

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

**INQUIRY INTO THE ADMINISTRATION AND MANAGEMENT
OF THE 2017 STATE GENERAL ELECTION**



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 22 AUGUST 2018**

Members

Mr P.A. Katsambanis (Chairman)
Mr M.J. Folkard (Deputy Chairman)
Mr Z.R.F. Kirkup
Mr A. Krsticevic
Mr D.T. Punch

Hearing commenced at 10.15 am

Mr DAVID KERSLAKE

Electoral Commissioner, Western Australian Electoral Commission, examined:

Mr CHRIS AVENT

Deputy Electoral Commissioner, Western Australian Electoral Commission, examined:

Mr LOUIS GARGAN

Manager, Legislation, Communication and Human Resources, Western Australian Electoral Commission, examined:

The CHAIRMAN: On behalf of the committee, I would like to thank you for agreeing to appear today to provide evidence in relation to our follow-on to our inquiry into the administration and management of the 2017 state general election. My name is Peter Katsambanis; I am the Chair of the Community Development and Justice Standing Committee. The Deputy Chair is Mark Folkard, the member for Burns Beach. We also have the member for Dawesville, Zak Kirkup; the member for Bunbury, Don Punch; and the member for Carine, Mr Tony Krsticevic.

It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything that you might say outside of today's proceedings. Before we begin, do you have any questions about your attendance here today?

The Witnesses: No.

The CHAIRMAN: Any opening statement that you want to make?

Mr Kerslake: No.

The CHAIRMAN: We have obviously had the committee inquiry and we have had the report. We had a response of sorts from the minister and then we had your response, which we thank you for. We are just trying to tie up some loose ends, particularly around that interface between executive government and agencies such as yourselves. We were wondering, first of all, whether the Minister for Electoral Affairs approached you regarding his response or your response to the committee's report before the government response was tabled.

Mr Kerslake: Whether he approached me? I am not sure what you mean.

The CHAIRMAN: Approached the commission. Did he seek advice or guidance from the commission in providing a response to the committee's report?

Mr Kerslake: My memory is not all that—that is some time ago. The normal process that I am used to, Mr Chair, is that if a government of the day wants any assistance, the commission would contact the government and say, "Is there anything that you need us to do to put any information together that would be of assistance?" I think I probably did do that but I am not —

The CHAIRMAN: So you are not sure if it happened in this case or not.

Mr Kerslake: No. Look, there would have been discussions, but if you are talking about who approached whom, I do not know; I do not recall. But clearly there were matters—that is on the record in the Parliament—that the government felt it could respond to and there were matters that it felt that it could not respond to. There was some discussion in relation to that that I recall, but I do not know, do not recall, the particular circumstances, and I do not recall whether it was with the minister or with the minister's adviser or something.

The CHAIRMAN: Is there anything in the Electoral Act that prevents you from providing the minister with the WAEC response to our committee's report?

Mr Kerslake: As in advance, do you mean?

The CHAIRMAN: When you provided it to the committee, I guess, or in advance—either/or.

Mr Kerslake: Not that I am aware of. What we did do in this instance was when the commission—when I presented the commission's response or letter at your invitation, we did ask the committee to let us know whether you would be publishing it on your website and whether it would be okay for us to publish it in our annual report, which is what we intend to do. That information, once it is published by the committee, would be available to the minister or to anybody else.

[10.20 am]

The CHAIRMAN: So it is the publication that would make the information available to the minister in the ordinary course of events.

Mr Kerslake: Yes. Our response on the matters that were directed to us in response to the committee's invitation, I did not provide an advance copy of that to the minister, if that is what you are concerned about. In fact, I would be very careful —

The CHAIRMAN: It is not a concern.

Mr Kerslake: If that is the thread of your question, I would be most cautious not to do that, and I do not provide the minister with information on certain matters that I would not make available to the rest of the world. That is the way we operate.

The CHAIRMAN: That is fair enough. I assume you have regular meetings with the minister as the commissioner?

Mr Kerslake: I meet from time to time, but I would not say they were regular meetings; we do not have regular scheduled meetings. In fact, as the commissioner, one of the things that I have been impressed with when I came to WA and on both sides of politics, or both sides of Parliament—the former government and the present government—is the respect that has been afforded to the commission's independence. People have been at pains in both governments to make that clear that we are seen as independent and there will be no interference with our role. And if that were not the case, you could be most assured that I would be making sure it was the case.

The CHAIRMAN: Of course; we would expect that—absolutely no doubt. There is no question around that. In an average year, would you meet with the minister once or twice or on an ad hoc basis?

