time they were employed as electorate officers and that they would be field officers [*sic*]. At the time the field officers [*sic*] were engaged, I believed that the functions that they were undertaking were consistent with those undertaken by electorate officers. I now accept that the Ombudsman's investigations have collected evidence that many Field Organisers did perform Field Organisers duties at times when they should have been doing electorate officer work. With the benefit of hindsight, I should have taken steps to prevent this occurring. However, with the benefit of hindsight, I accept that many of [the] tasks they in fact undertook were not tasks contemplated by the Members' Guide that electorate officers should undertake.

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## Chapter 6.

# Relevant reforms since 2015

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In the wake of the allegations that led to the investigation, DPS and the Parliament have acted to review and reform laws, policies and processes relating to the employment of Electorate Officers and the use of Members' allowances and Electorate Office and Communication Budgets.

This chapter looks at the changes, actual and proposed, since 2015.

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## Audit Committee Review

739. The Audit Committee of the Parliament commissioned PwC Australia to conduct an internal audit review to assess DPS's processes and controls surrounding Electorate Officer employment arrangements. This review was completed in February 2016.
740. The review's central finding concerned 'the need to issue/communicate clearer guidance on what constitutes "party political" activities, clearly setting the standard and expectations of the Presiding Officers'. The review recommended that guidance documents such as the Members' Guide and the Electorate Officer position description be amended to provide clear examples of activities that are permitted and activities that are outside expectations for Electorate Officers.
741. The review also recommended that the time-sheet template be revised to include activity codes, work locations and reasons for varying a casual Electorate Officer's place of work, and that DPS investigate the use of online training modules as part of Electorate Officer inductions, linking completion of those modules to the employment probation processes.
742. DPS has implemented changes to time-sheets, training and induction processes recommended by the review. Offers of employment and education modules for Electorate Officers are now provided through a new online system. The same system also requires Electorate Officers to confirm that they accept applicable DPS policies, and records their acceptance of those policies. Mandatory induction processes have been established for new Electorate Officers, including those engaged on a casual basis. Attendance at induction and compliance training is a prerequisite for Electorate Officers

to be confirmed in their positions. DPS is implementing electronic time-sheets that will record the work locations of casual Electorate Officers and the reasons for their employment.

743. The review also suggested that the Presiding Officers consider explicitly banning Electorate Officers from participating in election campaigning during paid work hours in the lead-up to an election. DPS has stated that guidance material will be drafted and recommended to the Presiding Officers, to be issued before the 2018 election.

## Current proposals for legislative change

744. As at March 2018, the Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Bill 2017 (Vic) (VIRT Bill) is awaiting consideration and debate by the Parliament.
745. The Victorian Independent Remuneration Tribunal (VIRT), which would be established under the VIRT Bill, would be broadly similar to remuneration tribunals in other Australian jurisdictions. Among other things, the VIRT would issue determinations setting the value of Members' salaries and Electorate Office and Communication Budgets. In performing its functions, the VIRT could make inquiries and inform itself as it saw fit, and would make these determinations within six months of the start of each new Parliament following an election.

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746. The VIRT Bill would also amend the *Parliamentary Salaries and Superannuation Act 1968* (Vic) (PSS Act) and the *Members of Parliament (Register of Interests) Act 1978* (Vic) to, among other things:

- provide a statutory framework for all work-related parliamentary allowances and the Electorate Office and Communication Budget
- establish a monitoring, compliance and enforcement system administered by the Clerks of the Parliament (for allowances) and the Secretary of DPS (for the Electorate Office and Communication Budget), to determine whether claims complied with relevant legislation and other requirements
- allow for the appointment of a Compliance Officer to hear and determine appeals in relation to determinations about allowances and the Electorate Office and Communication Budget
- where amounts have already been paid for a claim determined to be non-compliant with the relevant requirements, enable the Clerks of the Parliament and the Secretary of DPS (as applicable) to deduct those amounts from a Member's salary, allowances or Electorate Office and Communication Budget, or recover those amounts as debts due to the state.

747. The VIRT's annual report would be required to include information about VIRT determinations, the number of appeals heard by the Compliance Officer, and the number of Members of Parliament who have not complied with requests for information from the Compliance Officer. The Clerks of the Parliament and the Secretary of DPS would also be required to include details about Members' claims and determinations made under the PSS Act in annual reports.

## The Parliamentary Integrity Adviser

748. Motions currently before both Houses of the Victorian Parliament propose to direct the Presiding Officers to jointly establish a Parliamentary Integrity Adviser. Similar to other jurisdictions where this role exists, the proposed Parliamentary Integrity Adviser would not be a statutory position, but the role's responsibilities would include:

- upon request, advising current and former Members of Parliament on ethical issues and integrity matters concerning the exercise of their role as a Member
- providing education and training sessions to Members of Parliament about ethical issues and integrity matters, including training to new Members of Parliament at the start of a parliamentary term and training on any amendments to the parliamentary standards or integrity system
- reporting to the Parliament and the Privileges Committee of each House of Parliament to discuss matters raised and possible proposals to address them.

749. The Parliamentary Integrity Adviser would be appointed by the Presiding Officers, on the recommendation of the Privileges Committees of both Houses, or by a joint sitting of Parliament if the Privileges Committee could not agree on a preferred candidate. The Parliamentary Integrity Advisor would serve for the term of the current Parliament and for a further three months after the election establishing a new Parliament.

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750. The resolutions note that, consistent with its 'independent role of providing confidential advice', the Parliamentary Integrity Adviser could not be referred matters by a House of Parliament; be required to report to Parliament on the conduct of particular Members; or investigate allegations of misconduct. Likewise, the Parliamentary Integrity Adviser would not be permitted to identify Members who had sought advice or release advice provided to a Member.

## Implementing the Hazell Review's recommendations

751. As noted in Chapter 3, an independent review of Members of Parliament's salary entitlements, allowances and other arrangements (the Hazell Review) was commissioned by then Premier the Hon Ted Baillieu in October 2012. Among other things, the Hazell Review, released in February 2013, suggested various measures to improve the governance and transparency of allowances and entitlements which support Members in discharging their public duties. The recommendations included that:

- a new governance structure for Members' salaries, allowances and entitlements be established by
  - amending the PSS Act
  - to the extent possible, authorising all such allowances and entitlements under a single consolidated piece of legislation and the associated regulations
  - administering the allowances and entitlements system within the framework provided by the regulations and guidelines issued by the relevant Minister

- establishing a high-level committee comprising the Presiding Officers, the responsible Minister and the Minister for Finance to oversee, review and continually improve the new framework.
- the current Members' Guide be split into two volumes
  - a Members' Allowances and Entitlements Handbook produced annually by the Department of Premier and Cabinet, containing comprehensive and up-to-date information about Members' allowances, including accountability, compliance and enforcement mechanisms
  - a Members' Guide, produced as required by DPS, containing other relevant information for Members relating to the institution of Parliament
- the Members' Allowances and Entitlements Handbook be made publicly available, including on the Parliament's website, and reviewed and modified at regular intervals
- a report setting out Members' compliance with certification requirements be tabled in Parliament annually
- the Electorate Office and Communication Budget, and the rules surrounding its use, be promulgated in regulations rather than the Members' Guide.

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752. The VIRT Bill currently before the Parliament would implement the substance of these recommendations, although it is not apparent how information about Members' allowances and entitlements would be presented or what would be retained in the Members' Guide.
753. The Hazell Review also recommended changing the employment arrangements for Electorate Officers so that Members of Parliament would employ them directly, as is the case with the Commonwealth Government. This recommendation, and the associated recommendations about the proposed legislative framework, have not been implemented. From the information obtained by the investigation it appears that Parliament retained the existing arrangements in the Parliamentary Administration Act because Parliament intended Electorate Officers to remain employees of Parliament, rather than employees of their nominating Members. While there is no debate recorded in Hansard discussing this specific recommendation, the insertion of section 30(4) into the Parliamentary Administration Act suggests that Parliament decided not to accept it.

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## Chapter 7.

# Recommendations

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Much water has passed under the bridge since the allegations the subject of this investigation were first exposed in September 2015. Reviews and consequent reforms have addressed some of the issues identified by the investigation; proposed reforms may address more of them. However, they do not go far enough to fill all the gaps identified by this investigation. Further reform is needed to ensure public confidence that public funds could not be used in this manner in future.

These recommendations are made within the context of those identified gaps, and are addressed to Parliament, its Presiding Officers and the Secretary of the Department of Parliamentary Services, as may be appropriate to implement them.

