



# Elections online panel discussion transcript – 20 October 2022

## Speaker Key

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<b>CC</b>	Claire Cotterill



00:01:03

**DC** Hello and welcome to the Registered Organisation Commission's online panel discussion about elections. Thank you for joining us. My name is Declan Clifford, and I am a Senior Adviser in the Education and Reporting team at the ROC. I will be today's facilitator. We have scheduled this panel to help you, as officers and employees of registered organisations, with your elections.

Over the next hour we will answer as many questions as we can, to help your elections run as smoothly as possible. And we will also take you through a hypothetical exercise so we can put into practice some of the things we've talked about in the panel.

Before we begin, I would firstly like to acknowledge the traditional owners of the lands we are meeting on across all of Australia today. I pay my respects to their elders, past, present and emerging.

**00:01:59**

**DC:** I would like to introduce the members of today's panel, who are here to help me answer your questions. We are joined today by Bill Steenson. Bill leads the Compliance and Disclosures team at the ROC.

**BS:** Good morning everyone.

**DC:** We also have Sarah Wilkin. Sarah is a senior adviser and lawyer in our Compliance and Disclosures Team.

**SW:** Hello.

**DC:** And we are also joined by Claire Cotterill. Claire is an adviser and lawyer in our Compliance and Disclosures team.

**00:02:32**

**CC:** Good morning everyone.

**DC:** All members of our panel work on election matters and, between them, they've likely been involved in the assessment of prescribed information for your elections. For those of you joining us today who are new to elections, 'prescribed information' is what you must submit to us at the ROC requesting an election, in order to get a decision arranging for an election to be conducted by the Australian Electoral Commission.

**00:02:57**

**DC:** We call this 'PI' for short. Before I launch into the questions with the panel, let's cover off a few housekeeping issues.

To help with audio quality, everyone is on a default mute setting, and only the panel will be able to speak. We have requested your questions in advance of this discussion. If you want to ask the panel a question during the session and you are on a computer, you should see a control panel with a "question" box. You can type your question here, and we will try to get through as many of them as we can. After today, we will also publish an audio file and a written transcript of this discussion on the ROC website.



For those who have joined us via a computer, you will see that we have loaded some resources into the GotoWebinar control panel. There are two prescribed information templates – one for office positions only and one for office and non-office positions. We also have a fact sheet about elections and a checklist. And finally, we have the hypothetical exercise, which was emailed to you earlier in the week. The panel will be discussing these resources in greater detail shortly. And we will go through the hypothetical exercise in the second half of the discussion. When we get to discussing that, which will be in the second half of today's panel, I would recommend that you open up that hypothetical question. And also open up the template for prescribed information for office and non-office positions. Those will help you follow that discussion.

After today's session you will receive a link to a survey via email. We encourage you to complete it, because it does help us to improve these panels and other education events in the future.



**00:04:56**

**DC:** Let's begin our discussion about elections. Claire a lot of people in the audience are new to elections and want to know where to start. What advice would you have for them?

**CC:** Sure Declan, my first tip is simple but incredibly important and it's to make sure you are always using the ROC's templates for prescribed information. Lodging prescribed information with the ROC is the trigger for us to arrange your election. The templates are designed to make sure you provide us with all the material that is required by the Fair Work (Registered Organisations) Act – or the RO Act, as we call it, as well as the RO Regulations, so we can arrange your election.



**00:05:32**

**CC:** Using the right template will help with compliance. We have two templates for prescribed information available on our website. The first template is for office positions only. The second is for office and non-office positions. An example of a non-office position may be something like a workplace or 'shop floor' representative. If you're new to elections, the prescribed information must include information about what type of election it is. There are four common types.

**00:06:00**

**CC:** One – a scheduled election – this is when the normal term is ending for your current officers. Two – a new office election – if you’ve changed your rules and created a new office. Three – a casual vacancy election – for if someone has resigned or left office early. And four – an insufficient nominations election – for when an office is left empty from an earlier unsuccessful election. Please be aware that if it’s a casual vacancy election, you’ll need to provide evidence of the vacancy, so the ROC can be satisfied that the office is actually vacant. If you don’t include that evidence, we will need to follow up with you.

