

# **ELECTORAL MATTERS COMMITTEE**

## **Inquiry into the Conduct of the 2022 Victorian State Election**

Melbourne – Friday 25 August 2023

### **MEMBERS**

Luba Grigorovitch – Chair

Evan Mulholland – Deputy Chair

Brad Battin

David Ettershank

Sam Hibbins

Emma Kealy

Nathan Lambert

Lee Tarlamis

Emma Vulin

**WITNESSES**

Sven Bluemmel, Electoral Commissioner,

Dana Fleming, Deputy Electoral Commissioner,

Keegan Bartlett, Director, Electoral Integrity and Regulation,

Sue Lang, Director, Communications and Engagement,

Ben Sutherland, Director, Elections, and

Chris Pivec, Chief Information Officer, Victorian Electoral Commission.

**The CHAIR:** I declare open the public hearing for the Electoral Matters Committee Inquiry into the Conduct of the 2022 Victorian State Election. All mobile telephones should now be turned on silent.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us is gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings.

I am Luba Grigorovitch, and I am the Chair of the committee and the Member for Kororoit. The other members of the committee here today are Evan Mulholland, Member for Northern Metropolitan; Sam Hibbins, Member for Prahran; Emma Kealy, the Member for Lowan; Brad Battin, the Member for Berwick; Nathan Lambert, the Member for Preston; and, in person, Lee Tarlamis, Member for South-Eastern Metropolitan – and that is all of them.

I welcome our witnesses: Mr Bartlett, Ms Fleming, Mr Bluemmel, Mr Sutherland and Ms Sue Lang. Welcome here today.

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, including on social media, those comments may not be protected by this privilege. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded by Hansard and is also being broadcast live on the Parliament's website. You will be provided with a proof version of the transcript for you to check as soon as it is available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible. I do not believe we have any media present.

I invite you now to proceed with a brief 5-minute opening statement to the committee, which will be followed by questions. Thank you.

**Sven BLUEMMEL:** Great. Thank you, Chair and thank you members of the committee. To clarify the roles, I am joined on my right by Ms Dana Fleming, Deputy Electoral Commissioner. To her right is Mr Keegan Bartlett, Director of Electoral Integrity and Regulation. On my left is Mr Ben Sutherland, Director, Elections, and on Mr Sutherland's left is Sue Lang, Director of Communication and Engagement.

Now, in the two weeks that I have been in the role it has already become very clear to me that the committee and indeed the people of Victoria can have every confidence that the staff of the Victorian Electoral Commission work skilfully, tirelessly and impartially to ensure that the democratic institutions enshrined in our constitution and in the laws passed by the Parliament are protected and nurtured, and it is against this background that I am particularly pleased to be appearing before you today alongside my VEC colleagues.

The committee and the commission have complementary roles, and I consider that between you and us we share the wonderful burden of strengthening our democratic foundations not for ourselves but for the benefit of all Victorians. It is easy to forget that we can take for granted that kind of democracy that is denied to others

around the world, and that is our inheritance from those that came before us. I believe that we have a duty to hand it to the next generation in even better shape, and with your support we can achieve this.

Speaking of our inheritance, I would like to briefly acknowledge the enormous contribution that former Electoral Commissioner Warwick Gately AM made to democracy in Victoria over his 10-year term, and I would also like to acknowledge the steadfast leadership of Ms Fleming as acting Electoral Commissioner during a period that included the last state election. Ms Fleming's approach was characterised by uncompromising integrity and a guiding sense of duty to serving the public interest.

About the election – by most reasonable measures the Victorian state election is the third most complex peacetime logistical exercise that is undertaken in Australia on a regular basis. The electoral commission must conduct this exercise within the shortest election time line in the country. While we strive for perfection, it is inevitable that problems will occur. It is therefore important that we focus our attention on the most important issues, namely preventing election failure events, reducing barriers to participation and protecting trust in the electoral system. Our written submission reflects this focus. I would now like to ask Deputy Commissioner Fleming briefly to speak to the three most important operational issues that go to achieving these crucial big-picture outcomes. Thank you.

**Dana FLEMING:** Thank you, Commissioner. I will try to be brief. I am sure the committee have read our submission very carefully. I wanted to touch on three matters that we believe require the committee's specific attention. I would like to talk about, quickly, telephone-assisted voting, how-to-vote cards and election failure risk due to a single-point dependency in the counting time line.

Firstly, I would like to start with our recommendation to improve participation by removing a structural barrier, and that is through extending telephone-assisted voting to those whose voices have not been heard in the main in this inquiry – the homeless, the tens of thousands of people who became unexpectedly ill between the close of postal voting and election day, who had intended to vote in person and had no channel to vote, and the hundreds of thousands of overseas voters, who rely on a postal system that is largely ineffective. We had 1200 votes returned, and a third of those were actually late. Extending telephone-assisted voting would significantly improve participation for these cohorts.

Secondly, how-to-vote cards: with the advent of over 50 per cent of people voting before election day the ongoing utility of a model of registration only for election day does need to be reconsidered. The difference between the registration requirement for election day and early voting is a source of much confusion for voters, and we receive extensive complaints about it. As the committee has heard, it is a highly problematic process for registered political parties, for candidates and indeed us. There is of course the federal model, which does not require registration, but if the committee is minded to keep the registration process, I would ask that the time line be considered and the law be clarified to provide specific requirements – for example, to require an exact replica of a ballot paper be completed formally where all boxes are shown. This is critical in order for the VEC to be able to digitise this process in the future, in particular for registered political parties and candidates, making it a much better experience.

Lastly, I just want to touch briefly on the real risk of an election failure event that occurs in the count time line, which we faced this state election. We have two weeks to count the votes, and in the event of a recount only the commissioner can rule on informality. This task cannot be delegated. As you are aware, Commissioner Gately had to take leave for his health reasons this election, and I had to step in as acting commissioner. In today's world, if I had come down with COVID, no recount could legally have been performed. We only finished the region recounts on Wednesday 14 December. That left three days to do a recount. There is also real logistical risk, if there are multiple recounts, that this task could not be physically completed in the time line. With informality around 5 per cent, that is 15,500 votes in a region recount that would have to be ruled on personally by the commissioner. I just draw your attention to this because a law change to allow the commissioner to delegate this task would easily solve this risk. Thank you for your patience, and I look forward to the no doubt robust conversation today about improving elections for all Victorians.

**The CHAIR:** Thank you. Thank you very much for your opening comments. I know that we all have read through the submission and have got a lot of questions. I might kick it off just with one: can you talk through the recruitment of staff at the voting centres? What are the vetting processes you have to ensure that people are

suitable for the role? What training do you provide? And did you have any complaints about staff, and if so, how were they addressed?

**Sven BLUEMMELE:** I will ask Mr Sutherland to address that. We do touch on that in our submission as well in terms of the numbers, some changes we have done to the vetting process and some changes to the training process, but my introductory response to that is that that is a really big and growing risk in terms of being able to attract staff to do the job. If we do not have staff turning up to do the job, we cannot have an election as we currently do, and so that is something that we are extremely conscious of at all times. It is something that we are investing a lot of effort in, and it is something that I think society needs to invest in, if I can say that. We need that sense of contribution that we rely on, which we have relied on through our cohort of electoral workers for many, many years, but it is getting harder and harder, and we see everything through that lens. So I will ask Mr Sutherland to expand on that.

**The CHAIR:** Thank you.

**Ben SUTHERLAND:** I think in the outset it is important to understand the recruitment drive that we undertook in order to fill our casual pool. Coming into the state election I understand we had a database of approximately 50,000 candidates who had registered their interest to work for the Victorian Electoral Commission; however, we were alert to the federal election experience, where there was a very high dropout rate and in turn a 'yes but no' kind of circumstance when the offers would go out. In that sense a significant effort was undertaken to boost that pool, and that largely focused on our existing channels plus revised initiatives into targeted communities where we had an identified risk.

The casual staff once they register their interest through our portal are asked a series of questions, and those questions identify their suitability for work with the VEC. Those questions relate to political neutrality, the disclosure of criminal offences, and other matters that we consider pertinent to their employment, such as 'Have you worked for an election previously?' et cetera.

It is important to provide a distinction at this point in time between what is our casual pool, which is the 17,500 we employ for election day, versus the 300 that we use as senior election officials. Our senior election officials are a pool that we keep regular contact with and we top up as a matter of contingency. As well we have a commitment to professional development: they go through working with children checks, national police record checks and ongoing professional development relevant to the elections. When I talk about the 17,500, the training that they are provided is obviously dependent upon the role, but there is a stock set of e-learns that they are provided along with core readings, and depending upon their role, there is face-to-face training as well.

**The CHAIR:** Okay. How intensive is the training for the senior officials and the casuals? Could you give us an example? More the senior officials, I guess.

**Ben SUTHERLAND:** Yes. The senior election officials are provided with a five-day intensive onsite session. That is complemented by additional e-learns and readings. We provide a significant amount of information for them to digest and then ask questions on as they return back to the VEC at different points of time. When we talk about our senior election officials, we also promote the idea of undertaking work with other electoral commissions to keep their practice up to date and internal wherever there are new processes they can bring back and refine. We also rely on our senior election officials to be part of a rehearsal and a training session to test our operational procedures.

**The CHAIR:** Does the senior aspect come from having experience, having worked at a previous election, or is it 'I've applied for the job and the VEC think I'm good enough to be a senior official'?

**Ben SUTHERLAND:** There are a number of channels. One is through a series of exposures to the VEC. Some people say they are called to elections, and so they are effectively experienced people we place in senior roles who have a variety of skills, one being technical knowledge, the other obviously being leadership. In the state election we expanded the points of recruitment to the broader VPS, and we pushed pretty hard to get appropriately skilled candidates across into there. We also reached out to neighbouring electoral commissions, in particular New South Wales, and brought some senior election officials down to provide us with contingency.

**The CHAIR:** Got it. And sorry, one last question: if you have got a complaint – so, for example, I did pre-poll in the seat of Kororoit, at Derrimut shopping centre it was, and I know that there were some complaints about one of the officials there, I think the senior official – how is the complaint actually handled?

**Ben SUTHERLAND:** I might defer to my colleague to discuss the complaints process broadly.

**The CHAIR:** Thank you.

**Keegan BARTLETT:** Sure. Thank you for the question. In respect to complaints about staffing, once the complaint is sent in we look to streamline or channel complaints through our complaints system, our complaints online form. But there are other ways that people can make complaints as well: they can log them locally with the election official or election manager, depending on who they are interacting with at the location. Once we receive that complaint – and this applies to all complaints regardless of the subject – it is assessed and triaged by our dedicated complaints team, and then it will be assigned to subject matter leads across the organisation. So if a complaint is about staffing matters, depending on the nature of the staffing matter, it will be referred to those who oversee our field operations team.