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### The limitation on Electorate Office duties

754. Electorate Officer work is inherently political. This is confirmed by the statutory exemption of Electorate Officers from the prohibition on discriminating between candidates for employment on the basis of their political belief or activity.
755. But while everything Members of Parliament do, and therefore everything Electorate Officers do to support them, has a political aspect and could be characterised as a form of campaigning, a distinction can be drawn between political activity, which would encompass much traditional Electorate Officer work, and party-specific activity, which would not. Likewise, there is a difference between campaigning on issues as the elected representative of a particular Assembly district or Council region during a parliamentary term, and electioneering activities or election campaigning explicitly directed at securing a person's election to the next Parliament.

### Recommendation 1

Revise the limitations in the Members' Guide on Electorate Officer duties to:

- 1.1 remove the prohibition on political activity but emphasise the prohibition on party-specific activity
- 1.2 provide guidance and examples to Members about the types of activities which Electorate Officers may not be directed to perform
- 1.3 include a statement about the effect of section 30(4) of the Parliamentary Administration Act 2005 (Vic) (see Recommendation 2).

### Section 30(4) of the Parliamentary Administration Act

756. There are widely differing interpretations of section 30(4) of the Parliamentary Administration Act. While my view is that it codifies existing arrangements, there is a contrary view that this provision gave legislative authority to Members of Parliament that overrode the Members' Guide's prohibition on Electorate Officers performing party-political activities.
757. Any confusion about the effect of section 30(4) should be remedied swiftly. If my assessment is correct, the Presiding Officers and DPS should insert a clear direction into the Members' Guide stating that the provision operates to clarify who may issue duties and responsibilities to Electorate Officers, not to expand those duties and responsibilities. If the Presiding Officers consider the contrary view to be correct, Parliament should consider amending the provision to remove the conflict or ambiguity.

### Recommendation 2

Review section 30(4) of the Parliamentary Administration Act.

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### Training and guidance for Members and Electorate Officers

758. The steps taken since September 2015, the proposed Parliamentary Integrity Adviser and the proposed legislation currently before the Parliament, go a considerable distance towards improving the delivery and clarity of information concerning Members' and Electorate Officers' obligations.
759. These training and education measures must be supported by ensuring that the Members' Guide includes consistent and clear directions. Similarly, training and orientation materials must be kept current with applicable VIRT determinations and relevant guidance from the Parliamentary Integrity Adviser, as necessary.

### Recommendation 3

Ensure the proposed Parliamentary Integrity Adviser has a training and guidance function that is appropriately supported by the Department of Parliamentary Services.

### Updated, publicly available information about Members of Parliament's allowances and entitlements

760. The Hazell Review recommended splitting the Members' Guide into two volumes – an allowances and entitlements handbook, which should be published, containing 'comprehensive and up-to-date information on Members of Parliament's allowances and entitlements in a clear, user-friendly format', and a guide 'containing other information relevant to MPs relating to the institution of Parliament'.
761. A separate allowances and entitlements handbook as recommended by the Hazell Review would assist Members' (and public) understanding of the appropriate uses of parliamentary resources, incorporating content from VIRT determinations and guidance from the Parliamentary Integrity Adviser, once established, and other requirements set out in regulations.

### Recommendation 4

Adopt the recommendation of the Hazell Review to create a separate allowances and entitlements handbook, publicly available and kept up to date.

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### Staff pooling arrangements

762. There are legitimate reasons why Members of Parliament, particularly those not in government, might properly combine their resources in the performance of their representative and parliamentary duties, for example, where several Members may want to engage expert advice. However, if pooling arrangements are to continue, more effective controls are needed to prevent their misuse.
763. If the Parliament continues to permit staff pooling arrangements, the rules and boundaries of such arrangements should be made clear to all Members. Any reference materials for Members and Electorate Officers should be consistent and clear about rules for pooling, including the duties for which pooled staff may be used. Likewise, any formal pooling arrangements approved by the Presiding Officers should limit the risk that independent Members and non-major parties would be unfairly advantaged or disadvantaged by their access (or lack of access) to such arrangements.

### Recommendation 5

The Department of Parliamentary Services review current pooling arrangements and propose guidance for the consideration of the Presiding Officers.

### Investigation of misuse of entitlements

764. Neither the proposed Parliamentary Integrity Adviser nor the VIRT has a role in investigating alleged breaches of the Members' Guide or misuses of parliamentary entitlements.
765. While the VIRT Bill gives the Clerks of the Parliament and the Secretary of DPS legislative authority to review claims made by Members of Parliament and to recover funds, to be fully effective in exercising these powers, the Clerks and the Secretary of DPS would require a dedicated investigative capacity, and clear pathways to refer more serious matters to an independent agency. Information on how to complain about misuse and how such complaints are dealt with should be publicly available.

### Recommendation 6

Establish clear investigative capacity and pathways to refer alleged misuses of parliamentary resources for examination by an independent agency as appropriate, with information available on Parliament's website.

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## Response from The Hon Gavin Jennings MLC

766. Having reviewed a draft of my report, Mr Jennings responded as follows:

Having engaged in discussions with individuals pursuant to the release from confidentiality obligations granted by the Ombudsman, the Australian Labor Party has agreed to offer to repay Department of Parliamentary Services the sum [as verified by the Department].

I request that the Ombudsman include ... a paragraph which acknowledges the commitment to make this payment based on the acceptance that at least some of the time spent by a number of electorate officers was engaged in political activity, and that the figure in the draft report overstates the extent to which the Department of Parliamentary Services' funds were used in this way.

### **Other steps being taken by the Government**

The referral refers to '*applicable policies, laws or codes*'. In this regard, the Government has taken a number of steps to clarify and provide more transparency in respect of matters included in the draft report.

In particular, I refer to four significant reforms:

- First, the Government has introduced the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Bill 2017*, which, if passed, would establish an independent Remuneration Tribunal to determine salaries, allowance and budgets of Members of Parliament. This tribunal would have the power to review and set the Electorate and Communications Budget;

- Second, the Government has moved motions in both Houses of the Parliament to establish a Parliamentary Integrity Advisor to advise Members of Parliament on the use of parliamentary allowances and their other obligations to the Parliament.
- Third, in 2017 the Government made regulatory changes to improve the integrity of procedures surrounding claims for allowances by Members of Parliament.
- Fourth, in 2018 the Government will be conducting a review and introduce legislation that will include defining 'political campaign activity' in the *Electoral Act 2002* (Vic). Providing clarity in respect of this term could be used as a guide for delineating the permitted functions of the electorate officers.

These reforms are significant steps in improving the transparency and accountability surrounding parliamentary entitlements. The final report should note these reforms as it is directly relevant to the regulatory framework that applies to parliamentary entitlement.

# Annexures

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## Annexure 1

Email 'Seeking enthusiastic campaigners for 2014', 20 November 2013 (page 1 of 2)

**Subject: Seeking enthusiastic campaigners for 2014**  
**From:** [REDACTED]  
**To:** [REDACTED]  
**Date: Wed, 20 Nov 2013 05:10:47 +0000**

A great job opportunity. [View this email in your browser](#)



Victorian Labor is now taking applications for full time Regional Field Directors and Field Organisers to be employed for the state election campaign starting from early next year through to the 2014 State Election in November.

The campaign is looking for outgoing, passionate, hardworking people to join our state campaign team across Victoria to be a part of the most exciting and innovative campaign to happen in a generation.

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## Annexure 1

Email 'Seeking enthusiastic campaigners for 2014', 20 November 2013 (page 2 of 2)

Applications must be forwarded to Assistant State Secretary, Stephen Donnelly at [REDACTED] and close on Friday 29 November.

If you have any questions regarding the positions, please call Stephen Donnelly on [REDACTED] for more information.

**VOLUNTEER** **DONATE**

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Australian Labor Party  
435 Docklands Drv  
Docklands, Victoria 3008  
Australia

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## Annexure 2

Email '2014 Field Organiser Next Steps', 29 November 2013

Subject: 2014 Field Organiser Next Steps  
Date: Fri, 29 Nov 2013 17:55:12 +1100  
From: [REDACTED]

Hi,

Applications for the position of Field Organiser on Victorian Labor's 2014 State Election Campaign have now closed.

Thank you for taking the time to submit an application for the position. We have had a fantastic response from progressive activists across Victoria and beyond to work on the most innovative and exciting field campaign in 2014.

Attached is a copy of the position description for the role of Field Organiser for your information.

I have also included a link to a [Field Organiser Candidate Preliminary Survey](#). Please take the time to complete the survey by the close of business, Tuesday 3 December.

Due to the large number of applications, we will be creating a short list for the interview process. Next week, you will be informed if you have been successful in gaining an interview or not. The interview process will begin in early December and conclude on 19 December.

At the conclusion of the interview process, successful applicants will be informed before the Christmas break.