Your prescribed information also needs to tell us what the relevant electorate is, as well as the type of voting system for the election. There are two types of voting systems – direct and collegiate. A direct election is by all members or a specific group of members like a branch. A collegiate election means the officer is elected by and from a group or body of other officers – like the President being elected by the Committee of Management.

**00:07:03**

**CC:** You should also outline if there any rule alterations lodged with the Fair Work Commission (or intended to be lodged) and the key dates in your rules, like when nominations for the election open and close, and the day the roll of voters closes. Crucially, the prescribed information must be signed by an authorised officer. It can’t just be signed by an employee who’s not an officer. Some organisation’s rules even identify a particular officer who must sign the prescribed information, for example the Secretary.

We need all this information or the ROC cannot arrange your election. In our experience, a lot of the issues and delays we encounter with elections are because an organisation has not used our template or has provided incomplete information. Because of this we need to go back to the organisation and request additional information - and sometimes this may require re-lodging prescribed information -so we get all the information we need to make a decision on an election request.

**00:08:01**

**CC:** This can cause delays to the election process especially if we need to have multiple conversations to get all the information. And remember that where there is an



amendment to the prescribed information it will need to be re-signed by the authorising officer.

**DC:** That is a fantastic explanation of the basics for everyone, Claire. The ROC has a KPI of issuing a decision for every election request within 40 working days from the lodgement of prescribed information. In reality, it may not need to take this long if the organisation has used the correct template available on our website and provided all the necessary information in the first instance. In those cases it's usually much quicker. If you want to see how the ROC assesses the prescribed information we receive you can view our election checklist. You can download the checklist from the GoTo Webinar control panel and also from our website.



**00:08:58**

**DC:** This will give you a good indication of what we need to check before we can arrange your election. Sarah, one of our audience members has asked us 'what are the common mistakes that you see in your role that delay or create issues in elections?' In your experience as an action officer for elections what are the problems you see?

**SW:** Sometimes we see organisations use our templates but they copy and paste all the information from the prescribed information they lodged for the last election into the current version. The problem is that a lot of the information tends to be out of date and needs to be corrected. This creates extra steps and delays in the process. We encourage organisations to avoid copying and pasting old information and fill out the template fresh for each new election.



**00:10:05**

**SW:** One practical tip – we suggest you download a fresh template from the ROC website each time you fill in information for an election. Downloading a new template can prevent you from accidentally replicating out-of-date or incorrect information, for example, if Branch Councillor numbers have increased and this is not reflected in the old PI. Our templates are also updated from time-to-time, so it's best to be sure you're using the latest one.



**00:10:56**

**SW:** We also really encourage organisations to try and lodge their prescribed information with us as early as possible. This is especially important for big elections that have



lots of offices. The requirement under the RO Regulations is to lodge prescribed information 2 months before the day nominations are due to open. This '2 months before' date is called the prescribed date. You need to look at your rules to determine the date nominations open in your organisation.

If the prescribed information is not lodged before the prescribed date, civil penalties may apply. That's why it's best practice to lodge as early as possible so you're not in a situation where you are late for any reason and therefore in breach of the legislation.



**00:12:02**

**SW:** If you think your organisation will not be able to lodge with us before the prescribed date, for whatever reason, you should reach out as early as possible to request an extension of time from the ROC. Extensions should be lodged before your prescribed information would be late. So still 2 months before nominations open. The ROC will consider each extension request based on the circumstances. You will usually be expected to provide written reasons about why you need more time and evidence that officers of the organisation or branch have turned their minds as to how late lodgements might be avoided in the future.