**The CHAIR:** So there is not a number per se that you call – you send an email in?

**Keegan BARTLETT:** Obviously, people can contact the VEC's public enquiry service during the election, and that can be one contact point into the complaint system, the idea being that we eventually end up with complaints coming into the one location of the VEC no matter where they originate. But once a staffing complaint is received, it is referred to the relevant subject matter experts – in this case this would be our field operations team – for investigation and response. That includes retraining or responding if there is a significant issue with a particular staff member that we identify as a result of that complaint, and we will engage with their field leaders in the team. It could be the election manager, it could be the voting centre manager, depending on the nature of the complaint.

**The CHAIR:** Thank you. Deputy Chair.

**Evan MULHOLLAND:** Thank you. Thank you all for coming today, and congratulations on your appointment.

**Sven BLUEMMEL:** Thank you.

**Evan MULHOLLAND:** I wanted to ask about the Warrandyte by-election. I understand that as of last night there has been a drop of about 6500 votes in comparison to the exact same time of voting at the 2022 election. What is the VEC's explanation for such a large drop in pre-poll turnout, and can you explain how the VEC notified voters of this by-election?

**Sven BLUEMMEL:** Yes. The second part of that, particularly in terms of notifying voters – there has been a lot of effort we have done on that one, and I will ask Ms Lang to talk to that. But first I might just ask Mr Sutherland to talk about the pre-poll numbers.

**Ben SUTHERLAND:** Insofar as participation, you probably also noted the increase in postal votes – that is effectively double what we projected. We would anticipate in a by-election that the participation rate generally lands at about 80, 85 per cent, which is reflected in the AEC's recent Aston by-election as well. We note that the numbers for pre-poll are effectively on trend, and we anticipate, I believe, approximately 20,000 on election day across the 11 voting centres that have been established. I might hand over to Ms Lang.

**Sue LANG:** Yes, thank you. A comprehensive communication program was rolled out for Warrandyte, and it is still continuing as we speak at the moment. The biggest focus of that was around \$157,000 on paid advertising, so that was in traditional and social media that most of that appeared. In addition to that, we have 50 per cent of the voters on the roll within Warrandyte district registered or subscribed for our VoterAlert service. By the end of the day on Saturday we will have sent, including the reminders that go out that day, 117,000 messages to voters within Warrandyte. In addition to that, there has been very strong media that we have been working with in close liaison. There has been quite a lot of information on the website. The most significant piece of communication really is the digital EasyVote guide, which we sent to those who are

subscribed to VoterAlert. But also that same content is available on the website with the voting centre locator too.

**Evan MULHOLLAND:** Fifty per cent seems a large number in terms of people who are not on that, and I am particularly focused on the people who are not subscribed to the VoterAlert service. Has the VEC attempted to personally contact those 50 per cent of Warrandyte voters that are not on this, and how would you have communicated with those people?

**Sue LANG:** It would be in a similar fashion to what we have done in the past where we found that mailing out a paper EasyVote guide was not very effective. Our research in the past when we used to do that was that increasingly people are expecting less and less mail all the time and are not going to the letterbox as regularly as they used to when we had daily mail. We found through our research that people had either thrown it out, missed it in the mail or just not registered it at all in terms of having received it. We found that we are now sending to all of those who are subscribed direct to their device, so to their phones, SMS – and certainly this was a suggestion from voters as to a service that they wanted – or they receive an email. Most of them receive both.

**Evan MULHOLLAND:** Ms Lang, the research you mentioned to justify the VEC's decision to not send out mail, would that be able to be taken on notice and tabled to the committee?

**Sue LANG:** You would like a copy of that research in terms of mail?

**Evan MULHOLLAND:** The research.

**Sue LANG:** Yes. I would also point out that the AEC is the only one that is still doing a mailed-out EasyVote guide, and they are actually reconsidering whether they continue doing that also.

**Evan MULHOLLAND:** Yes, I was going to say, I have just got here a copy of the Aston by-election official guide letting voters know what the early-voting booths and booths are on election day. From recollection, in that campaign many voters walked in with it, and many voters do still rely on mail, despite research maybe suggesting they do not. Why does the VEC believe that it does not have to provide a mail piece?

**Sue LANG:** We are merely going by what the voters are telling us. I would be very keen to see some research that was done after the Aston by-election to see how many people actually recalled receiving and taking with them to the voting centre those EasyVote guides.

**Evan MULHOLLAND:** I am conscious there are 10 polling booths in Warrandyte that have been removed that were polling booths at the 2022 election, and I am wondering how the VEC contacted people in those areas to let them know that the previous locations have closed.

**Sue LANG:** We have an extremely good voting centre locator available on our website, and we communicate that through all of the various channels I have recently outlined. That voting centre locator during the 2022 state election took 1.78 million people looking up voting locations. I do not have yet the number that will be doing that for Warrandyte, because obviously election day is Saturday, but I would be more than happy to provide that to you. We found also through the research that Google is most often used. Second after that and very close in popularity was our digital EasyVote guide, where people clicked through to the voting centre locator.

**Evan MULHOLLAND:** So the VEC does send voting ballots for postal votes via Australia Post, via mail?

**Ben SUTHERLAND:** Yes.

**Evan MULHOLLAND:** For this by-election, yes. And presumably if a person receives a fine for not voting at this election, how will they be notified?

**Sue LANG:** They would be sent a letter, because that is prescribed in legislation.

**Evan MULHOLLAND:** You mentioned the costs of all the advertising before, something in the order of \$150,000. Would that not be better spent personally notifying via mail every voter that there is a by-election on?

**Sue LANG:** Given the research results and the fact that we are trying to keep cost to the taxpayer down as much as possible, it seemed a very logical conclusion to go digital, and certainly that is what the *Victorian Government Digital Strategy* is encouraging all government departments to do.

**Sven BLUEMMEL:** If I may, Deputy Chair, it is important to note that with all of these new and preferred and most effective methods that we are using we are very conscious that that may not reach everyone, and that is why we do have a quite substantial spend on traditional media as well, including print, including radio and so on. We do not want to assume that everyone who needs to hear the message will want to receive an SMS. Our feedback on all that is very, very good. But we are certainly not suggesting that we are doing away with those traditional channels, because some people prefer that, and they are perfectly entitled to.

**Evan MULHOLLAND:** Was it an executive group decision or was it a decision of the Commissioner not to send mail ballots?

**Sue LANG:** It was a decision of the executive management group of the VEC after having a look at what was happening in other states and some of the research results that we had received. Certainly amongst the younger voters they were very, very keen to have a digital option and had been pushing that for quite some time, probably seven or eight years before we actually started doing that and going down that path.

**Evan MULHOLLAND:** Just on the VoterAlert service, do you have any indication on how many of those would end up in spam?

**Sue LANG:** No, I do not. I would merely go by the number of click-throughs that we had to the website, which increased quite dramatically over this last state election, as evidence that they are not going to spam. Certainly if an email goes to spam, most of the people who are subscribing also get an SMS, so they can get it via either the SMS or the email.

**Evan MULHOLLAND:** If the turnout, say, is below your trend – you said it was on trend with the Aston by-election – will the VEC undertake to review its process in by-elections and informing voters at by-elections?

**Sven BLUEMMEL:** I think generally that is something we do all of the time. We constantly look at data from everything we do and data we can get in between the major events we do as well. It is a very data-rich process that is constant, so we are constantly looking at what the latest experience can teach us. The short answer is yes, we will be doing that.

**Evan MULHOLLAND:** No worries. Thanks.

**Dana FLEMING:** If I may, Commissioner, there is a formal review process after every single election, Deputy Chair, and that is something we do review – how effective were our communication channels? It is a balance, as you have rightly pointed out, between cost and what is the most effective use of the taxpayers funds in communicating, and again I acknowledge that the litmus test will be the participation rate.

**The CHAIR:** Thank you. Mr Tarlamis.

**Lee TARLAMIS:** Thank you, Chair. I too would like to welcome you, Mr Bluemmel, to your new role. You are no stranger to the committee. You have presented before in your previous role, and I look forward to working with you in your new role. I did want to thank the VEC and all the staff and team for the running of the election and the planning in the lead-up to it. Given this is a review of the previous election, we tend to focus on the things that went wrong or could be improved. But there are a lot of things and a lot of moving parts, and it is an enormous task. There are a lot of things that work really well, so I think it is important to call that out as well.

I wanted to focus a little bit on postal votes and postal application provision of data. As you may be aware, political parties and candidates are entitled to receive that data upon request, provided they meet certain conditions, and that is specified in accordance with the *Electoral Act*, specifically section 104A and 104A(1), which requires that information is to be provided upon request as soon as practicable after the declaration and

ballot paper has been issued. In your view did the VEC provide postal vote data in a timely way at the 2022 election, or could there be further improvements?

**Sven BLUEMMEL:** I might ask Ms Fleming to take that in the first instance.

**Dana FLEMING:** Ben, would you like to speak to that? We certainly do believe we provided it in a timely manner, but Ben can speak to the specifics.

**Ben SUTHERLAND:** Yes, I understand we provide it on a daily basis from the commencement of early voting, which is of course when the ballot paper is ready and we are able to share that data with appropriate political parties and candidates.

**Lee TARLAMIS:** Did the point in the election time line when this data was provided differ between the 2018 election and the 2022 election?

**Ben SUTHERLAND:** I cannot speak to that, I am afraid.

**Lee TARLAMIS:** Okay, I will elaborate a little bit further on that. During the election campaign I wrote to the former commissioner, and in a response to me dated 8 November 2022 Mr Gately wrote:

My office will begin providing the information to eligible recipients at the same point in the election time line as occurred for the 2018 state election.

He then in a follow-up phone conversation indicated to me that that point would be at the point when ballot packs were lodged with Australia Post. In response to the Electoral Matters Committee's previous report Mr Gately had indicated that details were provided to parties in 2018 at the same time as they were sent to the mail house or head office. That would appear that there was a difference in the interpretation or the definition of when the data was being provided to political parties.

**Ben SUTHERLAND:** Based upon the assumption that the mail house and lodgement are two separate dates?

**Lee TARLAMIS:** I specifically tried to flesh this out with him, and I was told that at the 2022 election it would be when the ballot papers were lodged with Australia Post, whereas the Commissioner had previously indicated that in 2018 it was when the data was provided to the mail house. The whole idea of this is so that we can align when ballot packs are being posted out and how-to-vote material is being posted out so people can have the necessary information to make an informed choice. That presents a significant difference in the sense that once it is lodged, it is then in the system and going out. Parties and candidates are getting that information, which they have to get to their mail house at the beginning of the process. They then have to process the data, print, fold, insert and mail, and it meant that there was on some occasions at least a two-day delay in terms of parties and candidates getting their material into the mail. So I am just wondering if that was a conscious decision.