If you have any further questions, please feel free to contact me at the Victorian Branch via email or on [REDACTED]

Kind regards,

Stephen



**STEPHEN DONNELLY**  
ASSISTANT STATE SECRETARY  
438 Docklands Dr, Docklands VIC 3008  
P: [REDACTED]  
E: [REDACTED]

## Annexure 3

Field Organiser training document,  
*Running sheets for Field Organiser training* (page 1 of 5)

<b>RUNNING SHEET FOR DAY 1 OF YOUR FIELD ORGANISER TRAINING</b>	
<b>DAY 1: YOU &amp; THIS CAMPAIGN</b>	
8:45AM	Field Organisers arrive at Level 1, 45 William Street, and sign-in
8:55AM	Field Organisers must be seated in Training Room
9:00AM	FORMAL WELCOME ADDRESS
9:15AM	Introduction
10AM	What is Field Organising?
10:30AM	Icebreaker
11AM	2014 State Strategy
12:00PM	Lunch break
12:30PM	Return to Training Room for a lunchtime address
1PM	You & This Campaign ■ RFD Breakouts by Region: You & This Campaign
Break in here	
2:15PM	You & This Movement: Story of Self, Us, and Now ■ RFD Breakouts: Story Discussion & Sharing
3:45PM	Energiser
4PM	De-Brief and close
5PM	Training to end by this time at the latest

**RUNNING SHEET FOR YOUR FIELD ORGANISER TRAINING** **1**

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## Annexure 3

Field Organiser training document,  
*Running sheets for Field Organiser training* (page 2 of 5)

<b>RUNNING SHEET FOR DAY 2 OF YOUR FIELD ORGANISER TRAINING</b>	
<b>DAY 2: VOLUNTEER RECRUITMENT</b>	
<b>9:00AM</b>	FOs begin to arrive & sign-in at designated sign-in table
<b>9:30AM</b>	Introduction to Volunteer Recruitment Day
<b>10:00AM</b>	Volunteer Recruitment & The Hard Ask (PPT)
<b>11:00AM</b>	10 minute Express Break
<b>11:10AM</b>	One-on-One Meetings
<b>12:05PM</b>	10 minute Express Break
<b>12:15PM</b>	ID Phone-banking
<b>12:45PM</b>	Lunch
<b>1:25PM</b>	Return from lunch
<b>1:30PM</b>	PRACTICE: ID Phone Bank & De-Brief
<b>2:15PM</b>	Icebreaker
<b>2:35PM</b>	PRACTICE: Volunteer Recruitment Phone Bank Practice & De-Brief
<b>3:15PM</b>	TEAM TAKEAWAYS! & De-brief Form

**RUNNING SHEET FOR YOUR FIELD ORGANISER TRAINING** **2**

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## Annexure 3

Field Organiser training document,  
*Running sheets for Field Organiser training* (page 3 of 5)

<b>RUNNING SHEET FOR DAY 3 OF YOUR FIELD ORGANISER TRAINING</b>	
<b>DAY 3 – FIELD DAY</b>	
<b>10:15AM</b>	Arrival at Flagstaff Gardens and sign-in Introduction to Day 3
<b>10:30AM</b>	#THISISLABOR Cards
<b>12:30PM</b>	TEAM ACTIVITY
<b>Close</b>	

**RUNNING SHEET FOR YOUR FIELD ORGANISER TRAINING** **3**

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## Annexure 3

Field Organiser training document,  
*Running sheets for Field Organiser training (page 4 of 5)*

### **RUNNING SHEET FOR DAY 4 OF YOUR FIELD ORGANISER TRAINING**

#### **DAY 4: TRAINING & EVENTS**

9:00AM	FOs begin to arrive and sign-in
9:30AM	Introduction to training and events: You as a trainer ■ RFD Breakouts: Training Idol
12:30PM	Lunch
1:10PM	Return from lunch
1:15PM	Icebreaker
1:45PM	Events ■ RFD Breakouts: Calendar & CC Review
Break in here	
3:15PM	De-brief & De-brief Form
5:00PM	Training to end by this time at the latest

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## Annexure 3

Field Organiser training document,  
*Running sheets for Field Organiser training (page 5 of 5)*

<b>RUNNING SHEET FOR DAY 5 OF YOUR FIELD ORGANISER TRAINING</b>	
<b>DAY 5: TEAMBUILDING &amp; LAUNCH</b>	
9:00AM	FOs begin to arrive & sign in at designated sign-in table
9:30AM	Introduction to Day 5 Icebreaker
9:45AM	Teambuilding
11:45	Break
12:00PM	Data & Campaign Central
1:15PM	Lunch
2:00PM	Return from lunch
2:00PM	RFD Breakouts
3:15PM	ENTIRE TRAINING DE-BRIEF

**RUNNING SHEET FOR YOUR FIELD ORGANISER TRAINING** **5**

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## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 1 of 10)



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## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 2 of 10)

The Field Organiser is the most important role in the 2014 State Field Program. Your job is to implement the centrally coordinated Field Program in your local campaign. It is important that, as a Field Organiser, you are more than a recruiter; you are an organiser – you must recruit volunteers, develop them into leaders who own a piece of your campaign, and connect them with each other in volunteer teams based on shared purpose and mutual commitment. The process of building your volunteer teams will take place within the context of Victorian Labor's Community Action Network. The CAN, as it will be known, is a group of activist volunteer-leaders and volunteers who only fill a couple of shifts during the course of the campaign, but all work towards the same purpose: winning your local campaign. It is your job as a Field Organiser to get these individual volunteers to work together as a group of activists.

Part of your job as a Field Organiser is to also serve as a relationship builder. Throughout the campaign, you will constantly have to reach out to Party members, folks who always vote Labor and unengaged supporters who have never communicated with a political campaign to get them involved. In addition to building relationships with volunteers, you will also be expected to build a relationship with your local campaign staff. A well-executed field strategy depends on a productive relationship between the field program and other aspects of the local campaign. It is important that you practice our campaign's values – Lead, Connect, and Respect – with campaign staff as with volunteers.

As a Field Organiser, you also serve as a manager. Not only must you manage your relationships with your volunteers and other campaign staff through regular communication and clear expectations, you must also influence the outcome of events within your campaign. Successful field events require that all details are covered, from their preparation (sign-in sheets, scripts, agendas, etc.) to debriefing with volunteers. Of course, as your campaign grows, you must delegate management responsibilities to volunteer leaders in the CAN. You should always communicate with your RFD if you ever have any questions or concerns.

## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 3 of 10)



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## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 4 of 10)

### Data & Reporting:

Accountability is a key component of the 2014 Victorian Field Program. Below is a list of norms that every FO is accountable to when it comes to data and reporting:

- If it is not in Campaign Central, it does not exist;
- You may not leave the Field until all data generated by your campaign that day has been entered into Campaign Central;
- You must complete a qualitative report every day before you go home;
- If you cannot enter your data into Campaign Central and/or complete your nightly qualitative report for some reason, you must inform your RFD. It is unacceptable to not explain why you cannot enter data or complete a nightly qualitative report before the end of the day;
- Your progress-to-goal and performance evaluation will only be based on data in Campaign Central;
- The 2014 Federal Field Program will not feature a nightly reporting call;
- You will be required to participate in a Statewide hook-up at 6:00 PM every Saturday to discuss the end of the goal week and the week ahead.

### Daily Check-ins:

To ensure accountability and that you are aware of your most important daily tasks, you will participate with the other FOs in your Region in a daily check-in to be convened by your RFD.

The purpose of the daily check-ins is to report your previous day's output, progress to weekly goals, and hear best practices from your fellow FOs and RFD.

Daily check-ins will be convened no later than 12:30 and end by 1:15 PM.

Because you will be juggling a lot of tasks and responsibilities as an FO, you will be required to demonstrate to your RFD that you have synthesized the most important information shared on the check-in and distributed in your Daily Priorities email (which will be in your inbox by 12:00 PM every day).

The method by which you have demonstrated your synthesis of the check-in's most important information will be established by your RFD, but as an example, you could be expected to send an individual email detail the steps you will take to achieve your most important tasks.

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## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 5 of 10)

You should expect the daily check-ins would cover your output in the following categories:

- Volunteer recruitment calls
- Shifts scheduled from recruitment calls
- Intro 1:1s
- Shifts scheduled from 1:1s
- CAN Prospects IDed
- Potential Leaders
- Shifts completed today
- First time volunteers who completed a shift today
- Shifts scheduled for Saturday
- Shifts confirmed for tomorrow
- Escalation 1:1s

### Communications Norms:

- The 2014 State Field Campaign is a vertical structure that communicates with a clear chain-of-command;
- If you ever have a question, you must first reach out to your RFD as your first Point-of-Contact;
- If you cannot get a hold of your RFD or if you'd like to discuss a confidential matter, please do not hesitate to contact Field Leadership with any questions, concerns or comments.
- Field Leadership is always available to you. However, if you ask a campaign related question, we may simply inquire if you have first asked your RFD and if you feel comfortable doing so.
- Field Leadership will never communicate directly with a Field Organiser – we will always include your RFD in any correspondence with you.