Mr Kerslake: Probably once or twice. There are no regular scheduled meetings—once or twice.

Mr M.J. FOLKARD: Are the meetings on a needs basis only, then?

Mr Kerslake: Yes, yes.

The CHAIRMAN: Are they initiated by you or by the minister?

Mr Kerslake: It probably depends on the nature of the meeting—what the nature of the meeting is. As you are aware, all agencies get asked from time to time if there are contentious issues that a minister—we operate independently, but at the same time I work on a no-surprises policy. No minister would want to know that there was some controversy involving the Electoral Commission and find out about it by being presented with it on the floor of the house. Fortunately, there are not too many of those issues that arise.

Mr D.T. PUNCH: But those meetings clearly have regard to the issue of independence of the role of the commissioner.

Mr Kerslake: Sorry?

Mr D.T. PUNCH: Those meetings clearly have regard to, as a paramount issue, the independence of the Electoral Commissioner.

Mr Kerslake: Most certainly.

The CHAIRMAN: One of the areas of interest generally in the community, as well as in the report, was around e-voting or internet voting. It is a fast-moving field, obviously. Can you give us a bit of an update on what you and, I guess, other similar agencies around Australia have done to review the internet voting system and to improve it moving forward?

Mr Kerslake: Yes, that is a very topical point. We have an organisation called ECANZ, the body of Electoral Commissioners, which includes the New Zealand commission. I myself instigated a forum with them where I said to them that some time down the track, there is always the possibility that one of them may be asked to run an internet voting system. We all have a limited number of people. Based on our experience, given the very limited time frame and resources that you have, it is not a lot of fun trying to put together such a thing in a short period of time, and so I thought it would be worth all commissions meeting together to talk nationally about the challenges involved with internet voting and, if they were required to implement internet voting, whether they had the capacity to work collaboratively to bolster security and so on. At the present time, all the commissioners are working on developing a national internet voting capacity. That is not to say that commissioners are arguing in favour of having internet voting or anything like that, but if they are asked to do so, to try to build a system that, working together, would have the highest level of security, and you can do that much more effectively than trying to do it on your own. That is actually taking place at the moment. Because we have prior experience with internet voting, ECANZ has asked the Western Australian Electoral Commission to prepare a business case for the development of that—in other words, to look at the issues that would need to be explored and so on to move forward with such a project.

The CHAIRMAN: So that national body includes the AEC as well as the state commissioners?

Mr Kerslake: Yes. All state and Territory commissions, the New Zealand commission and the Australian Electoral Commission. We are trying to work collaboratively to maximise the level of security that we could put into such a system.

The CHAIRMAN: That is a work in progress and, as you said, quite topical.

Mr Kerslake: It is, Mr Chair, and I want to emphasise that any decisions that are taken as to whether there should or should not be internet voting are not decisions for electoral commissions; they are decisions for Parliament. Nobody in going down that path is advocating for or against internet voting. They are simply facing the reality that they might all be asked to do it and if they are in the same position that we were in with six months to do it and no money, as I said, it would not be any fun. Working together, if they ever are asked, we can at least try to develop a national voting capacity if Parliaments are minded to want to use them.

The CHAIRMAN: Sure. We will monitor how it goes. I am sure there will be a lot of public monitoring, too.

Mr Kerlake: There is one additional comment I would make in relation to that, and that is that it is not a short-term project, it is a long-term project. If casting forward to the next state election, I would very much doubt that a national internet system would be bedded down by the time of our next state election. We do not have the resources to develop one ourselves. New South Wales have a system—we used theirs last time—and they are rebuilding their iVote system. We are obviously taking a keen interest in that as well. They have been collaborative in saying to commissions, “We’re building it, and if you want to use it, if there are particular requirements that you might have, let us know and we’ll see if we can incorporate them.” There is a lot of collaboration going on there in that area.

Mr Z.R.F. KIRKUP: Just on that, just in terms of the architecture of that, do you know much about the design of that build of the voting software? I am keen to understand if you know if it uses blockchain technology or not. Do we know anything about the details on that?

Mr Kerlake: I think that is still being worked through as we speak. Blockchain technology has been put forward. In those meetings I talked about that the commissions had, I do recall an expert coming along and saying that was one option that could be used, but there are, you know, many others. One of the things that I have stressed with commissioners myself if we are going to go down that path is that we should be trying to get as much expertise from as many experts as we can in putting together such a project.

Mr M.J. FOLKARD: In relation to your responses that you gave, I am interested to know your thoughts on the intellectual property developed out of that. Who will actually own that, particularly the coding et cetera?