**Dana FLEMING:** Look, I am afraid we would have to take that on notice, if that is okay, Mr Tarlamis, and clarify that for you. I was not aware of the shift in the time line, so can we come back to you on that, please?

**Lee TARLAMIS:** Following the 2018 election the Electoral Matters Committee called for improvements to the way in which the postal vote data was provided to parties and candidates. It was recommendation 48 in the previous report. We also called for specific time lines to be put in place to ensure the provision of the data in a timely manner, as I said, so that we can better align those two. The VEC were opposed to placing specific time lines on the process. Given what I have just highlighted in terms of that difference, do you think that we should be trying to align those two and getting that information to us in line with what happened in 2018?

**Dana FLEMING:** I think, again, as we are always trying to seek to improve our services, it is something that we would like to explore better and work out what is feasible. I am just conscious that providing time lines is reliant on us having all the ducks go in a row, that our printing works and that the close of roll goes to time and that the printing is done in the time that we expect. As we experienced in this election, those time lines are not necessarily within our control, and how long that would take is just something I think we would need to consider. And look, I take your point and I understand the pressures that you are under to fold and do your own printing, as it is a mutual problem that we all have, within the time lines. So may I please take that one on notice

as well, Mr Tarlamis, and undertake to come back to you about whether it is feasible or not, or why not, to provide you with the time lines to give you that better advance ability to prepare?

**Lee TARLAMIS:** No worries. Also, with regard to that, the data was flowing on a daily basis once early voting started. The general postal voter information is available a lot sooner, and that information is provided as soon as it is available after the roll is closed, so parties and counts have that some time before. But in the 2022 election postal voting began on 2 November 2022, then the first ballot packs were sent out to voters by the VEC on 14 November 2022, the Monday after nominations had closed and when early voting started. I understand that the reason for this is that the VEC could not issue the postal vote information until 14 November 2022 because section 104A(1) of the Act specifies that you have to have issued the ballot paper, and the question about when that happens at that end part we have already raised. But the practical reality of that is again you have a disconnect where postal vote information is being received from the 2nd, and it is banking up every day until the 14th and you are not able to release that to us. Then we have again that end point where we have to kind of quickly scramble to get that organised. Given that, would you be supportive of a change in the legislation that would align the two so that that information could also be provided on a daily basis from when it begins being received, effectively moving from receiving a big bank-up of data so there is that consistent flow?

**Dana FLEMING:** As you have pointed out, I understand it is a legislative constraint, and the nuance you have already articulated between when the ballot pack is issued. So we do have that data. I would personally be supportive. It would require a law change.

**Lee TARLAMIS:** Yes, absolutely.

**Dana FLEMING:** It makes sense. It would give you more time to prepare.

**Lee TARLAMIS:** Absolutely, yes. No worries. I have got more questions, but I might give some time to someone else and we can come back around, because we have got plenty of time.

**The CHAIR:** Thank you, Mr Tarlamis. Mr Hibbins.

**Sam HIBBINS:** Thanks, Chair. Thank you for appearing today. I just firstly want to go to a section in your submission that goes directly to the Legislative Council voting system. Obviously you have noted in there that it is a matter for legislation, not for the VEC, but you have indicated that the VEC continues to receive a considerable number of contacts from Victorians expressing their concern about the voting system used for Legislative Council elections. Are you able to expand on that and just tell us what is the actual nature of that contact? How are people getting in touch, and what exactly are they saying?

**Dana FLEMING:** I will take that, Commissioner. The complaints are coming through the complaints system, which the Director of Electoral Integrity and Regulation has just articulated, so we have written evidence of those complaints, and that is what we are referring to when we mention that in the submission. There were a variety of complaints expressed in different ways, but I can sum up the general theme as being a general unhappiness with the trading of preferences in above-the-line votes and group voting tickets in general.

**Sam HIBBINS:** And you have recommended that the committee notes the significant concern with the community about the voting system used for Legislative Council elections and identifies opportunities to restore the community's confidence in the Legislative Council elections. Now, obviously we are looking at that through this committee, but would it be fair to say that there is a lack of confidence in Legislative Council elections because of group voting tickets?

**Dana FLEMING:** I think it is fair to say that there is a significant amount of community unhappiness about the current system. The community are aware that we are the only state in Australia left that has this system, and of course the media surrounding a particular trade that was broadcast broadly has made that well known to the public. I think it does go to the integrity of the electoral process. We need the community to believe and trust in the electoral outcomes and that the people who have been elected to represent them were done so properly, and there is no doubt an unhappiness in the community that exists with the current system.

**Sam HIBBINS:** Okay. Thank you. Just on to another topic, we have heard from a number of witnesses and submitters about a desire for a more prescribed or a stronger code of conduct, I think, from volunteers around

polling booths and then also concerns about the nature of those sorts of interactions – you know, harassment, discrimination even. Does the VEC have a view on whether it is possible to have a more prescribed code of conduct or stronger rules around the conduct around polling booths but then also the ability of the VEC to manage that whole process from monitoring behaviour to actioning complaints and what have you – whether there is a need for more resourcing or more training from the VEC's end?

**Dana FLEMING:** Thank you for that question. There is no doubt that the climate has changed over the past three elections and in particular this one. I went and reviewed the data before we came out, and there has been nearly a tripling of complaints election on election in relation to party worker and candidate behaviour. I am going to read out what one candidate wrote to us in the election – that this:

... was one of the most bitter, divisive, and antagonistic campaigns of my 16 years in politics.

I can only concur with that, and I think the voters' experience as a result is not dissimilar.

To your question about a code of conduct and what else could we do, you will be aware that we ran a low-sensory voting trial this week at the Warrandyte by-election. I personally wrote as acting commissioner to every single candidate and party in relation to that, and they were briefed the day before and then they were briefed in the morning, and they were asked to not approach voters who are neurodiverse and who struggle to participate in person. I can only say that that trial was a failure. So if we cannot rely on good behaviour, asking them to behave for our most vulnerable voters, I must admit I would have some concerns about something as simple as a code of conduct unless there were consequences for the behaviour and breach of that code of conduct.

In terms of the VEC and our ability to manage this situation on the ground, I do believe there is a gap. So we are at the moment left with, 'Could you please behave nicely or we remove you from the voting centre and charge you with a criminal offence.' I do not believe they are good tools to have in your toolkit when we are clearly seeing a need for intervention on an escalation basis and some intermediary actions that could be taken to create consequences for behaviour that might circuit-break a situation before it escalates to needing to call the police. So our staff are trained to go out, to try and ask people to behave, to remonstrate with them. They can then ring their election manager, and we will ring the party themselves or the candidates. As you will appreciate, they are often very busy on election day. They have limited capacity to respond. What would be better is if there were some consequences that could be utilised on the day – fines, things of that nature – and we will be putting some of those recommendations in our report to Parliament. But yes, I think there is a need for change to respond to an environment that has clearly changed.

**Sam HIBBINS:** Yes. Is resourcing for the VEC a factor? Will it require more resources if it takes a stronger

**Dana FLEMING:** I do not think it is necessarily resourcing. We do train our senior election officials as much as we can. They are very sensible people who do try to intervene and remonstrate, and in many cases that is effective. We must realise that there are 1765 booths on election day and it is only isolated instances of this, but there is a gap in our ability to respond and their ability to respond. If they could go out and issue formal warnings, if they could perhaps issue a fine at the next stage, if they could have a graduated response to circuit-break an escalating situation, I think that would be much more effective, whereas at the moment we have very limited capacity to respond. I think our senior election officials are very capable and could use those powers effectively if they were given.

**Sam HIBBINS:** Yes. Okay. Thank you. It has been raised by a number of witnesses, again, the issue with commercial venues, particularly, being used for pre-poll and effectively a third party then having control over what volunteers can do and what can happen. I note in your submission your top recommendation or number one recommendation is actually a way of having more community venues used for early voting. Are you able to expand on that?

**Dana FLEMING:** Yes. I will hand over to our Director, Elections to answer that question, but thank you for raising that. The challenges in sourcing suitable accessible sites that do not have staircases for people to access – we are really conscious of it, and it has been a particular challenge this election, hence that top recommendation. On that note, I will hand over to you, Ben.

**Ben SUTHERLAND:** Thank you, Deputy Commissioner. I believe on 27 March I outlined some of the challenges we experienced in trying to source appropriate venues, and we took on notice investigation into the

throughput of some sites in particular. You will note that we publish our early voting sites as soon as we possibly can, but because we are at the mercy of the market, that gets delayed and sometimes it is only 90 per cent of the sites. The idea of transitioning to sites that receive community funding gives us greater certainty. It reduces the pressure on the time line that we currently experience and it also opens up sites that we know have to comply with accessibility legislation when we ourselves struggle to find commercial premises that do.

**Sam HIBBINS:** Okay. But the recommendation is to have some sort of mechanism where you can actually compel groups to provide you with the venues.

**Ben SUTHERLAND:** Yes.

**Sven BLUEMMEL:** That is only for certain types of venues that are publicly owned, funded, managed, that sort of thing –

**Lee TARLAMIS:** Council ones.

**Sven BLUEMMEL:** Those sorts of things, that is right – community groups in certain cases.

**Dana FLEMING:** And it would be on a similar basis that we work with the Department of Education to do an election day. So it is not a unilateral ‘We come in and dictate’; we would of course negotiate and cooperate with the local councils.

**Sam HIBBINS:** Great, thank you. I just have one more. We had a number of psephologists indicate the gap between the data that is published on the VEC website and then perhaps the standard that is at the AEC website and indicate obviously it would be preferential to do things like booth-by-booth two-party preferred, things of that nature, but indicate that potentially there is a barrier there in terms of the VEC system. Is that the case? Does that require upgrading to publish more post-election data?

**Dana FLEMING:** Yes. I am aware of that issue, and it is something we are working towards rectifying. It was just something that we were unable to put in place for this election, but it does need a system fix, yes, and we are working towards that to provide that additional information.

**Sam HIBBINS:** Okay. It is not an extra resourcing or funding barrier?

**Dana FLEMING:** No.

**Sam HIBBINS:** It is just something that just –

**Dana FLEMING:** It is just a configuration issue. We had a major revamp of our electoral management system, and unfortunately that was one aspect that we were unable to get ready in time for this election.

**Sam HIBBINS:** Okay. Thank you.

**The CHAIR:** Thank you. Thanks, Mr Hibbins. Ms Vulin.

**Emma VULIN:** Hi. Thanks for coming. I just want to also, like Mr Tarlamis said, thank you and your staff and teams that helped the VEC to run our election. I appreciate that. Your submission makes a number of references to the vote counting that occurred on election day and then counting rechecks that occurred from the following Monday. It does not, as far as I can see, make mention of activity on the Sunday. However, in the Pakenham district, for instance, the early voting centre two-candidate preferred counting was done on the Sunday without candidates being notified, because the election manager did not consider it a count. No scrutineers were present, and significant count errors were made that were later picked up by scrutineers during the recheck. Can you tell me if this was an error on the part of the election manager, or is that accepted practice?