### Meeting Responsibilities

FOs will be required to have a series of meetings throughout the week. Time is a precious commodity on a campaign, and it is important to come to every meeting prepared to discuss an agenda. Below is a list of meetings that you must have throughout your week, with whom, and when they should occur:

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## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 6 of 10)

**FIELD ORGANISER ROLES & RESPONSIBILITIES**

**Daily**

- 12:30 – 1:15 PM – Daily Check-in – FOs report their previous day's output, progress to weekly goals, and hear best practices from their fellow FOs and RFD.
- Meeting must be followed by individual summaries from each FO detailing their plan to achieve daily action items.

**Saturday**

- 6:00 PM – Victorian Field Program State-wide Wrap-up – Entire state Field Staff calls in to report that week's output (only what's in Campaign Central) by Region presented by RFD, and hear an update from Field Leadership.

**Weekly**

- 5 Intro 1:1s with volunteer prospects before the end of the goal week (C.O.B. Saturday)
- Weekly meeting with candidate/campaign staff to discuss field program progress and strategy and schedule future events
- Regular meeting with RFD
- Due to RFD responsibilities, it will be hard for them to have weekly 1:1s with each FO. Instead, "regular" meetings are defined once every seven working days. It is up to the FO and RFD to determine when that meeting time best fits each other's schedule.

**Topline Responsibilities** – If you were trapped in an elevator with someone you don't know who asks you what you do as an FO, this is what you should tell them:

- Build 1 volunteer team in Labor's Community Action Network in your local campaign;
- Hold 5 Introductory 1:1s per week with Volunteer Prospects;
- Recruit 5 new volunteers every week to complete one voter contact shift;
- Train volunteers how to perform various methods of voter contact;
- Train volunteers how to recruit other volunteers;
- Train volunteers how to train other volunteers;
- Ensure that all data produced by your local campaign is tracked in Campaign Central;

**FIELD ORGANISER ROLES & RESPONSIBILITIES** **6**

## Annexure 4

Field Organiser training document,  
 '2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 7 of 10)

- Work with your Regional Field Directors to plan and execute field events in your local campaigns;
- Have a regular 1:1 meeting with your Regional Field Director;
- Hold a weekly 1:1 meeting with your campaign staff and/or candidate;
- Participate in weekly state-wide hook-up;
- Execute one team building or volunteer recruitment event every week.

### A Day-in-the Life of a Field Organiser

WEEK-DAY	WEEKEND
<p><b>12:00 PM: Arrive in the Field</b></p> <ul style="list-style-type: none"> <li>■ Read Daily Priorities</li> </ul> <p><b>12:30 – 1:15 PM: Check-in Period</b></p> <ul style="list-style-type: none"> <li>■ Report on metrics included in Daily Priorities;</li> <li>■ Discuss the day's action items</li> <li>■ Communicate your understanding with RFDs</li> </ul> <p><b>1:15 – 4:30 PM: Work Period</b></p> <ul style="list-style-type: none"> <li>■ Potential tasks could include:                             <ul style="list-style-type: none"> <li>■ 1:1 with Vol. Prospect</li> <li>■ 1:1 with RFDs</li> <li>■ 1:1 with campaign staff / candidate;</li> <li>■ Plan local campaign events;</li> <li>■ Prepare upcoming events;</li> <li>■ Confirmation calls</li> <li>■ Necessary volunteer recruitment</li> </ul> </li> </ul> <p><b>4:30 – 6:30 PM: Call Time – Shift 1 – Events Period 1</b></p> <ul style="list-style-type: none"> <li>■ Tasks will include                             <ul style="list-style-type: none"> <li>■ Training volunteers;</li> <li>■ Managing events;</li> <li>■ Making your own volunteer recruitment calls;</li> </ul> </li> <li>■ Volunteers will make in order of priority:                             <ul style="list-style-type: none"> <li>■ Volunteer Recruitment calls;</li> <li>■ Voter ID calls</li> </ul> </li> </ul> <p><b>6:30 – 8:30 PM: Call Time – Shift 2 – Events Period 2</b></p> <ul style="list-style-type: none"> <li>■ Tasks and priorities are the same as in Shift 1</li> <li>■ This is a period where many of your campaign events will take place.</li> </ul> <p><b>8:30 PM: Wrap-up</b></p> <ul style="list-style-type: none"> <li>■ ALL data entered in Campaign Central</li> <li>■ Complete nightly qualitative reporting</li> <li>■ Clean work-space</li> </ul>	<p><b>9:00 AM: Arrive in the Field</b></p> <ul style="list-style-type: none"> <li>■ Ensure that all materials for the day's activities are fully prepared;</li> <li>■ Ready day's materials for distribution</li> </ul> <p><b>9:45 AM: Completed Brief Check-in with RFD</b></p> <ul style="list-style-type: none"> <li>■ Check-in will assess preparation, lingering challenges and expected output</li> </ul> <p><b>10:00 AM: Field Observation / Work Period</b></p> <ul style="list-style-type: none"> <li>■ This is a flexible time for the FO. He or she should participate in Field Activity, but must also be responsible for the following tasks:                             <ul style="list-style-type: none"> <li>■ 15 volunteer recruitment calls;</li> <li>■ Confirmation calls for next work day completed;</li> <li>■ Work spaces cleaned;</li> <li>■ ALL data entered in Campaign Central</li> </ul> </li> </ul> <p><b>5:45 PM: Completed Check-up with RFD</b></p> <ul style="list-style-type: none"> <li>■ Check-up will ensure all tasks have been completed and assess how weekend activity went.</li> </ul> <p><b>6:00 PM: Victorian Field Program Wrap-up</b></p> <ul style="list-style-type: none"> <li>■ Call to assess State's progress to critical goals and preview week ahead.</li> </ul>

## Annexure 4

Field Organiser training document,  
 '2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 8 of 10)

### Week 1 Priorities:

Your first day in the field is going to be hectic. To help you organise all the demands on your time, you should head into your first week in the field expecting to work towards the following objectives:

Planning	<ul style="list-style-type: none"> <li>■ Schedule regular meeting with RFD</li> <li>■ Schedule recurring meetings with campaign staff and/or candidate to take place weekly</li> <li>■ Set a date for your Strategic Briefing</li> </ul>
Recruitment	<ul style="list-style-type: none"> <li>■ Hold 5 Intro 1:1s</li> <li>■ Complete at least 30 volunteer recruitment calls into Campaign Central per day</li> <li>■ Recruit for your CAN Strategic Briefings</li> </ul>
Training	<ul style="list-style-type: none"> <li>■ Train 1 volunteer how to make volunteer recruitment phone calls</li> </ul>
Daily Tasks	<ul style="list-style-type: none"> <li>■ Participate in daily check-ins</li> <li>■ Read Daily Priority Emails from your RFDs</li> <li>■ Introduce yourself to your campaign staff and explain the Field Program</li> </ul>

### Day 1 Priorities

After examining what your priorities are during your first week, it is time to think about which responsibilities you will take care of on day 1. The chart below will help you get started, but be mindful that unexpected tasks will pop up, and some of the tasks below might take longer than you expect.