**00:13:00**

**SW:** Extensions are generally unlikely to be approved if an organisation/branch has a history of being late with their lodgements. The ROC also sends courtesy letters to organisations with reminders about upcoming scheduled elections. However, it is ultimately the organisation's responsibility to know when its election is due and to lodge the information that needs to be lodged to enable the election to be arranged.



**00:13:57**

**DC:** Thanks Sarah. Bill, you are responsible for issuing election decisions. From your perspective do you have any tips for our audience today?

**BS:** I'd also add to what Sarah and Claire have said about prescribed information and recommend that organisations put as much relevant information in the template as possible. If there is any information you believe is relevant to the ROC's decision about arranging for an election, please include it in the prescribed information. For example, if there are proposed rule changes lodged with the FWC please tell us



about that and how those changes may affect the conduct of the election – there can be a range of things: does it change your structure, the terms of office, how an office is elected, does it create new officers or abolish some, and so on.



**00:14:59**

**BS:** Claire also mentioned that we have separate templates for prescribed information – one for officer roles, and the other where there are officer and non-officer positions involved. Officers are people like your Secretary, your Assistant Secretary, President and Vice President. It will also include people who sit on your committee of management, and who perform particular functions, like manage your organisation or branch's affairs, determine policy, and make and enforce rules. If your election is for officer positions only, use the prescribed information template for officers. If you need more information to help identify who your officers are, you can familiarise yourself with the full definition in section 9 of the RO Act, and also your rules, and can always contact us to discuss it.



**00:16:00**

**BS:** Some organisations' rules allow for the election of non-officer positions that don't determine the decisions about the organisation, but may carry them out – such a Chief Executive Officer or Executive Director. Another good example of a non-office position is local workplace delegates. If your election includes non-office positions you should use the second template which deals with both office and non-office positions. Please remember that while the AEC is able to conduct non-office elections too, you'll need to write to them specifically requesting this.

The non-officer template has a pre-prepared draft of this letter and how to contact the AEC. Then you send it all to us, including the copy of your AEC request with the prescribed information.



**00:16:59**

**BS:** We need this request in order to arrange for the election of non-office positions, and can't do so if your prescribed information does not include this written request to the AEC.

**DC:** Thanks Bill. Sarah, organisations are continuing to be affected by the COVID-19 pandemic, particularly in the elections space. Many organisations are in a position



where their elections for 2020 or 2021 were delayed due to the pandemic. Those elections were then later rearranged for 2021 or 2022 however, under the wording of their rules, the offices look to be due again. The problem some organisations are facing is that elections for those offices were only just completed and now their rules say they have a fresh round of elections coming up. Can you talk us through what organisations should be doing in these circumstances?



**00:18:00**

**SW:** Sure Declan. First of all, it will all depend on the exact wording of your organisation's rules as to whether you actually need to hold the election. Some rules are extremely clear and state that nominations open specifically on a certain specific date in a certain specific year. In that case, the rules are really clear that you need to lodge prescribed information with the ROC and to do it 2 months before the date nominations are due to open under the rules.

However, if you don't want to hold the election again so soon after the last one, what you can do in those circumstances is contact the FWC to discuss altering your rules to change the date that nominations are opening.



**00:18:57**

**SW:** We also recommend you contact us to let us know you intend to do this. So, while you still might need to lodge your PI with us you can seek a rule change from the FWC in the meantime so that the election might not ultimately need to go ahead. We strongly recommend having a conversation with staff at the FWC before lodging an application to alter rules.



**00:20:27**

**SW:** For organisations with rules that are less clear, it may be worthwhile contacting the AEC as they have powers under the Act to make changes to the conduct of elections, such as conducting it at a later time, in order to prevent irregularities. For example, an organisation may have a rule that specifies a particular timetable for elections, but this could potentially be altered by the AEC if it is not possible to achieve those timeframes due to delays.