**Sven BLUEMMEL:** I might ask Mr Sutherland to answer that, please.

**Ben SUTHERLAND:** In that sense we do require our election managers to broadcast counting activity for the purpose of scrutineering, and I take on notice the observations you have provided and I would like to investigate them further.

**Emma VULIN:** Thank you. So following on from my last question, we have heard from other witnesses who have expressed similar concerns about incorrect information given to both candidates and scrutineers about when and what count is occurring. How satisfied are you with the accuracy and time lines of communication from the VEC to candidates?

**Ben SUTHERLAND:** I appreciate, particularly following election day, that the updates at the central activity site were quite late at night, and it did put pressure on registered political parties to organise themselves to dispatch scrutineers to observe certain counts, particularly those in close seats. It is a commitment that we take as part of our intention to continuously improve to fix this and provide it in a timely way in a very visible format.

**Emma VULIN:** Okay. I was going to ask if you have ever undertaken any review of this, so obviously you are looking at that now, perhaps.

**Ben SUTHERLAND:** Very much so, as it is something that we received feedback on through the event.

**Emma VULIN:** And I just wanted to know: is there a record kept of such notifications, both formal and written and direct verbal, and how does that compare with when and what was actually counted? I do not know if you keep a record of what they say to candidates.

**Ben SUTHERLAND:** Particularly at the centralised activity site, I can talk to the fact that there is very much a record and one that is reconciled against the day's activity so as to avoid circumstances where either parties dispatch scrutineers or candidates dispatch scrutineers and the work does not complete. But again, if I can take it on notice to discuss the process for each election office, that would be appreciated.

**Emma VULIN:** Thank you. And on another topic, you state in your submission that privacy-related complaints increased seven times in the 2022 election compared to the 2018 election. I was just wondering if you can provide the actual number of complaints received and a breakdown of what the complaints referred to.

**Sven BLUEMMEL:** Do we have that, or do we need to take that on notice?

**Dana FLEMING:** Take that on notice.

**Sven BLUEMMEL:** We will take that on notice. But if I can just say, especially given my previous role as the Information Commissioner, this is a really, really important issue. Of course as in so many things that involve trust, the reality is very, very important, but so is the perception. We do receive complaints about things like privacy, about the VEC having disclosed someone's information when we have disclosed it to someone to whom we have to disclose it under the legislation and then that party or that person uses it. So it is then a sort of a misconceived complaint in that regard. But as I said at the outset, the perception is just as important, so we will get those figures back to you.

**Emma VULIN:** Thank you. Thank you, Chair. I will let everyone else have a turn. Thanks.

**The CHAIR:** Thanks very much, Ms Vulin. Mr Battin.

**Brad BATTIN:** Yes, thank you very much, and I will join everyone else and welcome the Commissioner. It was good to see you out at the Warrandyte preselection the other day. Sorry, not preselection – we will go back to the by-election, unless you are going for a new role.

**Sven BLUEMMEL:** I do not recall attending that, no.

**Brad BATTIN:** First of all, can I just clarify, sorry, with Ms Lang – Ms Lang, before you stated that the research you had done in relation to people using digital versus mail, that you would make that available to the committee. Can I just confirm that was correct?

**Sue LANG:** Yes, I can provide all of the research that relates to how people use mail and how people would prefer to be advised of anything electoral related. We certainly have that, and I am happy to make that available.

**Brad BATTIN:** No worries.

**Sue LANG:** I might just add on that, because I feel I did not perhaps answer Mr Mulholland's question totally to his satisfaction, that one of the things we also need to take into account is the changing model of Australia Post. They have said that they are not going to be delivering mail to households within the next decade, so we do need to get ahead in terms of that digital communication.

**Brad BATTIN:** Okay. Thank you very much for that. Could I just ask in relation to what you said about alerts – so you notify via alerts or email; can you give us the age breakdown and profile of people that have signed up for these alerts?

**Sue LANG:** Yes, we can. I do not have that with me, but I can certainly tell you – particularly with those aged 18 to 39, so the group who are most likely to have issues with participation – we did look at comparing the participation rate of those who do not receive voter alerts and those that do, and there was a 10 percentage point difference between them.

**Brad BATTIN:** Okay. If you can make that data available as well, that would be fantastic.

**Sue LANG:** Absolutely.

**Brad BATTIN:** Also – and this is not so much a question – we just want to make sure that we can have a guarantee that using alerts and no longer using mail is not discriminatory against older Victorians, particularly those in regional areas. That is something I think we need to make sure as a committee that we take into consideration. That is not a question at the moment, Ms Lang. That is just to make a statement: we need to look at that. What print adverts were used during the Warrandyte by-election? You said there was money spent on print. Where was the print advertising spent?

**Sue LANG:** That went to the *Herald Sun* and the *Age* newspapers and also radio –

**Brad BATTIN:** Okay, so nothing in local papers.

**Sue LANG:** In Warrandyte there was social media –

**Brad BATTIN:** Not social media, just print.

**Sue LANG:** Print – I believe it was just the metropolitan papers, but I will confirm that.

**Brad BATTIN:** We obviously have another issue with local papers. We used to use a lot of local papers, but the government policy seems to have moved away from that. It is obviously harder and harder because less and less of them get delivered. I know Ms Vulin and I are probably in two of the rare areas where local papers are used quite extensively, but many are not. We just want to make sure that if we are going to be using print, it is going to be delivered to homes, and we know less and less people read the *Herald Sun* and the *Age*. Were those adverts just in print, or was there other advertising, like with the *Herald Sun*, on banners, online et cetera?

**Sue LANG:** No, they were just print advertisements.

**Brad BATTIN:** There are options there as well where I think VEC – we can probably put this as a recommendation later – can use banners et cetera that are targeted to specific areas. That may be an option for the future as well that we go into there. Did we send any letters out for the Narracan by-election?

**Sue LANG:** Do you mean like a paper EasyVote guide?

**Brad BATTIN:** Yes.

**Sue LANG:** No, it was a digital EasyVote guide for Narracan.

**Brad BATTIN:** So a similar model to what we were doing for Warrandyte.

**Sue LANG:** Exactly, yes.

**Brad BATTIN:** And the previous by-election – it was a bit before that – what about Northcote in 2017?

**Sue LANG:** We did not use a digital version at that point. We were still using mail.

**Brad BATTIN:** You were still using mail then, okay. Can we find out then, just to get the data back for our committee, the age profile of the people who were not voting in those by-elections versus elections – so if it made a difference, sending out mail at the time. Was there a difference in the non-turnout or people not voting between 2017 and our 2023 by-elections? What was the age profile of people that did not turn out to vote? So did we have a disproportionate number of older people not vote in the by-election of Warrandyte and the by-election of Narracan compared to that of Northcote? Did it make a difference, removing the mail, in the age profile of people who were in the not-turning-out-to-vote category or failed to vote?

**Sue LANG:** We can certainly do that, but I can tell you from all of the research that we have looked at that typically voters from 50 years and older are very good at turning out. The participation rates are very high. It is that 18 to-39 age bracket that is the most problematic, but of those who are subscribers to the VoterAlert service, the majority are within that age group. But we have people of all age groups. I would be very happy to share all of that information with you.

**Brad BATTIN:** It is only to see if it does make a difference. If all of a sudden it dropped in the older age group when you were not using mail, that would be very interesting to see. Thank you for that. I am just going to change topics.

**Dana FLEMING:** Before you move on, Mr Battin, may I just mention in the case of Narracan, because it was such an extraordinary situation, we did do a lot of local print advertising in that particular district.

**Brad BATTIN:** That would actually be good to get as well, if we spent more money on local print. Again I would say that is an area where – I have got family down there – they probably read every local paper, so it is probably a very good investment, to invest in those areas. I understand it would not be in other specific areas. That would be fantastic as well, thank you.

In relation to another one, we had discussions at the last committee hearing about the VEC's engagement strategy at the 2022 election. There was a discussion about the approvals process for Ms Lang's media representation on 18 November 2022. I asked a question about Mr Gately, and then Ms Lang advised that the former Electoral Commissioner was on leave at the time of the interview. Subsequently *Hansard* was corrected to say the Electoral Commissioner was not on leave at the time and that Ms Lang misspoke. I will ask again for the clarity of this committee: as the former Electoral Commissioner was not on leave at the time, can you please explain whether the former Electoral Commissioner authorised Ms Lang's interview at the time with Neil Mitchell?

**Dana FLEMING:** Thank you for noting on record that we did make a mistake, so thank you for making that clear. The process for running media is devolved to our media unit, and that of course is Ms Sue Lang, who is the head of that unit. It is not possible in an election to have every radio interview and every item go to the Commissioner. He is dealing with many, many issues, and we do implicitly trust our Director of Communications and Engagement, who has been with the VEC for over 20 years. So I simply say that I apologise for the misspoken data that was provided to the committee last time, and we sought to correct it. I am not sure, Sue, if you wish to add anything, but I think that covers your question.

**Sue LANG:** No, that is right. It was a very busy period, in particular on those couple of days.

**Dana FLEMING:** And they are the accepted protocols that have been in place and are around all year, Mr Battin.

**Brad BATTIN:** Yes. Can I just confirm, though – sorry, even in the answer there – the question there was on the former Electoral Commissioner. Did he authorise that or did he not? I know you said that there were protocols. On that specific one, did the former Electoral Commissioner authorise that interview?

**Dana FLEMING:** No, nor would he authorise any other interview under our policies.

**Brad BATTIN:** But at no stage does a commissioner authorise or not authorise any media interviews – is that what you are saying for the committee?

**Dana FLEMING:** On radio? No.

**Brad BATTIN:** Okay. In defending this decision that went through to do some media, Ms Lang told the committee at the hearing:

After that statement went out, Mr Neil Mitchell called us and asked us to come on air to talk about that particular release and we said, 'We will not be making any further comment about that release.' So we knocked that interview back.

Ms Lang also told the committee:

We expressed to his producer several times before going on air that we would not be talking about IBAC referral. Regardless, he asked the question. I did not say anything further than what was in the contents of the release at the time. I also remonstrated with him afterwards about having been put on the spot about that given that we had said that we were making no further comment.

Ms Lang, do you stand by those comments?

**Sue LANG:** Yes, I do.

**Brad BATTIN:** Okay. I have spoken to Mr Mitchell, and he states quite clearly that he was very clear that he was going to ask you about the IBAC referral and he even put this in writing in an email. Given this, why did you still proceed with the interview, and were those who approved the interview, including possibly Mr Gately, aware of Mr Mitchell's insistence that he would be asking about the referral? In saying that, Ms Lang, before you answer, misleading the hearing is misleading Parliament. I would ask that you supply the emails provided in relation to the questions that were put forward to you – that you were aware you were going to be asked about the IBAC referral and that you were asked on air, but knowing you were going to before you went on.