Planning	<ul style="list-style-type: none"> <li>■ Schedule recurring meetings with campaign staff and/or candidate to take place weekly</li> <li>■ Review March Calendar with campaign staff                             <ul style="list-style-type: none"> <li>■ Set a date, time and location for your Strategic Briefing;</li> <li>■ Set a date, time and location for your March 15 Street Stall</li> </ul> </li> <li>■ Schedule a day and time for your regular meeting with your RFD</li> <li>■ Put all scheduled events in Campaign Central</li> </ul>
Recruitment	<ul style="list-style-type: none"> <li>■ Complete at least 30 volunteer recruitment calls into Campaign Central</li> <li>■ <b>Ask 1:</b> Begin recruiting for 1:1s</li> <li>■ <b>Ask 2:</b> Recruit for 15 March Street Stall</li> <li>■ <b>Ask 3:</b> Recruit for your CAN Strategic Briefings</li> </ul>
Daily Tasks	<ul style="list-style-type: none"> <li>■ <b>Read</b> Daily Priority Email from your RFDs.</li> <li>■ Introduce yourself to your campaign staff and explain the Field Program</li> <li>■ Complete nightly qualitative report</li> <li>■ Enter all data into Campaign Central</li> </ul>

## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 9 of 10)

Use the exercise below to build your first day in the field:

**Step 1:** Write every task you know you must complete on Day 1 in the far right hand column

**Step 2:** Write when you will complete each of your first day's tasks in the middle column

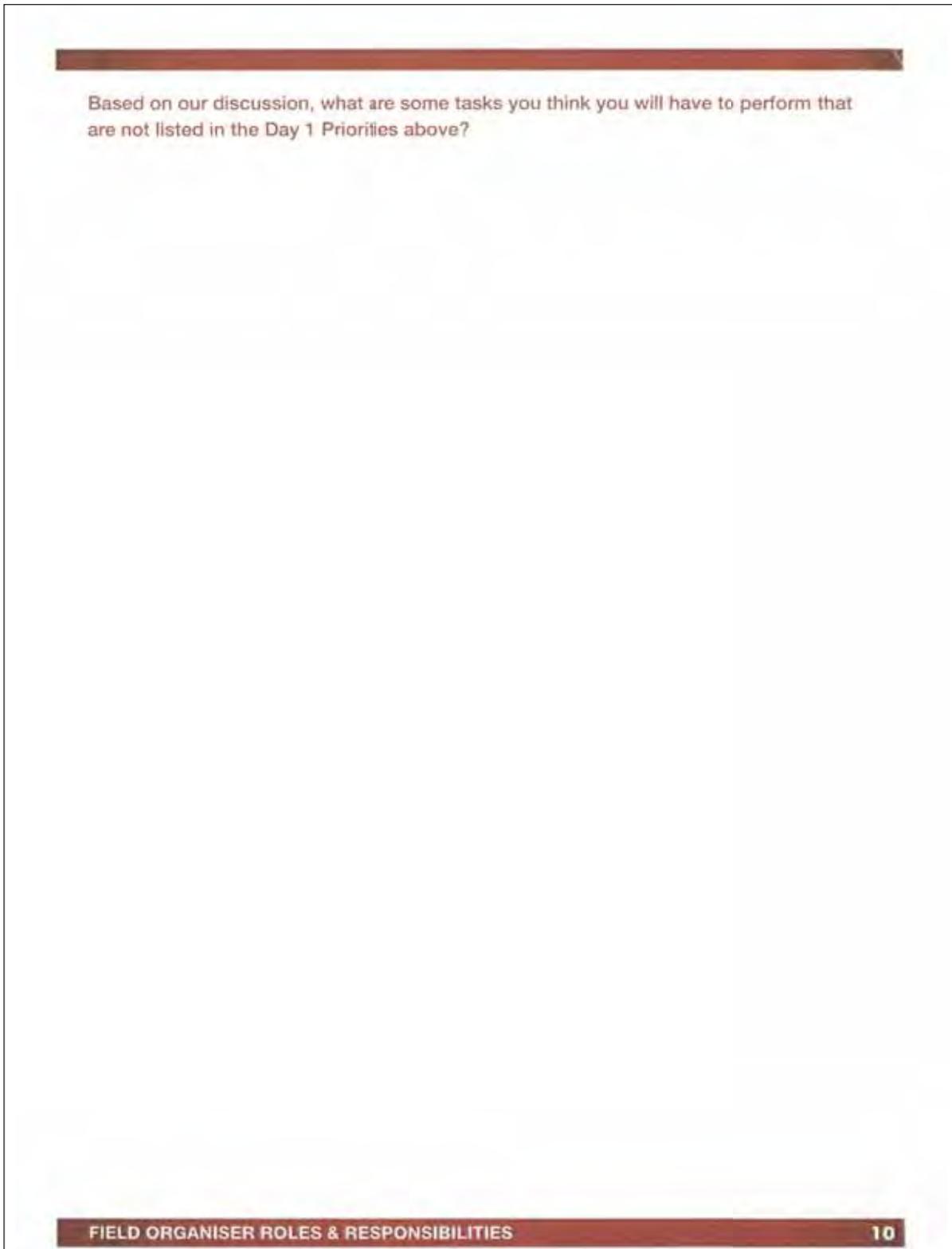
**Step 3:** In the box below the table, think of any tasks or responsibilities you should cover on your first day that are not listed in the Day 1 Priorities chart above.

Time	What task will perform and when?	What must be done on Day 1?
12:00 PM		
1:00 PM		
2:00 PM		
3:00 PM		
4:00 PM		
5:00 PM		
6:00 PM		
7:00 PM		
8:00 PM		
8:30 PM		

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## Annexure 4

Field Organiser training document,  
'2014 Victorian Field Program Field Organiser Roles & Responsibilities' (page 10 of 10)



## Annexure 5

Parliament of Victoria,  
*Position description - Electorate Officer, July 2013 (page 1 of 4)*

		
<hr/> <b>POSITION DESCRIPTION</b> <hr/>		
<b>Position Title:</b>	Electorate Officer	
<b>Grade:</b>		
<b>Employment Type:</b>	Ongoing, full time	
<b>Reports to:</b>	Elected Member of Parliament	
<i>PD registered and endorsed by Organisation Development on: July 2013</i>		
<hr/> <b>OVERALL PURPOSE OF THE POSITION</b>		
Electorate Officers are employees of the Victorian Parliament, directly accountable to the Member in whose electorate office they are employed. Electorate Officers have a main role in supporting the Member, which requires a high degree of loyalty and ability to maintain confidentiality on behalf of the Member and those who contact the office.		
Electorate Officers should possess knowledge of the Victorian Parliament's process and procedures, understand the role of State and Federal governments as well as knowledge of the electorate in which they are employed, and have an understanding of the electoral procedures.		
The scope of duties is dependent on the Electorate Officer's skills and experience and the needs of the Member.		
<hr/> <b>KEY OBJECTIVES</b>		
Shall include some or all of the following, depending on the particular needs of the Member and the capabilities of the Electorate Officer:		
<ul style="list-style-type: none"><li>• Provide personal assistance, secretarial and administrative support to the Member.</li><li>• Manage the day to day operation of the electorate office.</li><li>• Liaise with organisations, groups and individuals in the public and private sectors on behalf of the Member and constituents.</li><li>• Provide appropriate financial controls to ensure expenditure is appropriate to and within the parameters of the Electorate Office Budget, as directed by the Member.</li><li>• Supervise other electorate office staff, volunteers and interns in regard to allocation of work tasks; setting work priorities, giving support, guidance and feedback on performance.</li><li>• Develop, establish and maintain appropriate office and communication systems including management of online communications and keeping abreast of developments in this area.</li><li>• Identify opportunities to improve the efficient operation of the Electorate Office and, where appropriate, implementing agreed change.</li><li>• Provide assistance to constituents who contact the office (whether face to face, by mail or electronic means) with a range of enquiries, problems and requests for information by undertaking any necessary research; issues generally solved without reference to the Member.</li><li>• Maintain a professional image of the Parliament and the Member via efficient, courteous service to constituents and organisations within the electorate.</li><li>• Research issues of interest to the constituency and the Member, and brief the Member about appropriate action and response.</li><li>• Undertake investigations and research and preparing letters, research papers, speeches, press releases, newsletter, brochures etc on behalf of the Member.</li><li>• Represent and/or accompany the Member at community meetings and other events as directed by the Member.</li><li>• Respond to priorities as determined by the Member.</li></ul>		
<hr/> <b>RELATIONSHIPS</b>		
In supporting the Member, Electorate Officers will need to liaise with Ministers and Ministerial staff at both State and Federal government levels, party administration, government departments and instrumentalities, local government councillors and staff, constituents, community organisations and lobby groups.		
Electorate Officers are also required to liaise directly with and establish good relationships with the three Parliamentary departments - Department of Parliamentary Services, Department of Legislative Council and Department of Legislative Assembly in servicing the needs of the Member and the electorate office.		
<hr/> <b>DUTIES</b>		
Shall include some or all of the following, depending on the particular needs of the Member and the capabilities of the Electorate Officer. Electorate Officers are required to be familiar with the Member's Guide which details policy and procedural rules for a range of administrative processes.		
<hr/>		
Page 1 of 4		

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## Annexure 5

Parliament of Victoria,  
*Position description - Electorate Officer, July 2013 (page 2 of 4)*

### General Administration

- Manage, monitor and reconcile expenditure against the Electorate Office Budget, ensuring compliance with guidelines.
- Maintain archives and filing systems both hard copy and electronic.
- Manage correspondence including sorting and recording of incoming/outgoing mail and coordinating bulk mail outs.
- Provide standard and detailed responses/ acknowledgments to correspondence received (can be via mail, email or other social networking mediums) for or on behalf of the Member including letters to new constituents and community organisations.
- Maintain Members appointment diary including responding to invitations and coordinating travel arrangements for the Member.
- Word processing as required including the development and maintenance of spreadsheets.