It's also important to note that this issue isn't only affecting scheduled elections. It's also impacting casual vacancy and insufficient nomination elections. For example we



have seen cases where a casual vacancy election has been delayed due to COVID and is about to occur, but now the scheduled election is coming up and the timelines converge. In that situation it doesn't make sense for the organisation to fill the casual vacancy for such a short period of time when they are about to elect it again for a fresh term of office.

**DC:** Thanks Sarah. That's an important point - it's all going depend on what an organisation's rules say. We recommend that if you're not sure, contact us, sooner rather than later, and we will be able to assist you. We are a small agency and when you call there's a good chance that you'll end up communicating with one of our panellists to talk about your election issue.



**00:22:00**

**DC:** Bill, one of our audience members has written in asking about the constraints on support that 'the office' can provide to groups / candidates while running elections. Are you able to answer that for us?

**BS:** Absolutely. Often candidates in an election are people who are already holding office and are seeking re-election. This is where they need to be really careful about how they campaign for re-election. The RO Act is VERY clear on this point. Section 190 says that it's an offence for an organisation or branch to allow its property or resources to be used to favour one candidate over another (or one group of candidates over another), in an election.

Let me just be really clear – it's a criminal offence to do that and, like other criminal offences, we would look to refer that to the Police if there was evidence of that conduct.



**00:23:30**

**DC:** Claire, another question from our audience is what happens if an organisation identifies incorrect information in the election decision after it has been issued?

**CC:** This can happen from time-to-time, Declan. In these circumstances the ROC may be able to issue an amending election decision. If you identify any incorrect information please reach out to us as soon as possible and we can discuss the available options, including the issuing of an amending decision. Amending decisions may also be



issued following rule alterations or if one election is delayed and then overtaken by another.

**DC:** Any other tips for organisations Sarah?



**00:24:27**

**SW:** One thing we always really like to reinforce is that communication with us is key. If you let us know about any issues or potential issues upfront, we're able to work with you to find solutions. And this will help prevent any delays for you.

A really good example of this is when you have rule changes that are with the FWC, at the same time as an upcoming election. Unless you let us know, neither the ROC nor the AEC will know about your application to the FWC to change your rules. Advising us when you lodge your prescribed information means we can make arrangements for the election that are appropriate, and considerate of your rule-change application – including whether or not it is likely to be approved in time to have an impact on the upcoming election. So, communication, communication, communication.



**00:25:31**

**DC:** Absolutely. Thank you, Sarah. So, we have got a question here and the question is, what happens if required election timelines can't be met because of the AEC, not due to COVID, but because of insufficient resources. I'll just repeat it. What happens if a required election timeline can't be met because of the AEC?

**BS:** I might be able take that one, if you like.

**DC:** Go for it, Bill.

**BS:** We mentioned in passing before that the AEC's got a provision in the legislation, section 193, which allows it to, if it can't meet the timeframes providing an election in accordance with the rules, it can substitute other dates or other arrangements for that.



**00:26:37**

**BS:** We just had one yesterday, where we've got a branch that's being reconstituted. The rules say that nominations open in March, they close in April and the ballot happens in May. They're only just lodging now because they're only just reconstituting the



branch. So, obviously, running it in March, April or May of this year just wasn't an option.

And so, the AEC will work with them to work out a timetable, so you still have proper periods for opening and closing of nominations, ballots and so on, it's just not going to be the ones that are exactly in the rules. It's not practical for the branch to wait until May next year because they have just been reconstituted and want to get management in place as soon as they can.



**00:27:28**

**BS:** Even when an organisation lodges late, we've still got an obligation to look at it and to arrange an election. You can't go years without electing officers. And so, in those cases, there is that power of the AEC under section 193 to go in there, to make those arrangements, so that irregularities don't occur. So hopefully that goes some way to answer the question.

**DC:** Thanks, Bill. I've got another question here as well. Which says, if the rules of a registered organisation are silent on the matter and a casual vacancy arises in an office, is there an obligation for the organisation to immediately conduct a casual vacancy election for that office or can the organisation wait until the term of office expires and the next scheduled election commences? I'll just repeat that. So, if the rules of an organisation are silent on the matter and a casual vacancy arises in an office, is there an obligation for the organisation to immediately conduct a casual vacancy election for that office? Or can they wait until the term of office expires and the next scheduled election commences?