**Sue LANG:** I am very happy to provide the record that we have in our media log: of the request for interview; what the producer asked; what we advised the producer the day before, which was the one where we were specifically asked to come on and speak about the IBAC referral; and on the day, where we said we would not be commenting on IBAC.

**Brad BATTIN:** Hold on, originally you said you were not going to speak on it, then you said that it at no stage was. But Mr Mitchell was quite clear in his statement to me that they were very specific they were going to be asking you about IBAC. Why did you proceed with the interview knowing this?

**Sue LANG:** I was told that his producer had asked if he could speak about that. I said I would be making no comment – to my team.

**Brad BATTIN:** Okay. But in your original statement you said that it was agreed that he would not ask, and now you are saying that you told them you would make no comment.

**Sue LANG:** No, no. I believe I said originally that we advised we would not be speaking about that topic.

**Brad BATTIN:** Okay. Ms Lang, I am struggling with this one, because as you understand from our specific side of politics – I know these committee meetings are not political – this was a huge issue coming into the election that I think the VEC still has a fair bit to answer on. So can I please request and please have confirmation – and if it is not from you, from the Commissioner – that all records, all emails and all discussions in relation to that interview prior and post are made available to this committee so they can be put on record as to what happened, including emails to and from Mr Mitchell or his producer, to ensure that the committee has the full details? And if anyone from this has misled this committee, they should be held accountable, because this is super important to the committee and the process going forward.

**Sue LANG:** Yes, absolutely. I would be more than happy to provide those records. I know that there is a concern that that interview carried extra media over the next couple of days which the Liberal Party believes was damaging to it. But in fact I would offer that it was the Liberal Party's response to my interview that kept the negative media going for the several days.

**Brad BATTIN:** I am sorry, Ms Lang, I do not believe you should be putting that on the record, in here anyway, but our response to that was because you went on to media. So please do not turn around and say it was because of our response after. If you had not gone on, knowing they were going to ask about IBAC, we would not have needed to respond. So I think it is unfair for you then to say it was our response. You put us in a position where we had to respond. I think that was the position that was unfair. And as someone said in that

room, the acting commissioner at the time, with your experience within this you would have known that. So I will request again: can we please just get all those documents here? And we can then assess where it needs to go from there.

**Dana FLEMING:** Mr Battin, can I assure you that we will provide you with full information. We are absolutely invested in being transparent about this process. May I make just some general comments about that particular aspect, and I am of course reiterating what Mr Gately said at the earlier review. It is our role to administer and regulate the *Electoral Act*, and we cannot stop that and press pause when the election is on. Of course the regulation of donations is a new role for the commission and one perhaps all participants are therefore getting used to. Since the state election we have reviewed our model and our process, and we have looked at other regulators who have a similar role and process in place. I think we must acknowledge that there is a gap in our procedures, in that we have not been 100 per cent transparent with those participating in those processes about what the VEC's approach will be. It is not published on our website, when we are involved in an investigation what we will say about the outcome of an investigation.

I do want to assure the committee that we recognise this is something we need to improve on, because while it is critical from a public perspective that they do have confidence that we will act and that we are not a toothless tiger and if complaints are made that we will investigate them, at the same time it is our responsibility that for those people who are under investigation they absolutely understand what they can expect from us, and that is critical for them to be able to make informed decisions about how they wish to engage with us. So I do want to say we will seek to continue to improve our processes around this. It is a new role. It is of course a common model across Australia where other jurisdictions have a similar model, and we are looking to improve it. I hope over time, and we welcome any feedback, that we will all become as used to this new role that we have to conduct in the donation space as everyone is with our compulsory voting enforcement role.

**Brad BATTIN:** No worries, thank you. On that, just because you have expanded it from there, in relation to the *Public Administration Act* there has got to be a section on impartiality. Given the fact that you have just stated that there were questions at the time and given that it had to be spoken about at the time – and you said obviously there were internal discussions in relation to this, which we now assume that Mr Gately did not know from what we have heard from Ms Lang just before – did any internal investigations take place in relation to this at all?

**Dana FLEMING:** I am sorry, I am not clear on the question, Mr Battin. Investigations at what point about what?

**Brad BATTIN:** Well, obviously we put forward, the Liberal Party, post a comment from Ms Lang in the media, a complaint around this. It was stated at the time that Ms Lang went out to the media, and there have been different discussions about who knew what. But at the time we put our complaint forward, was there any investigation at the time prior to the election or even just post about the impartiality of Ms Lang or of anyone in VEC under the *Public Administration Act*? Has there been any investigation into this at all, or is this the first time it has been spoken about, in this committee eight months later?

**Dana FLEMING:** I am sorry, I am not quite clear. Are you asking about an investigation into the complaint or into the process?

**Brad BATTIN:** Was there any investigation? It is a very clear question. Was there any investigation in relation to impartiality? We put forward a complaint. Was there any investigation undertaken?

**Dana FLEMING:** Right. Thank you for clarifying. I was just struggling to understand whether you were asking about the actual investigation itself, which we cannot comment on, or about the process, so thank you for clarifying. I would say that we were obviously in a very difficult position. I cannot speak for the Commissioner, who made that decision at the time, and what his thought process was, but I can say that we do recognise that we need to improve our processes. That is what we have been reviewing, and that is what we are in the process of doing now. We will be publishing those processes transparently on our website in the near future.

**Brad BATTIN:** Okay. Was there any investigation at the time or post in relation to this internally, yes or no?

**Dana FLEMING:** No, I do not believe there was an issue with the impartiality of the agency.

**Brad BATTIN:** Can we get any data, documentation or emails et cetera available on this in relation to what discussions did take place after so we can ensure that it was handled correctly internally at the VEC, not just between Ms Lang and the producers of 3AW? What communication happened internally?

**Dana FLEMING:** Well, there was no investigation, so I am afraid there are no papers in that respect to provide you with, Mr Battin.

**The CHAIR:** Mr Battin, my understanding is that the emails will be produced and put forward.

**Dana FLEMING:** That is right. Thank you, Chair.

**The CHAIR:** So that has been confirmed.

**Brad BATTIN:** Yes. And then there would have been – I am sorry, Chair – I am assuming, discussion post this. So after the interview, after our complaint, there must have been some discussion in the VEC on what happened. There must have been a process, whether it was an investigation or not – some form of discussion, I assume, most likely, probably, via email. Can we get a copy of those emails between staff in there on whether a decision to investigate or not was made after our complaint was made?

**Dana FLEMING:** Okay, so now you have moved from the process to the complaint. I can ask my Director of Electoral Integrity and Regulation to speak to the complaint, which is a separate issue.

**Keegan BARTLETT:** To call it a complaint, Mr Battin – there was correspondence that we received from the Liberal Party. It was a cease-and-desist letter that was I think also published publicly at the time. I understand that the Commissioner and the commission responded directly to that cease-and-desist notice. So it was not received as a complaint, it was received as correspondence to the commission as a cease and desist for public commentary.

**Brad BATTIN:** And there was no more discussion internally on that? It just appears very selective. But there was no more internal discussion on this, is that what you are saying?

**Keegan BARTLETT:** The intention was for a timely resolution response to the letter from the Liberal Party or its lawyers – I cannot recall whether it was either directly from the Liberal Party or a legal adviser representing the party. But certainly our intention was to respond to that and resolve that issue that had been put before us as quickly as possible.

**Brad BATTIN:** Okay. Once it was received –

**The CHAIR:** Sorry, Mr Battin, I am mindful that other members of the committee also have questions, so let us make this the last one.

**Brad BATTIN:** I just have the one. Yes. Okay. When you received that email, there would have been a chain from that email, from who it was directed to to making a decision. Will you make available for the committee the chain of those emails on how the decision to just respond, or how to respond to the Victorian Liberal Party, was made?

**Keegan BARTLETT:** My recollection – and I will certainly check this – is that that was sent directly to the Commissioner and the Commissioner prepared a response. But I certainly will check that, and if that is correspondence that the committee is interested in seeing – and I believe the cease-and-desist notice was published by the Liberal Party – then we certainly can provide the VEC's response to that notice as well.

**The CHAIR:** All right. Thank you. If we have additional time at the end, Mr Battin, I will come back to you. Moving on to other members – Mr Lambert.

**Nathan LAMBERT:** Thank you, Chair. I am conscious, I think the Member for Lowan is still to come –

**The CHAIR:** She is, yes.

**Nathan LAMBERT:** so forgive me for making the questions relatively quick-fire and jumping around a bit without too much of a preamble. We heard earlier from Mr Matthew Potocnik, who was advocating for his son Levi and Victorians with a disability. He raised the possibility of making NDIS participants part of the automatic enrolment or direct enrolment system. Am I right in saying that that would be a matter for the AEC, or does the VEC independently have the capability to undertake a direct enrolment arrangement with the NDIA?

**Dana FLEMING:** There would be no different process for a person with a disability to enrol than an ordinary person. We do do direct enrolment processes through the Victorian curriculum authority and – I am forgetting the other one, Ben –

**Ben SUTHERLAND:** The department of transport.

**Dana FLEMING:** the department of transport, which perhaps are not ideal in this particular aspect. We exchange data weekly with the Australian Electoral Commission; it is a joint roll. They also have access to enrolment through Centrelink and the Australian Taxation Office. So there is an opportunity, and what they would do is: if they enrol someone through their direct enrolment process, that is then updated in our roll automatically. So I think the process would already be working, is perhaps the answer to your question. But I am happy to double confirm for you.

**Nathan LAMBERT:** Yes. Sorry, perhaps I was not clear enough. The NDIA maintain a database of NDIS participants. That is a database that is separate to those currently used in direct enrolment processes – well, as I understand it – and Mr Potocnik is suggesting that the NDIA's database be added to the sources for direct enrolment.

**Sue LANG:** Mr Lambert, if I may take the opportunity to respond to this question, because I know Mr Potocnik quite well, he used to in fact work for the VEC, which I am sure that he shared with you. His view – and I appreciate where he is coming from and I certainly have a lot of sympathy – is that all who are listed with the NDIA are compulsorily enrolled or directly enrolled. The issue becomes for us, then, if the person is put on the roll in that manner, how do they then vote when they are not able to speak or it is not clear how they can make a choice for whom they wish to vote? It is not up to VEC staff at voting centres to determine if somebody has the intellectual capacity to understand the nature and the significance of voting, so that is where the problem lies there. I also think it would be a matter for the NDIA to consider whether they release sensitive health information along those lines also. I know certainly when I met with them a number of years ago they were reluctant to do so.