### Constituent Service

- Ensure a high level of customer service is provided and that constituent enquiries are managed in a courteous, sensitive and prompt matter.
- Follow-up on constituent enquiries through research information, establishing contact with relevant government agencies, authorities or relevant state or federal Member; making appointments with relevant bodies as required, drafting correspondence and generally act as advocate on behalf of constituents.
- Develop, maintain and utilise networks to assist constituents with a range of social and material issues.
- Research constituent needs and enquiries accessing departmental and Ministerial staff and provide appropriate responses.
- Refer enquiries from constituents to the Member, as required.
- Accurately communicate the Member's attitudes and policies to constituents.
- As required, attend community meetings and workshops and organise meetings for the Member to meet with constituents when required. Where appropriate suggest strategies for dealing with the constituent or community issue to the Member.
- Report to the Member on items of interest from press, constituent or community contact.

### Office Management

- Ensure office security protocols are adhered to.
- Maintain equipment and systems, including office equipment – copiers, fax and printers as required.
- Develop/establish office and communication systems, including maintenance of information databases.
- Arrange for the purchase of office and general supplies with approval of or delegation by the Member
- Ensure tidy and professional presentation of the office at all times.
- Arrange for minor office maintenance repairs, as required, by dealing directly with tradespersons or the landlord.
- Manage the administrative functions and day to day operation of the electorate office including as required, facilitating cooperative team work; setting priorities for work allocation for staff, develop staff multi-skilling and providing feedback to staff in relation to work performance.
- Assist the Member in work and schedule planning.

### Communications & Information Management

- Establish and maintain electorate databases of required information.
- Maintain and update online communications (including permissions for images and other copyright materials for website) for Member including website or other social networking sites (twitter, facebook, blog etc).
- Management of electronic communications can be wide ranging and includes activities such as:
  - Following Member's online communications and ensure Member is kept apprised of other Member's online communications that may be of interest;
  - Follow new media online communications and keep Member informed as required;
  - Administer online databases for mass electronic communications through online facilities;
  - Respond live online to media online communications on behalf of member;
  - Track new media and community online responses to Member's direct online communications;
  - Track constituent responses to Member's online communications and respond on behalf of the Member; and
  - Advise Member on best electronic media for targeting communications and campaigns.
- Draft, design and arrange printing and distribution of printed material on behalf of the Member such as newsletters, brochures etc.
- Monitor daily and local newspapers, radio and television for relevant and topical issues and as required, collect and store press or electronic material.
- As directed, on behalf of the Member, as directed research and draft media releases, speeches, newsletters, flyers and online communications.
- As directed, on behalf of the Member liaise with the local press and electronic media to develop mutually beneficial working relationships.
- Liaise with Ministerial offices at both State and Federal Government levels, government departments and instrumentalities, local government, community organizations and lobby groups.
- Organise large public events, functions, briefings and meetings on behalf of the Member.
- Participate in information collection of community views and attitudes of interest to the Member.
- Facilitate group discussions.
- Undertake research as required by the Member.
- Manage large email and online campaigns.
- Represent the Member as requested by the Member.

## Annexure 5

Parliament of Victoria,  
Position description - Electorate Officer, July 2013 (page 3 of 4)

### Parliamentary Duties

- Provide support to the Member to prepare for Parliamentary sittings
- As required analyse bills and legislation and brief the Member.
- Preparation of speaking notes and speeches for the Member
- Coordinate parliamentary tours on behalf of the Member
- Monitor the media during Parliamentary sittings and keep the Member informed.
- Undertake or arrange research as required by the Member in a timely manner.

### General

Other duties as directed by the Member

### KEY SELECTION CRITERIA

For each of the Grades shall include some or all of the following

Grade 1	Grade 2	Grade 3
1. Demonstrate initiative and organisational ability, particularly in determining priorities, maintaining databases and monitoring work flows and experience in performing a broad range of office support duties, often to tight and demanding deadlines.	1. Proven initiative and organisational ability, particularly in determining priorities, maintaining databases and monitoring work flows and experience in performing a broad range of office support duties, often to tight and demanding deadlines.	1. High level initiative and organisational ability, particularly in determining priorities, maintaining databases and monitoring work flows and experience in performing a broad range of office support duties, often to tight and demanding deadlines.
2. Good written and oral communication skills with a proven ability to liaise with and provide sound advice to staff and constituents and undertake research, investigations and prepare reports, submissions and a range of correspondence.	2. Sound written and oral communication skills with a proven ability to liaise with and provide sound advice to staff and constituents and proven ability to undertake research, investigations and draft reports, submissions and a range of correspondence.	2. High level written and oral communication skills with proven experience to liaise with and provide sound advice to staff and constituents and undertake complex research, investigations and draft reports, submissions and a range of correspondence.
3. Sound keyboard/PC skills with experience in MS suite of software and use of online communications (website management, twitter, facebook, blogs etc).	3. Excellent knowledge of keyboard/PC skills with experience in MS suite of software and use and maintenance of online communications (website management, twitter, facebook, blogs etc).	3. High level experience with development and maintenance of online communications (website management, twitter, facebook, blogs etc).
4. Demonstrate commitment and ability to provide the highest level of client service in a challenging environment.	4. Demonstrated commitment and ability to provide the highest level of client service in a challenging environment.	4. High level commitment and ability to provide the highest level of client service in a challenging environment.
5. Ability to work independently and with minimal supervision and effectively in a team environment.	5. Proven ability to work independently and with minimal supervision and effectively in a team environment.	5. High level ability to work independently and with minimal supervision and contribute effectively in a team environment.
6. Ability to evaluate work procedures, practices and systems and to implement change.	6. Proven ability to evaluate work procedures, practices and systems and to implement change.	6. High level ability to evaluate work procedures, practices and systems and to implement change.
7. Ability to maintain the strictest confidence on all issues, exposed (either directly or indirectly) to during the course of normal duties, and respect the needs of others	7. Ability to supervise and direct staff.	7. Proven ability to supervise and direct staff.
	8. Proven ability to maintain the strictest confidence on all issues, either directly or indirectly exposed to during the course of normal duties, and respect the needs of others.	8. High level ability to maintain the strictest confidence on all issues, either directly or indirectly exposed to during the course of normal duties, and respect the needs of others.

### PROFESSIONAL DEVELOPMENT

In supporting the professional growth of staff, Electorate Officers are encouraged to:

- Identify individual opportunities for professional development in conjunction with the Member
- Assist the Member and other electorate office staff to identify opportunities for professional development
- Participate in multi-skilling opportunities, where appropriate
- Undertake responsibility for personal and professional development

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## Annexure 5

Parliament of Victoria,  
*Position description - Electorate Officer, July 2013 (page 4 of 4)*

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### KEY POINTS TO NOTE

- In order to meet deadlines, some work will be required under a degree of pressure
- Due to the nature of the business conducted within the Electorate Office, a high level of confidentiality must be maintained. It is the duty of the employee to ensure that this is strictly adhered to at all times.

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### OTHER RELEVANT INFORMATION

- Conditions of employment are pursuant to the Parliamentary Administration Act 2005 and the Electorate Officers' (Victoria) Single Enterprise Agreement.
- Employees are expected model the Parliamentary Officer values and comply with the Parliamentary Officers Code of Conduct.
- The position is subject to a 6 month probationary period which may be extended for a further 3 months.
- The position is located within the Parliamentary precinct.
- The position description is indicative of the position. The job comprises other duties as directed.
- The Parliament of Victoria is an EEO employer and supports a smoke free environment.
- The position is located within the Parliamentary precinct.
- Candidates who do not have Australian residential status must have an appropriate Australian work visa.
- Some positions may require security clearances.
- Some positions may require a current Victorian driver's licence.
- Additional information can be obtained by accessing the Parliament's website on [www.parliament.vic.gov.au](http://www.parliament.vic.gov.au)

# Annexure 6

Parliament of Victoria,  
 Authority to Offer Employment form, signed by Liz Beattie MP




### ELECTORATE OFFICER: AUTHORITY TO OFFER EMPLOYMENT FORM

This form is to be used by Members to advise Organisation Development (OD) when engaging new Electorate Officers. On receipt of this form, a letter of offer and payroll forms will be prepared by OD and forwarded to the new employee. Return completed form to OD via email to [payroll@parliament.vic.gov.au](mailto:payroll@parliament.vic.gov.au), fax 8662 2022, or by post to Organisation Development, Parliament House, Spring Street, East Melbourne 3002.