**00:28:34**

**SW:** I'll just jump in quickly first, to say that answering that question will have a lot to do with what office you're actually talking about, or how many offices you might be talking about. For example, if it's a very important role, like the Secretary or it's a member of the committee of management, I would suggest that, yes, it would be important to have a casual vacancy election for those offices, even if the rules are silent. Because having someone step into that office is important to keep the organisation running.



**00:29:31**

**DC:** Great point, Sarah.



**BS:** I think the other thing is the timing of it. If you've got a three or a four year term and the casual vacancy happens two months into the three or four year term, we absolutely would expect you to make some attempt to fill it. But if you're three months out on the end of the term and it's going run into the scheduled election anyway you're talking about a very different scenario there.

But certainly, there's an expectation that organisations are democratically controlled and you'd attempt to have an election, particularly if it's going be vacant for a period of time or, if what Sarah says, it's a particularly important role, like a committee of management member.



**00:30:31**

**CC:** I would also add in there that if a situation like this does arise and you're not sure, just get in contact with the ROC and let us know what position it is or what office it is and then how long the term is. And we can work specifically on that situation and help you through it.

**DC:** So just to recap, if you're not sure, you can get in contact with us, but as Sarah said, it can depend on the nature of the office and as Bill said on the duration of the remaining term. So, some really good tips there.

We have now covered off all of the submitted questions – Thank you to our panel.



**00:31:02**

**DC:** What I want to do now is go through the hypothetical scenario that was emailed to you earlier this week. In the same email, you also received one of our prescribed information templates. If you didn't receive these documents – don't worry, you can download them from the Goto Webinar control panel – So open the file beginning "TF014 – non-officer sample" AND also "TEST YOUR KNOWLEDGE – ELECTIONS"

In this hypothetical scenario we are given a set of facts about a fictitious organisation called CDE. CDE have various elections coming up and they need to lodge prescribed information with the ROC to have their elections arranged. In our scenario all of these elections are needed so one single set of prescribed information can be completed for the scenarios we've provided.

**00:32:02**

**DC:** Bill did you want to talk about the first position on the hypothetical exercise – The Chief Executive Officer?

**BS:** So, what we are told about the Chief Executive Officer is that they act in accordance with the directions given by Committee of Management and the CEO doesn't get a vote on Committee decisions. If you recall our discussion earlier about the difference between what is an officer role and what is a non-office position and apply it to this scenario: here the CEO must act under the direction of the Committee – the CEO implements the decisions. But the rules still require that the CEO position is elected. So, the organisation needs to use the prescribed information template that relates to both office and non-office positions.

**00:32:56**

**BS:** If you have an election for a non-office position, you can also download this template from our website. The first page of the template is a statement – a set of declarations that are being made about the elections being sought. Annexure A is the request letter to the AEC. And Annexure B is a table where the detail of each role to elected gets inserted.

Let's first talk about the statement on page 1, and how to include the relevant information we know about the CEO.

Under point 4 you will see that it says "*A copy of the request under section 187 of the Act, for the AEC to conduct an election for the non-office positions is attached*".

The template is prepared so that this request relating to the non-office position is included at Annexure A. And you need to send Annexures A and B to the AEC **before** you send this template to us – so the AEC knows which non-office positions you're asking them to agree to run the election for.

Under point 8 of the template statement you're also asked to confirm whether the prescribed information for your election has been lodged on time.

**00:34:29**

**BS:** So, if your PI will be submitted on time, then you keep the part which says 'lodged on time' and remove the option about why your PI is late and the date you lodged an extension request. Make sure you delete any of the instructional text or options that don't relate to your PI. In the event that it looks like you won't be lodging on time, we want to encourage organisations to lodge their requests for an extension of time as early as possible and BEFORE they fall into non-compliance and are late.