**Nathan LAMBERT:** Sorry, if it were direct enrolment, there would be no transferring of health information, in the same way that we do not transfer from VicRoads information about people's traffic fines. It is just the names and addresses, isn't it?

**Sue LANG:** Yes, that is correct. We generally do – sorry, I will reconsider that sentence. Mr Potocnik's aim is to have people with all sorts of disabilities on the roll and required to vote. I know that I went out to a disability centre on his behalf one day when he was not able to attend, and there were four people in that house who had been enrolled through the auspices of the house manager at the time. I attempted to communicate with those four individuals. Only one of them had speech capability, and that person I could not engage in a conversation about enrolling and voting because they were not clear on what it was I was trying to communicate. I am not sure how the VEC and our staff could be expected to, firstly, engage with these people in a meaningful way to help them understand how to vote, and secondly, how they would then proceed to voting without, arguably, a carer or somebody who would be voting on their behalf. We already have a lot of people who are in the nursing and aged care industry and in accommodation who have concerns about others voting on their behalf. So it is just a fraught area, from my perspective, and one that would be virtually unadministrable.

**Nathan LAMBERT:** Right. Well, look, I will move along. Just saying a few different things I suppose just on Mr Potocnik's behalf, certainly my understanding is – and as we well understand – we are trying to, with disability, cover a very wide range of circumstances of which some raise questions of capability, as you have raised, but many do not. I think his general argument was that if we get to a position where these people are in the system, we have some way to at least work out how well we are doing in terms of providing inclusion and

incorporating people into the system. But I will leave it at that. I just thought, in fairness to him, that he is very conscious of the capability issue that you just raised, that would suggest.

**Sven BLUEMMEL:** Mr Lambert, might I just make a very brief comment on that as well?

**Nathan LAMBERT:** Sure.

**Sven BLUEMMEL:** There is a very, very strong commitment that I have already observed in word and action from the staff of the VEC to be as inclusive as possible to ensure that everyone who is entitled to has the opportunity to exercise their democratic right. We do look at that as a really, really important factor. What you have said there I think just gives us a bit more food for thought in terms of other mechanisms that we can look at, but I know that across the whole of the VEC that issue of removing barriers, whatever they might be, is a real priority area. That is built into our work plan, so thank you for raising that.

**Nathan LAMBERT:** Thank you. A different topic – Mr Toncich this morning spoke about walking in a postal vote ballot paper, which is something you might have caught. We know that there are usually some people who are marked off twice on the roll as having postal voted and having attended an ordinary voting centre and voted, or indeed postal voting and another non-ordinary voting method. Do we have a sense for how many people in the 2022 election did that?

**Sven BLUEMMEL:** I think I might ask Mr Sutherland to answer that question, please.

**Ben SUTHERLAND:** We do, and we can provide those detailed numbers to the committee. In that sense, our initial observations are that in essence it is a fear that the postal ballot will not arrive by election day or separately that the family of a committed individual escort them to either an early voting centre or an election day voting centre to ensure that they do vote. The process insofar as presenting at either an early voting centre or a voting centre with a postal ballot is that the appropriate election official provides the elector the opportunity to vote onsite or separately take the postal ballot and place it into the declaration vote ballot box.

**Nathan LAMBERT:** If you can take it on notice just to get those figures, and if they are available historically, that would be great. And as I am sure you are well aware – perhaps some age split, even if it is just sort of over 70 and under 70, because I do understand that there is a very pronounced aged skew to that dataset, that would be great. Are ballot papers for the election printed on FSC-certified paper? What is the paper stock?

**Ben SUTHERLAND:** I would need to take that on notice. I can tell you the GSM; I cannot tell you the FSC.

**Nathan LAMBERT:** That is all right; take it on notice. We spoke with Associate Professor Teague about audits of computerised rechecks. She noticed that the error rate was close to a per cent in some audits conducted in other jurisdictions. We had a computerised recheck in Preston, but I am not sure I should be calling for an audit of it. Are computerised rechecks for the Assembly audited?

**Ben SUTHERLAND:** I might just defer to our Chief Information Officer.

**Sven BLUEMMEL:** With your leave, Chair, we actually have our CIO in the room in the gallery. If the committee would like to pursue this, he would be the best person to answer that, but I will leave that in your hands.

**The CHAIR:** I see no problem with that.

**Sven BLUEMMEL:** I will introduce the VEC's Chief Information Officer Mr Chris Pivec.

**The CHAIR:** Thank you, Mr Pivec.

**Chris PIVEC:** Good afternoon. Maybe I will just first ask for clarification: was it regarding the detail of the computer code underneath it or was it regarding the business process for auditing?

**Nathan LAMBERT:** Sorry, the specific suggestion was in fact that you take a set of hard ballot papers, if you like, and make sure that they had data entered correctly.

**Chris PIVEC:** I will probably refer that back to the director of elections.

**Ben SUTHERLAND:** Apologies for misinterpreting the question and my readiness to defer to the Chief Information Officer, noting his eagerness to respond. Yes, that is part of our practice to ensure that the ballot papers that are put into the desired packs of 50 are checked against what is entered, and it is observed by a second party as that process undertakes. You will also note that the electronic recheck, as you referred to it, is observed by scrutineers throughout that process and is able to be challenged.

**Nathan LAMBERT:** Great. And if you can just take on notice, maybe, what error rates you have seen in those checks, that would be of interest. While we have the CIO, I am might jump to something else really quickly. There is an ongoing debate about using the weighted inclusive Gregory or inclusive Gregory method. Should we switch to weighted inclusive Gregory? Is there any difficulty with that from an IT perspective? Presumably it is straightforward.

**Chris PIVEC:** How fortunate to have another question that I will deflect back to the greater expertise in the room.

**Dana FLEMING:** Can I take that one on notice? I am not a psephologist, and it is a very technical question. I actually did endeavour, because I had heard it come up, to ascertain which one our current system uses, and I have not got that answer yet. So can I please take that one on notice?

**Nathan LAMBERT:** I am very happy to. If I can then move to a different topic, the Member for Pakenham touched on the privacy stuff and the number of complaints received. I think a lot of us who have been involved in the roll data side of election campaigns have often worried about the fact that that roll data is not especially secure in some cases, and I think many of us have reasons to believe that it may have been provided to third parties during elections. Does the VEC have any evidence of data breaches of that nature having occurred?

**Sven BLUEMMEL:** Just to clarify there, are you talking about that sort of data while it is in the custody of the VEC or in the custody of –

**Nathan LAMBERT:** No, no. I am talking about once the VEC has provided it to candidates and parties.

**Sven BLUEMMEL:** I will ask my colleagues to expand on that, but the underlying issue there, as I am sure you are aware, is that political parties are exempt from the federal *Privacy Act*, unlike most other organisations or agencies. That is a controversial exemption to the federal *Privacy Act* and therefore the level of regulation that directly applies to them is limited, but of course there is some protection under the electoral legislation. But I might ask Ben or I might ask Keegan to answer that, please.

**Keegan BARTLETT:** Certainly at a high level, Mr Lambert, through you, Chair, the types of complaints that we get or the motivations are when people who receive the enrolment data under section 33 of the *Electoral Act* then combine it with other datasets and then present it to electors or people they contact using that data as solely VEC data. For instance, the law requires a list of electors and their particulars to be provided to various people, including candidates and registered political parties, on a regular basis for political parties. Once that is provided it is practice for some of the recipients of that data to then merge it with other data that they have access to, and of course that gives them access to email addresses and phone numbers, and when people who potentially do not want to be contacted complain, then the response that they get from those recipients is, ‘Well, we got it from the VEC.’ So –

**Nathan LAMBERT:** Sorry, in the interests of just getting to the point, the question here is simply: in the *Electoral Act* there are three purposes – I cannot remember them off the top of my head – for which you can use the data. Is the VEC aware of any breaches in the sense that data went to a candidate or a party and then was used for a reason that is not one of those three reasons?

**Keegan BARTLETT:** We certainly have had allegations in the past about it being held on to or not used in connection with the permitted purpose. Those permitted purposes are in connection with an election and to verify the accuracy of the register – and of course there is a very broad concept there of ‘in connection with an election’. Those are some things that we certainly are alive to. The suggestion of providing it to a third party if it is in connection with the election – and often political parties, for instance, will provide it to their mail house. Is that a third party? So I think the underlying principle of your question, Mr Lambert, is certainly something

that we have raised in our submission to say that the application of section 33 and the availability of the data once it leaves the VEC's warehouse, once it is made available to candidates and political parties – the ability for the recipient of that data, with the regulation that applies to the recipient of that data, is very limited. So yes, we have had allegations that it has been misused. The ability to prove and test those allegations over time – and this is going back many years as well – is certainly complicated, but the underlying principle of your question is exactly why we have made that recommendation in our submission.

**Nathan LAMBERT:** I am conscious I want to leave as much time for the Member for Lowan as I had, but perhaps if it is possible it goes to Mr Bluemmel's expertise here to provide just a little bit more information on notice about what PDP compliance would look like. I think it is certainly a recommendation where the detail will be important in considering how we take it on, so if it is possible to take that on notice, that would be great. A very quick final question from me, and then I will hand over: did the VEC during the 2022 election receive complaints about political opinion polling, and does the VEC believe that that is within its regulatory remit?

**Sven BLUEMMEL:** I might ask Mr Bartlett to talk about the last election in that regard.

**Keegan BARTLETT:** Opinion polling certainly is not a live category of complaints that I recall seeing come through. We had a wide variety of complaints among the 2500-odd contacts that we received, but certainly I do not recall opinion polling being specifically a theme within the complaints that came in.

**Nathan LAMBERT:** Thank you. Thank you, Chair.

**The CHAIR:** Thank you, Mr Lambert, and now we will move over to Ms Kealy.

**Emma KEALY:** Thank you very much, Chair, and again thank you to the VEC for all your work over the election. While I know there have been successes and things delivered quite well, we also need to ensure that we have adequate oversight and understanding of what went wrong over the election. As you said, Commissioner, in your opening comments, we need to ensure that Victorians have got every confidence that the VEC is doing its job and doing it well. You may have overheard some comments made by the previous people giving evidence around failures in the Stawell region in the distribution of ballot papers and some other concerning matters. I would like to further investigate those. Firstly, I would like to go back to matters that were commented on in the hearing with the VEC on 27 March this year, where the then Electoral Commissioner stated in response to questions about ballot shortages in the Stawell region:

I am certainly not aware of Stawell, and you are raising some specific locations in all the discussions that I am not familiar with, but we will take it away and look at it.

Since that time the VEC have provided to the committee a list of further additional centres that they believe were hit by ballot shortages. However, through written submissions to this committee and even through evidence heard today we have identified further voting centres which had a shortage of ballot papers on election day. What investigations have the VEC undertaken to ensure that all areas where there was a ballot shortage have been appropriately noted and therefore investigated by the VEC?