**ELECTORATE OFFICE DETAILS**

<b>MEMBERS NAME</b> <i>Beattie</i>	<b>DISTRICT OR REGION NAME</b> <i>Yuroke</i>
<input checked="" type="checkbox"/> Legislative Assembly <input type="checkbox"/> Legislative Council	

ORGANISATION DEVELOPMENT  
14 MAR 2014  
**RECEIVED**

**NEW EMPLOYEE DETAILS**

<b>FULL NAME</b>	[Redacted]																												
<b>POSTAL ADDRESS</b>	[Redacted]																												
<b>EMAIL ADDRESS</b>	[Redacted]																												
<b>DATE OF COMMENCEMENT</b>	05/03/2014																												
<b>PREVIOUS OCCUPANT</b> <small>(Not Applicable for Casual Staff)</small>	n/a																												
<b>EMPLOYMENT TYPE - casual only</b>	<input checked="" type="checkbox"/> Casual <small>* Casual employees can be engaged for a maximum of 570 hours over a 12 month period.</small>																												
<b>EMPLOYMENT TYPE &amp; BASIS - Ongoing &amp; Fixed term only</b>	<input type="checkbox"/> Full time, Ongoing <input type="checkbox"/> Part Time, Ongoing <input type="checkbox"/> Full time, Fixed term** <input type="checkbox"/> Part Time, Fixed term** <small>** Maximum length of employment for fixed term employees is 12 months.</small>																												
<b>FIXED TERM - CONTACT DATES</b>	Start date: <i>11/3/14</i> End Date: <i>29/11</i> <small>see email attached</small>																												
<b>IF PART TIME - SPECIFY HOURS &amp; DAYS OF DUTY</b> (up to a maximum of 7.6* hours per day)  *7.6 = 7 hours & 36 minutes	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td>Week 1</td> <td>Mon</td> <td>Tues</td> <td>Wed</td> <td>Thur</td> <td>Fri</td> <td>Weekly Hrs</td> </tr> <tr> <td></td> <td></td> <td>7.6</td> <td>7.6</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Week 2</td> <td>Mon</td> <td>Tues</td> <td>Wed</td> <td>Thur</td> <td>Fri</td> <td>Weekly Hrs</td> </tr> <tr> <td></td> <td></td> <td>7.6</td> <td>7.6</td> <td></td> <td></td> <td></td> </tr> </table>	Week 1	Mon	Tues	Wed	Thur	Fri	Weekly Hrs			7.6	7.6				Week 2	Mon	Tues	Wed	Thur	Fri	Weekly Hrs			7.6	7.6			
Week 1	Mon	Tues	Wed	Thur	Fri	Weekly Hrs																							
		7.6	7.6																										
Week 2	Mon	Tues	Wed	Thur	Fri	Weekly Hrs																							
		7.6	7.6																										
<b>CLASSIFICATION LEVEL</b> <small>Note: Casual employees can only be engaged at Grade 1.</small>  <small>Employees can only be appointed to the base salary level of each Grade when appointed to a new position.</small>	<input checked="" type="checkbox"/> Grade 1 <input type="checkbox"/> Grade 2 <input type="checkbox"/> Grade 3 <small>PLEASE NOTE: Each office is allocated 2 effective full time equivalent (FTE) (maximum of 152 working hours per fortnight) electorate officer positions. In recruiting to these positions, the Member can assign one of the following classification options:</small> 1 x FTE position at Grade 1 and 1 x FTE position at Grade 2 2 x FTE positions at Grade 2 1 x FTE position at Grade 1 and 1 x FTE position at Grade 3 <small>As a guide please refer to the classification grade descriptions for information about the work value assigned to each classification level and clause 9 of the Member's Guide.</small>																												

**MEMBER DECLARATION**  
 I authorise the Organisation Development unit to prepare letters of offer on my behalf for the person listed above who is to be employed to work in my Electorate Office. I confirm that this appointment is within the 2FTE (where applicable) staffing allocation for my office.

*E. Beattie*  
 Member signature & date

<b>OD USE ONLY</b>	DATE PROCESSED:	DD OFFICER:	STRUCTURE CHECKED: <i>YOD</i>
DATE RECEIVED:			14.3.14

*emailed 14.3.14*

## Annexure 7

Letter of offer for casual Electorate Officer role (page 1 of 2)

[Redacted]

[Redacted]



[Redacted]

### *DEPARTMENT OF PARLIAMENTARY SERVICES*

14 March 2014

[Redacted]

Dear [Redacted]

**Re: Electorate Officer – Casual**

I have much pleasure in formally offering you a casual Electorate Officer position with the State of Victoria (Department of Parliamentary Services) (Department) which will commence on 11 March 2014. Please find enclosed a copy of the position description applicable to this position which typically outlines the range of duties and responsibilities of your role.

Your manager will be Liz Beattie, MLA for Yuroke. Your work location will be the Yuroke Electorate Office.

Each period of engagement as a casual employee will constitute a separate period of employment from any other period of engagement. The Department makes no commitment to provide you with regular or ongoing employment.

The hours required to support the office are Monday to Friday from 9.00am to 5.00pm. As a casual Electorate Officer you will be required to complete casual time sheets to be signed by the Member to enable payment for hours worked.

Your terms and conditions of employment, from time to time, are in accordance with this contract of employment and the Electorate Officers' (Victoria) Single Enterprise Agreement 2013, (Agreement). The Agreement does not form part of your contract of employment.

You will be paid an hourly rate of \$35.09 per hour inclusive of a casual loading in lieu of leave and other remuneration entitlements.

You are required to be familiar with the Department's policies and procedures including but not limited to the Department's Equal Opportunity and Diversity policy and procedures and the Occupational Health and Safety Policy. Copies of all policies and procedures including the Fair Work Information Statement and the Electorate Officer Welcome pack can be viewed or downloaded from the Organisation Development section of the Parliament of Victoria intranet. You must treat the Department's policies and procedures as directions from the Department and you must comply with them. However, they do not form part of this contract of employment. The Department may, in its sole discretion, vary any policy or procedure from time to time.

In addition to your salary, the Department will make superannuation contributions on your behalf as required by applicable legislation into a complying superannuation fund of your choice. Please complete the enclosed Choice of Fund form and return it or for further information contact the Organisation Development Unit at the Department by calling 8682 2614. If you do not complete and return the Choice of Fund form, the Department will make superannuation contributions, on your behalf, to VicSuper.

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Parliament House, Spring Street, Melbourne, Vic 3002. Telephone: (03) 9651 8911  
A.B.N. 57 505 521 939

## Annexure 7

Letter of offer for casual Electorate Officer role (page 2 of 2)

During the course of your employment with the Department you will have access to confidential information. You must ensure that this information remains strictly confidential and is not disclosed to any third party other than in the proper performance of your duties.

The *Local Government Act 1989*, as amended by the *Local Government Amendment (Conflicting Duties) Act 2009*, provides that an Electorate Officer cannot remain as a local government councillor whilst employed as an Electorate Officer. If you are elected to Local Council, you shall be taken to have resigned from the day prior to taking the oath of office.

Please confirm your acceptance and understanding of this offer and associated documentation by signing this letter and returning the original and enclosed payroll forms to me so you can be placed on the Department's payroll system. Please retain the copy of this letter for your records.

Congratulations on this appointment.

Yours sincerely



Richard Jordan  
Manager, Organisation Development  
Atts.

---

I, [REDACTED] accept the above offer of employment with the State of Victoria (Department of Parliamentary Services) on the terms and conditions set out in this letter and agree and understand the duties of the position.

I confirm my start date as: Tues 11<sup>th</sup> March, 2014.

[REDACTED] ..... 28/3/14 .....  
SIGNATURE DATE

This signed letter of offer is to be emailed to [payroll@parliament.vic.gov.au](mailto:payroll@parliament.vic.gov.au) or faxed through on (03) 8632 2622

OD Unit Use Only

Date received by OD Unit: .....

# Annexure 8

Parliament of Victoria

Authority to Offer Employment form for ALP pool staff, signed by Liz Beattie MP, 9 May 2014





**ELECTORATE OFFICER: AUTHORITY TO OFFER EMPLOYMENT FORM**  
 This form is to be used by Members to advise Organisation Development (OD) when engaging new Electorate Officers. On receipt of this form, a letter of offer and payroll forms will be prepared by OD and forwarded to the new employee. Return completed form to OD via email to [payroll@parliament.vic.gov.au](mailto:payroll@parliament.vic.gov.au), fax 8682 2622, or by post to Organisation Development, Parliament House, Spring Street, East Melbourne 3002.