Mr Kerlake: That is part of that; there has been no decision on that. That is one of the issues that we will need to grapple with when we put together the business case, so we would put together in that saying, “Look, there’s different options that could be followed” and put that forward for consideration.

Mr M.J. FOLKARD: Will this require legislative change within the Electoral Act if it is to be proceeded with?

Mr Kerlake: If we were to use such a system here in WA at the present time, no; the act enables me to present internet voting for people with disability and so it could be used for that, and it enables me to put together commissioner’s instructions as to how that system would work so that could be incorporated in the commissioner’s instructions to use such a system.

Mr M.J. FOLKARD: We saw with the Greens’ submission to us when we were doing the inquiry about basic practices. We were unable to make a determination whether the electronic voting boxes were emptied prior to the commencement of the election. You just said that you will be writing processes. Will that address that as part of your processes?

[10.30 am]

Mr Kerlake: One of the things it will address is options that would be very secure options that would be available. I should clarify that our business case that we are putting together is not intended to say, “This is how the system should work”—that is not our role. The business case is to identify that these are issues or tasks that would need to be done, and if there are legal issues, you might need to go and get some legal advice and if there are financial issues, if there are IT issues. It is to sketch out a broad framework of the sort of issues that would need to be addressed or a list of questions, if you like, not to seek to answer those questions.

Mr Gargan: I will just help you out on that question. The way the act is drafted, it discusses internet voting in broad principles. Then the Electoral Commissioner has to publish detailed approved procedures, which are very detailed, on how it will work. Perhaps as he mentioned in his submission to you, the last time perhaps we did not have time to explain that to the party secretaries and candidates about the detail of those approved procedures, and I think you said you would like to do that better.

Mr Kerslake: Yes. Look, if we had had a big long run-up, it would have looked and operated very differently from the way it did. The reality was, and I did emphasise this very much in advance, that if Parliament wished to go down that path, please give me the legislation at the earliest opportunity because these things take time to build. From when the legislation took effect, we had seven months up until the time that early voting was going to start, which was when internet voting was going to start. We had no money allocated—not a brass razoo allocated for that project. We went through that project with two choices; try to make the New South Wales' system work for us or not have a system at all. They were the two choices that we had. What we were trying to do was honour a commitment to people with disability to make sure that they could vote in secret. That was our highest priority. But if we thought that we could not have run it at all without huge risk, then we would have turned around and said, "No, we can't do it." One of the other things that we factored into those risks, was that there was not expected to be a huge number of people who were going to use the system. The first time around, New South Wales had 600 people with disability, if you leave aside the other categories. I think we did a very good job getting 2 300, but that lower number clearly lowers the risk; if something does go wrong, fewer votes are going to be affected, and that was a consideration for us.

The CHAIRMAN: It sounds like there are two pieces there; one is that business case piece, which sounds like a longer-term project, and I think you outlined that right at the start. The other issue is the existing system or whatever happens with the existing system, because it is not yours, you rely on New South Wales.

Mr Kerslake: That is correct.

The CHAIRMAN: Is the intention that whatever changes are made to the New South Wales system will be able to be utilised at the next WA election?

Mr Kerslake: Yes; that will be our only option. With more time available to us, if I can give one example. One of the criticisms of the system used was that it ran off some servers in New South Wales. With all due respect, there was no other option; there was no other way it could be done within that time frame. But with a four-year lead time, knowing it is coming, there is a whole range of other things that you can do to address those problems. People said we needed to spend more time briefing political parties—that is a fair comment from the perspective of political parties. We were in the back room putting nuts on bolts trying to get the system to work. Those luxuries were not available to us but the second time around, it would be done very differently.

The CHAIRMAN: Obviously, the New South Wales commission would have an expectation that they would get this ready for their next election, which is in March next year, so it still gives us two years after that —

Mr Kerslake: That is correct.

The CHAIRMAN: — to have a look at its application in Western Australia.

Mr M.J. FOLKARD: Are we progressing down that road given that we know when our next election is here in the state? Are we well and truly down that road now?

Mr Kerslake: We can say here and now that if we use internet voting at the next state election, it will be using the New South Wales system because there is no other system in Australia, firstly, and secondly, we have no resources, as I said, to go off and build our own so that will be the only option available. So either the New South Wales system will work and we will be happy with it or we will not have internet voting at the next state election. They are the only options—the national system will not be on board. In the longer term, the New South Wales commission is supportive of what is happening nationally and would be throwing its support behind that national system in the longer term when that is able to be developed.