**Sven BLUEMMEL:** Thank you, Ms Kealy. I will certainly ask Mr Sutherland to go through the detail of that. But if I can just hearken back to my introduction and the points you make there of course, yes, we completely agree that while in this enormous logistical exercise the vast majority worked extremely well under tremendously challenging situations, that is not to say that individual problems do not matter. They do. We acknowledge that, and one disenfranchised voter is one too many. That is a very strong view that I think the committee has and it is certainly a strong view that the commission has, and a lot of work has been done in exactly that regard. You would have seen the additional information provided in writing during this week. Obviously there is further information in detail in our submission as well, but on the specific issues that you raise I will ask Mr Sutherland to take us through in a bit more detail, please.

**Ben SUTHERLAND:** From the outset, noting the matters that were taken on notice from 27 March, we were still yet to undertake what is considered to be our compulsory voting campaign, which is where we reconcile the scannable rolls against voter information reports, postal votes et cetera. So in that sense we were able to undertake that activity between 27 March and our submission for EMC's benefit. That work is a reconciliation of all scannable rolls issued within the district, all voter information reports, all evaluations provided by election managers, any complaints received via our complaints team and of course a review of our social media throughout that process. The information contained within the EMC submission is based upon

that, and just as a remark, of the complaints we received throughout the event for ballot paper shortages, the majority effectively had been marked as voted in the same site where they complained there were no ballot papers available. I consider the matters that we heard earlier today as very significant and deeply disappointing, and in that same sense I have articulated in correspondence to this committee about a way that we can control oversight of ballot paper provisioning going forward, and in particular the use of electronic roll mark-off to give us greater visibility of the consumption rate and in turn the supply at each of these sites.

**Emma KEALY:** Mr Sutherland, I appreciate your comments. However, it is deeply concerning that it was not until today that the VEC had any awareness that there were VEC staff advising voters who had turned up on election day that they could have their name crossed off the electoral roll – which would be the same on a hard copy roll as it would on an electronic roll – but were not provided with an alternative means to cast their vote even though there had been a shortage of ballot papers.

**Dana FLEMING:** Can I just make a few sort of contextual points there. You are quite right, Ms Kealy, of course. It is not an unusual event that ballot papers do run out, which is why we do supply blank ballot papers for people to fill in.

**The CHAIR:** Sorry, it is not unusual, or –

**Dana FLEMING:** Sorry, it is not unusual. Sorry, double negative. That is why all voting sites are supplied with blank ballot papers to fill in, while the voter centre manager should call their electoral manager so that we can top them up with the ballot papers that are provided extra within that district as a backup to this situation occurring, because it is not unusual.

I am not sure why in the evidence that was presented this morning that that option was not offered. It could have been that they had already used them all up. I am not aware of what the situation was, so it is difficult to speak to the specifics there. I am also perhaps a little concerned with some of the evidence given – that people thought when they were having their name marked off the roll that what they were actually having their name taken for was to be excused to vote in a voter information report. It is difficult without us unpacking a little bit more what those experiences were of those people who very generously gave up their time this morning to provide us with that information.

I can only say and reiterate the comments that others at the table have made: there is no-one more disappointed than us that after two years of meticulous planning and our best attempts at forecasting this situation occurred, Ms Kealy. No-one is more disappointed than us. I have people at this table that worked all night packing boxes personally to make sure, when we had our ballot paper shortages on the Monday, that those ballot papers could go out. Yes, our process did not work, and ballot papers did run out at Stawell, and we have fully explained to the committee what the situation was there. That voting centre manager did the best they could in the situation they had at hand. It was their first gig, and this is the challenge the VEC faces with trying to recruit staff for essentially a one-day job. We can improve our training, and we will be looking into that – about how we can go through these issues about what to do when you are running low. The sad reality is because election day was a manual process that required that person to ring someone to say, ‘Can you please deliver me with some more voting ballot papers,’ and they were probably very busy trying to service the 150 people standing outside, they did not make that call in time or did not make that call at all. So these are matters that we are fully aware of and that the committee has rightfully discussed and enabled people to bring to our attention.

We did trial electronic roll mark-off in the first two weeks of early voting, and that is when we had a chronic ballot paper shortage. I can say we printed 50 per cent of what we had forecast to print on that weekend due to the printing failures. And we were able to manage that on a just-in-time basis because we had real-time visibility of ballot paper consumption, but we did not have that on election day, and that is something we are very, very keen to move to because we do not want this to happen again, Ms Kealy.

**Emma KEALY:** Yes. And I would like to just, I guess, stick up for the VEC workers. I think they were doing their very, very best under exceptionally difficult circumstances.

**Dana FLEMING:** They were, yes.

**Emma KEALY:** My understanding is that they did put calls in multiple times and there was limited support that was available from the VEC office in Melbourne to provide guidance on what should be provided, because insufficient ballot papers had been provided. So if I can –

**Dana FLEMING:** Of course.

**Emma KEALY:** I just want to say, from my recollection of the evidence provided today by both Mr Anderson and Mrs Monaghan, neither of them were critical of the VEC workers in and of themselves. They actually commented that they were very stressed under the circumstances. I do not want a reflection upon them that they are somehow, you know, giving local people who put their hand up for those roles a hard time, because I think that is not fairly characterising their comments.

**Sven BLUEMMEL:** And Ms Kealy, just on that, as Ms Fleming has said, that electronic mark-off is so valuable because we can then get a real-time or near-real-time set of trends of who is running out faster, who is using it above their rate or below their rate, all of those sorts of things. We can then adjust like we did in that early voting period where we were under tremendous pressure. And the second thing that this actually highlights as a really important issue that goes to one of our recommendations is just the time frame in the legislation. As I said in the introduction, we have the tightest time frame for delivering an election, and when these things happen, particularly the early voting one of course, that just puts us under so much pressure that can so much better be handled if the time frames were not quite so unreasonably short.

**Emma KEALY:** Now, this is specific around actual election day not early voting.

**Sven BLUEMMEL:** Sure. No, I understand.

**Dana FLEMING:** Thank you, Ms Kealy, and I acknowledge the pressure that those voting centre managers were under on that day. And there was a surplus of ballot papers in the Lowan district of 6500 at the end of the close of voting, which means it was a logistical challenge, and I think there is certainly a need for us to review the training and to explain to these voting centre managers, who do work for the one day, about what they can do and how they can manage these situations better. They did ring once for a top-up but unfortunately did not choose that for the site that ran out. They unilaterally decided that they thought there were no ballot papers, and if they had called, we might have been able to do something. So I take your point. You have mentioned that they seemed to think that that was not possible or not an option. That is something that we need to work better.

**Emma KEALY:** Other evidence we heard this morning was around the Concongella voting centre on election day having the gates locked closed at 2 pm. Is that VEC policy?

**Dana FLEMING:** It is certainly not VEC policy, Ms Kealy. I must admit that one was news to me. That is not one of the sites that we thought closed per se. I can only guess – and I am wildly speculating without having spoken to the voting centre manager – that they perhaps closed while they were waiting for their top-up to arrive. That was not one of the sites that ran out by the end of the day. They finished with a surplus, so it must have been a temporary closure, is all I can conclude. And I appreciate that is not perhaps a specific answer, but we would have to contact that particular voting centre manager to get to the bottom of what actually happened.

**Emma KEALY:** Commissioner, are you concerned that you are getting feedback about the election that took place almost a year ago now and that there is still new information coming forward which is news to the VEC and I would argue absolutely goes against the values of the VEC that you outlined in your opening remarks? And I am particularly reflecting upon how fortunate we are in Victoria, where we have this democratic right to cast our vote, which is a democracy that is denied to so many other places around the world.

**Sven BLUEMMEL:** Well, that is certainly why we are taking this extremely seriously. As Ms Fleming said, I have been struck since arriving as to how importantly this is being considered – all of the issues we have talked about here but this certainly among them. How do we make sure that we learn from this process to make sure that it does not happen again? There is certainly no-one more disappointed than the VEC about that situation, yes. In terms of the start of the question and the time frame during which this is coming to mind, in some way that is a reflection, again, of the enormous logistical challenge that we have across the state, but it is certainly something that we are looking at in terms of improving, absolutely.

**Emma KEALY:** Commissioner, you understand that there is a level of frustration still in the community. I mean, the VEC itself first flagged that there were significant issues around ballot shortages in Stawell, in March this year – five months ago – and yet it appears that a broadscale investigation still has not taken place so that the depth and the impact of that is better understood over what went wrong. If the VEC are at this point in time still flagging that they do not understand what went wrong, how can Victorians have confidence that the VEC will be able to address those issues so it will not happen in future elections?

**Sven BLUEMME:** What I would say is that there has been an investigation. The VEC has actually investigated this in great depth. What we heard this morning of course will be added to that. But, if there is something further that Ms Fleming might say, it is certainly something that the VEC has done and invested a lot of effort in.

**Emma KEALY:** How can you say it has been done at great depth when there has been multiple evidence today which Ms Fleming has said is news to the VEC? Is that not concerning then, that perhaps it was not an in-depth review and investigation?

**Dana FLEMING:** Thank you, Ms Kealy. May I ask Mr Sutherland to speak to the investigation – because there was an investigation, and we are very happy to share what we did do? Obviously we did not manage to uncover every piece of every person's experience within that period. Look, we are very grateful and take on board any extra feedback we have got, but there was a full investigation, and I would like to invite our Director of Elections to speak to that process.

**Ben SUTHERLAND:** As I outlined in my initial comments, at the point in time of March, we were still yet to undertake a critical election activity. To give you some context of the work that was still yet to be undertaken, we had over 1000 pallets of returned materials from voting centres still in our warehouse yet to be broken down, which contained some of the critical materials I have referred to that we have in fact reviewed. Our approach has been thorough in speaking to our election managers, our election support officers and the identified voting centre managers. In that same sense, had the individuals who presented this morning provided a submission, it could have informed our further investigation in this regard.

I also confirmed that the process of reviewing our complaints was a thorough one, where we went back through all of our scannable rolls to ensure we had in fact captured the right detail. We went through all of our social media posts about any matters of ballot paper shortage, and we reconciled that against both our complaints and our voter information records. And of course as part of our evaluation more broadly, we have learned from this. We understand what went wrong, and that was a lack of oversight of the ballot paper logistics within the district.

Now, I have referenced in my initial comments about the move towards electronic roll mark off. You have seen that work at Narracan. You will see that work at Warrandyte. It is a circumstance where voting centre managers are under an unrealistic amount of pressure through the election day cycle, and what we want to do is reduce that risk by owning that either centrally or at the election office itself.

I do believe that there were sufficient ballot papers within the district – a surplus of 6500 confirms that. It was a matter of moving the ballot papers around the district that we struggled with.