**00:35:26**

**BS:** If you scroll down you will see that on the last page of the template is the table that is Annexure B.

You'll see a heading that says: *"For the election of non-office positions, requested under section 187 of the RO Act"*

Under this heading is where you would put in the specific information about the election of the CEO. In the first box labelled "branch", you can type the organisation name, in this case "CDE". If the organisation had branches, you would put the branch name there instead. In the next column, you would type Chief Executive Officer, being the role to be elected. Reading across, it says to enter the number required. So here you would type "1" as there is only one CEO position.

**00:36:27**

**BS:** Next is "The voting system for the election". The scenario tells us that Rule 10.5 says "the method of electing the Chief Executive Officer shall be by secret postal ballot of all financial members of CDE". This is describing a direct voting system election, as all members get to vote directly for the role. So, you should select this option.

It's a scheduled election for a new term, so you insert 'Scheduled' as the type of election. And then finally the electorate is "all financial members of CDE". You can write rule 10.5 in the final box as well, as the relevant rule reference. So to sum up, for the election for CEO, in the table in Annexure B, under the subheading for non-office positions, if you read across it should say:



CDE Chief Executive Officer 1 Direct Voting System Scheduled election All financial members of CDE, rule 10.5



**00:37:31**

**DC:** Thanks Bill. And if at any time anyone's got any questions about what we're doing in this hypothetical, feel free to put them in the question box. We'll move on to the next position, which is the treasurer. Claire, could you explain how you'd add the information for the treasurer to the prescribed information?

**CC:** We are told that there was an election for the Treasurer earlier in the year but no one nominated for the position. This is what we call an 'insufficient nominations' election.

If you look at our hypothetical scenario, rule 16.6 tells us the election for the Treasurer under CDE rules is a collegiate election, because a group of other already-elected people ('the executive') vote for this office, rather than a vote by all the members of the organisation.



**00:38:28**

**CC:** So, let's go to back to the prescribed information template. The first thing we would do is make sure that we include item number 6 of the template which states:

"6. Insufficient nominations were received in an earlier election(s) and the declaration/s of results is/are attached."

And then make sure that you attach the declaration of results (which shows no nominations were received for the Treasurer position) when you submit your PI to us. You then scroll down to the table in Annexure B. The Treasurer is an office, so we will fill in the information about this particular election under the heading "for the election of officers".

So, under the "Branch" heading you can type: "CDE". The name of the office: "Treasurer". Number required is "1". The voting system you need to identify here is "Collegiate" because the executive of CDE vote as an 'electoral college' for the Treasurer. The "reason for the election" – here you select "insufficient nominations" because the scenario tells us that nobody nominated in the earlier election. And finally, for electorate you can type "CDE executive", and reference the rule under 16.6.

**00:39:32**

**CC:** So reading across the line what you should include in Annexure B for the election of the Treasurer is:

CDE Treasurer 1 (office) Collegiate electoral system insufficient nominations CDE Executive, rule 16.6

**DC:** Thanks Claire. The next election we need to address here is the office of Secretary. Sarah, can you explain how to properly include this information into the PI template?

**00:40:31**

**SW:** From the scenario we know that Sam, the previous secretary, resigned on 30 September after serving the first 9 months of his 4 year term. We also know that CDE have a casual vacancy rule, which says that if the unexpired term exceeds  $\frac{3}{4}$  of the term it must be filled by an election.

So, as Sam has only been in office for 9 months of a 4 year term he has served less than  $\frac{1}{4}$  of a term and the unexpired term exceeds  $\frac{3}{4}$ . So according to the rules there must be an election to fill the Secretary position – they can't just appoint someone for the remainder (because you'd then have a non-elected person there for almost three and a half years).

Now to fill in the PI template as it relates to the Secretary role:

On the first page with the declaration, make sure you include point 5 about casual vacancies which states:

“The resignation letter or other supporting information is attached for each casual vacancy.”