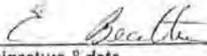
**ELECTORATE OFFICE DETAILS**

MEMBERS NAME	DISTRICT OR REGION NAME
Liz Beattie	ALP Staff Pool
<input type="checkbox"/> Legislative Assembly <input type="checkbox"/> Legislative Council	

**NEW EMPLOYEE DETAILS**

<b>FULL NAME</b>	[Redacted]																												
<b>POSTAL ADDRESS</b>	[Redacted]																												
<b>EMAIL ADDRESS</b>	[Redacted]																												
<b>DATE OF COMMENCEMENT</b>	1 May 2014																												
<b>PREVIOUS OCCUPANT</b> (Not Applicable for Casual Staff)	N/A																												
<b>EMPLOYMENT TYPE – casual only</b>	<input type="checkbox"/> *Casual * Casual employees can be engaged for a maximum of 570 hours over a 12 month period.																												
<b>EMPLOYMENT TYPE &amp; BASIS – Ongoing &amp; Fixed term only</b>	<input type="checkbox"/> Full time, Ongoing <input type="checkbox"/> Part Time, Ongoing <input type="checkbox"/> Full time, Fixed term** <input checked="" type="checkbox"/> Part Time, Fixed term** ** Maximum length of employment for fixed term employees is 12 months																												
<b>FIXED TERM – CONTACT DATES</b>	Start date: 4/5/14    End Date: 28/11/14																												
<b>IF PART TIME – SPECIFY HOURS &amp; DAYS OF DUTY (up to a maximum of 7.6* hours per day)</b> *7.6 = 7 hours & 36 minutes	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th>Week 1</th> <th>Mon</th> <th>Tues</th> <th>Wed</th> <th>Thur</th> <th>Fri</th> <th>Weekly Hrs</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td>7.6</td> <td><del>7.6</del></td> <td>15.2</td> </tr> <tr> <th>Week 2</th> <th>Mon</th> <th>Tues</th> <th>Wed</th> <th>Thur</th> <th>Fri</th> <th>Weekly Hrs</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>7.6</td> <td>7.6</td> <td>15.2</td> </tr> </tbody> </table>	Week 1	Mon	Tues	Wed	Thur	Fri	Weekly Hrs					7.6	<del>7.6</del>	15.2	Week 2	Mon	Tues	Wed	Thur	Fri	Weekly Hrs					7.6	7.6	15.2
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Week 2	Mon	Tues	Wed	Thur	Fri	Weekly Hrs																							
				7.6	7.6	15.2																							
<b>CLASSIFICATION LEVEL</b> Note: Casual employees can only be engaged at Grade 1.  Employees can only be appointed to the base salary level of each Grade when appointed to a new position.	<input checked="" type="checkbox"/> Grade 1 <input type="checkbox"/> Grade 2 <input type="checkbox"/> Grade 3 PLEASE NOTE: Each office is allocated 2 effective full time equivalent (FTE) (maximum of 152 working hours per fortnight) electorate officer positions. In recruiting to these positions, the Member can assign one of the following classification options: 1 x FTE position at Grade 1 and 1 x FTE position at Grade 2 2 x FTE positions at Grade 2 1 x FTE position at Grade 1 and 1 x FTE position at Grade 3 As a guide please refer to the classification grade descriptions for information about the work value assigned to each classification level and clause 6 of the Member's Guide.																												

**MEMBER DECLARATION**  
 I authorise the Organisation Development unit to prepare letters of offer on my behalf for the person listed above who is to be employed to work in my Electorate Office. I confirm that this appointment is within the 2 FTE (where applicable) staffing allocation for my office.

    9/5/14

Member signature & date

<b>OD USE ONLY</b>	DATE RECEIVED:	DATE PROCESSED:	STRUCTURE CHECKED:

VCD  
 14/5/14  
 emailed 14.5.14

## Annexure 9

Letter of offer for part-time ALP Pool Electorate Officer (page 1 of 2)

  
**DEPARTMENT OF PARLIAMENTARY SERVICES**

14 May 2014

**RECEIVED**  
14 MAY 2014  
ORGANISATION DEVELOPMENT

Dear [REDACTED]

**Re: Electorate Officer – Fixed Term, Part-Time**

I have much pleasure in offering you employment with the State of Victoria (Department of Parliamentary Services) (Department) in the position of part-time, fixed term Electorate Officer and congratulate you on your appointment which will commence on 1 May 2014 and will conclude on 28 November 2014, unless terminated earlier in accordance with the terms of this letter. The reason for your fixed term appointment is to provide short term administrative support. Please find enclosed a copy of the position description applicable to this position which typically outlines the range of duties and responsibilities of your role.

Your manager is Liz Beattie, ALP Party Parliamentary Secretary.

You will work 30.4 hours per fortnight and your agreed days and hours of duty for each week will be Thursdays (7.6hrs) and Fridays (7.6hrs) unless otherwise mutually agreed. The office opening hours are 9.00am to 5.00pm Monday to Friday. Your actual hours of work may vary from time to time to meet the needs of the Electorate Office.

The classification applicable to this position is Electorate Officer Grade 1.1 and your annual salary on commencement will be \$57,337 (pro-rata). In addition to your annual salary, you will receive a 3% allowance in full compensation for additional hours that may be required to be worked over and above ordinary hours of duty. Please note that this allowance is administered on a financial year basis.

Payment of your salary will be electronically transmitted into your nominated bank account(s) on a fortnightly basis.

Your terms and conditions of employment are set out in the *Electorate Officers' (Victoria) Single Enterprise Agreement 2013* (Agreement) which is available on the Organisation Development section of Parliament of Victoria's intranet. The Agreement does not form part of this contract of employment.

The *Parliamentary Administration Act 2005 (Vic)* applies to your employment as does the Code of Conduct for Parliamentary Electorate Officers (No 2) 2012 which outlines the values you are required to demonstrate in your employment, including responsiveness, integrity, impartiality, accountability and respect.

You are required to be familiar with the Department's policies and procedures including but not limited to the Department's Equal Opportunity and Diversity policy and procedures and the Occupational Health and Safety Policy. Copies of all policies and procedures including the Fair Work Information Statement and the Electorate Officer Welcome pack can be viewed or downloaded from the Organisation Development section of the PoV intranet. You must treat the Department's policies and procedures as directions from the Department and you must comply with them. However, they do not form part of this contract of employment. The Department may in its sole discretion, vary any policy or procedure from time to time.

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Parliament House, Spring Street, Melbourne, Vic. 3002. Telephone: (03) 1965 1891  
A.B.N. 57 555 521 939

## Annexure 9

Letter of offer for part-time ALP Pool Electorate Officer (page 2 of 2)

In addition to your annual salary, the Department will make superannuation contributions on your behalf as required by applicable legislation into a complying superannuation fund of your choice. Please complete the enclosed Choice of Fund form and return it or for further information contact the Organisation Development Unit by calling 8682 2614. If you do not complete and return the Choice of Fund form, the Department will make superannuation contributions on your behalf to VicSuper.

Your employment will be subject to an initial probationary period of six months from the commencement of employment. The Department may terminate your employment at any time during the probation period upon giving two weeks notice, or two weeks pay in lieu of notice.

You may terminate your employment at any time by giving the Department written notice in accordance with clause 25.3 of the Agreement.

In circumstances of serious misconduct or other conduct justifying instant dismissal, your employment may be terminated, effective immediately, without notice in lieu of notice.

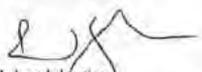
During the course of your employment with the Department you will have access to confidential information. You must ensure that this information remains strictly confidential and is not disclosed to any third party other than in the proper performance of your duties.

The *Local Government Act 1989*, as amended by the *Local Government Amendment (Conflicting Duties) Act 2009*, provides that an Electorate Officer cannot remain as a local government councillor. If you are elected to Local Council, you shall be taken to have resigned from the day prior to taking the oath of office.

Please confirm your acceptance and understanding of this offer and associated documentation by signing this letter and returning the original and enclosed payroll forms to me so you can be placed on the Department's payroll system. Please retain the copy of this letter for your records.

Congratulations on this appointment.

Yours sincerely

  
Richard Jordan  
Manager, Organisation Development  
Atts.

I, [REDACTED] accept the above offer of employment with the State of Victoria (Department of Parliamentary Services) on the terms and conditions set out in this letter and agree and understand the duties of the position.

I confirm my start date as: 1 May 2014

[REDACTED] ..... 14/5/2014  
SIGNATURE/V ..... DATE

This signed letter of offer is to be emailed to [payroll@parliament.vic.gov.au](mailto:payroll@parliament.vic.gov.au) or faxed through on (03) 8682 2622

OD Unit Use Only: Date received by OD Unit: .....

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