**Emma KEALY:** Well, given the electorate of Lowan now represents about 20 per cent of the state by land mass, is it not unrealistic that that would have been an issue? It is not like here where we have got an electorate of Prahran, which is 11 square kilometres; it is some 42,000 or 43,000 square kilometres. Was that not taken into account by the VEC? And when I say the VEC, I mean you guys who are paid the big bucks. I do not think it is fair to throw the people who were working for a couple of weeks locally, who were not earning a lot of money, under the bus on this.

**Ben SUTHERLAND:** No, not at all. And I do very much take your comments to heart because every opportunity I have had to thank an election official has been made and is genuine. There is a circumstance where the anticipated outcome of the net effect of the redistribution simply did not go the way it was planned. I believe, in the letter that this EMC received earlier, we articulate that we anticipated more people from Stawell to travel to Ararat to early vote where they were appropriately provisioned with Lowan ballot papers. It is a circumstance where we got it wrong.

**Emma KEALY:** Will you apologise to the voters of the Stawell region and other electorates on election day throughout the state – those Victorians who were unable to cast their vote as part of their democratic right?

**Sven BLUEMMEL:** Oh, I can certainly say that it should not have happened and, as Mr Sutherland said, on this occasion we got parts of it wrong that we should not have, and we are learning from that. So yes.

**Emma KEALY:** Will you apologise?

**Sven BLUEMMEL:** I think I just have.

**Emma KEALY:** ‘Sorry’ can be the hardest word. Thank you very much, Chair.

**The CHAIR:** Thank you, Ms Kealy. I am mindful of time. But we did start a few minutes later anyway, so I will indulge, if everyone is all right with that, and to my Deputy Chair, who I know has got a few comments.

**Evan MULHOLLAND:** Just quickly I want to note Ms Lang’s reflection on the Liberal Party’s public response to that IBAC referral. I think it is quite extraordinary that a director of the VEC would cast an opinion on the actions of a major political party. I have a lot of respect and a great admiration for the VEC and the way in which it conducts itself impartially. As I said, I find that reflection quite extraordinary, and I actually think it would be best for the committee to ask if you might consider withdrawing that statement.

**Sue LANG:** Yes, I am happy to withdraw it.

**Evan MULHOLLAND:** Thank you. I also just want to ask the Commissioner whether you would consider investigating whether Ms Lang’s conduct breached the *Public Administration Act* in regard to impartiality.

**Sven BLUEMMEL:** As you can imagine, at the VEC we have very high standards of impartiality. We certainly before my arrival looked at the issue of that circumstance which, as discussed at the time of this hearing, was the VEC dealing with a new function and a new power that we have been asked to discharge by the Parliament through changes to the Act, which was new and difficult. In that regard clearly the situation that arose at the time was one where there was no obvious good option, if I can put it that way. I was not there. I am not going to express a view on what was done at the time. It was before my time, I was not there and it would be unfair of me to judge that action. What I can say is that if a statutory officer like me or my predecessors has an obligation to do certain things under legislation that they have to do and the timing of an election complicates that, then there is no good option, put it that way. If you do it at a certain time, you are criticised; if you then deliberately delay it, you are criticised. Again, I am not going to express which one of those I would have done. I was not there. But what I can say is that Ms Lang and her team, from what I have observed from my time here so far, are totally committed to political independence, as indeed is every person I have worked with so far at the VEC.

**Evan MULHOLLAND:** At the time of the last hearing Ms Lang said:

It is always easy in retrospect to reflect on what you would do differently, and I may have done that differently had I done that interview again the following day.

Commissioner, is this is still the case, and does the VEC consider that interview a mistake?

**Sven BLUEMMEL:** Look, again it is difficult for me to consider it a mistake given that I was not responsible for it at the time. But what I think is important is that in terms of doing it differently I think this might be one of those situations where we have to be aware that a really sad outcome of all of this would be if an organisation like VEC or others as a result of something like this go into our shells completely and make ourselves not available to media or to the community and we do our work behind the scenes only. That would be a real tragedy. But in that case I think perhaps the different way of doing it would be to simply hold the line and say, ‘I’m not going to comment on that, as I have said I would not comment on that.’ That is what I would say there.

**The CHAIR:** Thank you, Commissioner. Mr Tarlamis.

**Lee TARLAMIS:** Thank you. I just wanted to pick up on one of the points Ms Fleming made earlier regarding you will be making some recommendations to the committee around escalation processes and different options regarding campaign behaviour at booths and such. As part of that, could I ask you to also turn

your mind to considering an escalation process with regard to election managers and voting centre managers? I am aware of some instances on the day where there were some rulings that were made by polling booth managers that were inconsistent with advice that had been provided by the Electoral Commissioner, and upon showing that advice to the election manager they refused to accept that and said, 'No, we are the election manager, we can override that.' It then took a long time for us to go back to our respective parties and go back through the system to get a change, and I think that may be something that you could reflect upon in terms of an escalation process to deal with things in a quicker way.

**Dana FLEMING:** Thank you, Mr Tarlamis. I can assure you that all the voting centre managers and election managers have an escalation process. They have a poster and a document, and it is covered in their training. Again, it is something for us to reflect on about how we can reinforce that better going forward, because these instances have been raised with us. It is an ongoing challenge for the 20,000 workforce that we stand up in a very short period of time, and with many of them who have not worked for us – the majority – before that, getting that consistency of approach is and will continue to be an ongoing challenge. So I accept the feedback, and we will think about how we can reinforce that messaging beyond a leaflet and a poster and the training that we have already given them. But I think we do have to be pragmatic with the ongoing challenges that we have to get people, civic-minded members of the community, to stand up and deliver elections in an increasingly fraught environment and that these matters will no doubt not run perfectly.

**Lee TARLAMIS:** Absolutely. Yes. Also, there is a requirement for registered political parties and independent candidates to provide a designated person as the point of contact with regard to signage near voting centres and things like that. There have been some submissions to this committee around having a designated person at each centre who is responsible for that. I think given, as we have discussed, the challenge around standing people up in a short amount of time and having to provide that training, if there was a person who had more intensive training around what can and cannot be done, that may be something that could be a kind of circuit breaker as well, because they could be across more of the detail rather than trying to have a number of people across a centre and across the detail as well. So that is something to consider as well.

**Dana FLEMING:** Yes. And I am sorry – to your earlier question, I am very disappointed to hear that the election manager or voting centre manager did not call head office, because we did put in place a new process this election, which I am happy to get our director of electoral integrity to speak to, where we did deploy a cadre of electoral compliance experts, if I can call them that, who could go out and be deployed to those sites where there were those kinds of situations occurring. I think again I have to be pragmatic in that we do training, we try and get people to be across – but it is a technical Act, and not necessarily does every aspect of it that they need to administer on the day perhaps happen perfectly. I am not sure if you are interested, but I can invite my director to speak to our regulatory – I could not remember the acronym. RAID. I will hand to you.

**Keegan BARTLETT:** Some of the feedback that we received after the committee's inquiry into the 2018 state election was that the VEC and others involved in regulating the space outside elections needed to work closely together and partner more closely. So we certainly did do that. Internally within the VEC we operated a regulatory advice and incidents desk. It is a unit that was connected in with all of the service delivery parts, the apparatus of the organisation, and it received enquires – things like the signage requirements, which you know were new in the *Electoral Act* just months before the election. So while it is disappointing to hear that they were applied in a small number of cases inconsistently with both the Act and also our instructions that were provided, certainly where we heard about that we made efforts to correct that immediately. But they were new requirements at that election, and the messaging itself –

For the Warrandyte district by-election we were in VCAT just this week because an independent candidate did not feel that the law was being applied by the VEC consistently. It was not VCAT's jurisdiction – that application was withdrawn – but it was a good opportunity to explore the fact that our instructions on signage are correct and consistent with the law. Training a workforce of 1700 voting centre managers and 88 election managers up on this when we get legislative change just months before the election, in addition to everything else they are having to learn, is an added complication. But it is not an unsurmountable challenge, and certainly through things like the regulatory advice and incidents desk we learned those lessons in 2022. We were able to respond where we could, and those escalation processes can only enhance.

**Lee TARLAMIS:** No worries. I just wanted to quickly pivot to the issue of general postal voters. We spoke about postal votes, and I am aware that the changes that were put in place prohibited political parties and

candidates from distributing postal vote applications, but that did not extend to general postal voters. I note in your submission you raised concerns about general postal vote applications specifically in relation to voters receiving prefilled general postal vote application forms with voters' personal information on them. You note in your own submission that the VEC contacted the registered political party responsible for the relevant mail-out to alert them to the relevant electoral offences and requested them to cease. What were the relevant electoral offences, and did the activity cease?

**Dana FLEMING:** I just want to make the point that of course the law was not changed to extend to GPV applications, so the parties were within their rights to do that. But as to the specific matters that were in question on that particular mail-out, I will ask my Director of electoral integrity to answer.

**Keegan BARTLETT:** Sure. Thank you, Mr Tarlamis, for the question. The general postal voter applications are obviously an enrolment form, an enrolment status, rather than an election form, so they are dealt with quite separately under the *Electoral Act*, and we have raised that in our submission. In that specific circumstance it was not actually the form itself. While there were concerns among those receiving the form about their privacy, this was also around the time of quite significant data breaches – very public data breaches – within the community generally, so there was a heightened level of concern. It was the accompanying documentation that was branded from the party from the candidate or the sitting member, and that accompanying documentation made assertions which were difficult to reconcile with the election time line itself. We took a view to engage with that party proactively to seek their support in stopping, and certainly we got that assistance.

**Lee TARLAMIS:** Just to clarify, it is the VEC's position that changes should be made to bring that in line with postal vote applications to prohibit political parties from engaging in that activity as well – is that correct?

**Dana FLEMING:** Yes, that is correct.

**Lee TARLAMIS:** Just a last question: the VEC noted in its submission the opportunity to reduce elector confusion by amending the *Electoral Act* to allow general postal vote applications that miss the close-of-roll deadline for that election to be processed for future elections and also be treated as a postal vote application for the current election when it was received before the deadline for postal vote applications. Would it be possible – and I understand that this would be on notice – to find out what the impact of that would have been had it been in place in this election? How many general postal vote applications would have been processed at the election and how many would have been treated as postal vote applications? I think that would be interesting.

**Keegan BARTLETT:** Certainly, Mr Tarlamis. That recommendation will be built more strongly as well in our report to Parliament. At the very least it will be part of that business case in the report to Parliament.

**Lee TARLAMIS:** Thank you.

**The CHAIR:** Thank you. I am very mindful of time. Is there a 1-minute burning question from anyone on the screen? No. All right, fantastic. In that case, again, thank you all very much for being here today. As mentioned at the beginning, you will be sent a proof copy of the transcript to check as soon as it is available. The session is now concluded.

**Committee adjourned.**