If you don't attach evidence showing that the office of the Secretary is vacant, we'll need to ask you for it – in order to be satisfied that it is. As discussed, before it's best practice to attach this with the PI to prevent any delays to your election.

**00:41:32**

**SW:** Turning to the table in Annexure B, as the Secretary is an officer role, it goes in the same part as the Treasurer's election which is under the header "for the election of officers"

So, you would include:

The organisation name in the first column, "Secretary" for the name of the office, "1" for the number of that office to be elected. We're told that Rule 15.5 says that the Secretary is elected by a secret postal ballot of all financial members. So, under "voting system" you select "direct voting system". The reason for the election is "casual vacancy" and finally, for the electorate and the rule it's "all financial members of the organisation" and "rule 15.5"

**DC:** Thanks Sarah. So, the last election we have in our hypothetical is for the Committee of Management.

**00:43:00**

**DC:** We are told this is a scheduled election, and we are given some information about a particular rule of CDE which includes a formula. Bill, did you want to explain this one?

**BS:** We know from the scenario that this is a scheduled election under CDE's rules. We are told in the scenario that the number of offices on the Committee of Management depends on a formula in the rules. So, the organisation needs to identify the relevant rule and provide the ROC with the information needed to calculate the formula.

You will see point 9 on the first page of the template prompts you to include this information. So, under point 9. you would say:

"the rule numbers which specify the formulas are: Rule 18.4"

"the formula is: "based on a count of financial members as at 30 June. If less than 10,000 members it is 5 committee members, If between 10,000 and 19,999 members it is 7 committee members, and if 20,000 or more, it is 9 committee members."

You need to include the relevant date to calculate the formula. In this case you can see that it's 30 June. And also include the specific information to do the calculation. Here, it's 10,004 members.



There is also an option on our template to tell us that you can't provide the information that is necessary for calculating the formula. In our scenario, the organisation CDE can delete this option because it's not applicable – they already have the information available.



**00:44:33**

**BS:** But in some cases the formula may require you to consider information that can only be determined at a date into the future (for instance if the rule had said members as at 30 November 2022, but the lodgement date was 1 September).

Dates in the future, or rules that don't specify a date, cause real challenges: – both for the ROC if we can't issue a decision specifying how many people are to be elected (because the calculation date is in the future) – and for the AEC because they then have to spend extra time, closer to the start of the election (when they need to be doing other election-related work) doing the calculation when the information finally becomes available.



**00:45:33**

**BS:** It's also one of the reasons why, when we see future calculation dates or silence on what date the calculation is based on, we may make specific mention of it in the election decision that is issued – and we may also separately engage with the organisation to consider this issue well ahead of the next election.

Often organisations will then better understand the challenges it presents and look at changing the particular rules that specify the calculation date, so that the information is more definite next time around.

Now to the table on Annexure B where the specific detail gets inserted:

Under the first column, again this is the organisation name, CDE.



**00:46:29**

**BS:** The name of office is Committee of Management members. Now I'll just divert for a moment – one additional point I'll make here is that you need to take care that the



name of the office you write in this box is the same as mentioned in your organisation’s rules. It might seem obvious, but what we have seen for some organisations is that over time, they make use of an alternative name for some of their offices – for example calling them Board members or Directors when the rules call them Committee of Management members.

For accuracy and to avoid confusion, the name of the office you state on your PI needs to reflect your rules. The decision that will be issued by the ROC will be in accordance with your rules. Ultimately the message is consistency. (If the organisation actually wants to re-name its offices, then it can, but it requires a rule change).

Now back to the table. For the “number of offices required” in this particular example, you will need to work out the formula here to calculate that.



**00:47:31**

**BS:** On the information given, we know that CDE had 10,004 members at the relevant date and based on the formula because they have more than 10,000 but fewer than 1,9999 they are therefore entitled to elect 7 committee members. So, type 7 in the box here.

For the voting system, you will need to identify that it’s a Direct Voting System (or DVS) because, under the rules, the Committee is elected directly by the membership of the organisation.

We also know this is a scheduled election for a new term of office, so you should choose this option in the dropdown box. And finally, you will need to identify the electorate as “all financial members of CDE” and the relevant rule, according to this particular scenario, is 18.3.

So, reading across in the table in Annexure B, for the election of the Committee of Management:

CDE	Committee of Management members	7 (offices)	Direct Voting
System	Scheduled	Financial members of CDE,	rule 18.3

**00:48:34****DC:** Thanks Bill.

So that covers all of the officers and the one non-office position to be elected.

One other piece of information we are told about CDE is that they have rule changes pending with the FWC.

This is for a new office of Assistant Secretary. Claire, what's the relevance of this information?

**CC:** This goes to what we've been talking about on the panel, about letting us know if there are rule changes that are pending which may impact on the election.

The Assistant Secretary of CDE would itself need to be elected and would also be part of their Executive, and as such would likely have voting powers for other elections, such as the election of the Treasurer. Therefore, the new office may be relevant to this election. It depends on if and when the rule changes get approved by the FWC.

**00:49:27****CC:** On our template, under point 7, there are prompts to include this information in the submission to us.

And if CDE left this entire section blank, it is likely that the assessing officer at the ROC would need to email or phone CDE to confirm either way about whether they have a rule change pending with the FWC.

If you do have a rule alteration pending please provide a brief outline of the proposed alteration and attach it with your PI, so that we can assess whether it might affect the running or timing of the election.

**DC:** We have now completed the officer's statement and the first table of Annexure B of the PI.

You will see at the bottom of Annexure B that there is a second table, where you need to include the "important dates" of the election – like when nominations open



and close and the roll of voters cut off dates. Sarah, what should organisations be aware of when they are completing this table?



**00:50:31**

**SW:** The most important thing is ensuring that the dates you put in that table match up with what's in your rules. It's also helpful to tell us the relevant rule number, so that we're directed to it straight away – it just saves time and means we can assess the information more efficiently.

For example the organisation might fill out the table as follows : “Nominations open no later than 1 February (rule 27.1)”.

However, it might be that your rules say that a date is “to be determined by the returning officer”. Now, even if that's the case, the organisation may have a preference for when it would like the election to be undertaken. If this is the case, you can write preferred dates in the relevant box.



**00:51:32**

**SW:** But to avoid confusion please make it very clear that this is only a preference – and not something that's required under your rules.

We and the AEC will do our best to accommodate preferences. But keep in mind that until the scheduling of elections return to something closer to normal, it may sometimes be difficult to do so. The sooner you lodge the prescribed information, the more time we have to address those sort of issues.

**DC:** Thanks everybody. We have now completed the hypothetical exercise. I hope you have followed the discussion and it has helped you understand more about elections and what you can do to ensure a smooth election process.



**00:52:28**

**DC:** A reminder again that using a ROC template will also help you comply with the legislative requirements.

We will publish a written version of a response to this exercise on our website in a few days. And if you have any follow up questions, please do not hesitate to get it touch with us to discuss.



I'd like to thank our panel, Bill, Sarah and Claire for their help with today's discussion, and our audience for lodging questions and joining us today. You can refer to our website for the full library of resources to assist you with your elections. An audio file of this discussion will be published on our website as soon as we can.



**00:53:32**

**DC:** You can subscribe to updates via our website and select the topics that you are interested in receiving updates about. A transcript of the discussion will also be available in about a week's time.

And remember that all attendees of today's session will receive an email shortly with a link to a survey. We encourage you to complete it, so that we can continue to provide practical and tailored education services.

We do our best to provide general information in these panels – but we cannot provide legal advice. Our education materials are general information only, so if you have specific questions relating to your own circumstances do please send us an email or give us a call to ask questions.

Thank you again for joining us and have a wonderful day ahead.