The CHAIRMAN: We could talk about internet voting and electronic voting all day, but unless members have any burning questions we will move on.

In our committee's report, we recommended the creation of some community reference groups specifically around Aboriginal communities, the CALD community, disability groups and young people. In your response, you indicated you would do more in that area. You did not specifically commit to creating the reference groups or something analogist to a reference group. Can you explain the rationale behind that?

Mr Kerslake: Yes, I am happy to talk about that, Mr Chair. It is probably a matter of horses for courses, different approaches for different bodies, from our perspective, rather than a standard one. The second point I would make is that we would be wanting to do a lot of consultation with people closer to the election, in the lead-up to the election, but not to have a standing group that meets three times a year, four years out from the election. One of the reasons is that if there are changes in legislation, the whole world could be turned upside down in that time so you can be spending a lot of time consulting on things that actually do not come to happen. That is two general points. Another point I want to put on the record is that, I think, perhaps the amount of activity that we did at the last state election has been underestimated. In the disability field, we met with over 30 disability peak bodies. We appointed a person especially to conduct the liaison with those groups, to explain how the system would work and find out what their needs would be. I met personally with a number of those peak bodies going out in the evenings and talking to them. I went on disability radio on a couple of occasions to explain how the system would work. We did a hell of a lot of work with disability groups in the lead-up to the election. But it was not through a standing group; it was going out. There are so many peak bodies and they represent different constituents and in some cases, there are elements of competition between different groups that you are probably aware of. We tried to reach out to all those groups rather than just have a single body. We did likewise in our engagement with CALD groups. We can do more of that and we will do more of that, but it will not just be through a standing committee which might have some groups represented on it, but many other groups not represented on it. In other areas where we acknowledge there is more that can be done is with youth and with Indigenous groups. We are more likely to take on a committee in the youth area than, for example, in the disability area because in the disability area we would be trying to spread out. Does that makes sense?

The CHAIRMAN: It does. I think the most important thing here is awareness and a commitment to improving as we go forward.

Mr Kerslake: Can I jump in there, Mr Chair? You have that commitment. You certainly have helped raise awareness and we appreciate it. We acknowledge that there is more that we can do and after the next election, there will still be more that we can do. But we are very much committed and we support what you are trying to achieve.

The CHAIRMAN: Yes, I think we are all in the same boat; we want inclusiveness, we want people to understand the system and fully participate. The numbers, particularly around the youth, are

indicative of the fact that there is a lot more to be done. I do not envy you in many ways because—this is a personal opinion—I am not necessarily sure any of those youth peak bodies actually represent any more than the people that sit on those bodies. It is very difficult—it is a disparate group—and no matter how many representatives you try to have, you are not going to be able to represent all the range of interests.

[10.40 am]

Mr Kerslake: That is the approach that we are coming from with the various groups. What we want to do is the more information we have, the more consultation we do, the more information we have, the better decisions we can make, but everybody is not going to be on the same page, to be quite frank.

The CHAIRMAN: In your response to the committee's report, you stated that you would strive to increase the number and improve the distribution of early voting centres. That was a pretty key element of the submissions we got to the committee. How will you achieve that? What do you require both from a timing perspective and a funding perspective to achieve it? What would your wish list look like?

Mr Kerslake: There are several issues there. Let me explain firstly; we agree with the committee on the need for more early voting centres, and we have already trialled a by-election having more flexible opening hours. The area we do not go as far as the committee is to put an early voting centre in every district. If I use my own backyard example as an example, I live in Bicton and if I drive down Canning Highway, I drive out of Bicton and into another electorate; one central point will serve both those districts very well from the point of view of early voting. There would not be the demand, in our view, and it would be extremely costly. We accept that if we had our time over again, we would have had more early voting centres than we actually did have. We accept that. One of the things that we do as a preliminary measure is we have a GRS officer who will be looking at the electorates and identifying where population centres are and where suitable locations are. Part of that cannot commence now. We do some preliminary work, but there is a distribution still to take place, so that can move the boundaries around and influence that, as you would appreciate. We will be looking at where the population centres are. I do not want to hold out false hopes here. I am not going to promise the committee that you will get—I am not going to say that one of you will not sit back and say, "I don't like the location of the early voting centre in my area" because we are trying to find these things in the last few weeks. Again, it is a resource issue.

Mr M.J. FOLKARD: I do not want to interfere with your statement, but we have the luxury in this state, we know exactly when the election is going to go take place in 2021. Why are we not locking in local government facilities now?

Mr Kerslake: The first thing you have got to look at is the suitability of some of the centres. In the past, we have used some local government facilities and we have used some courthouses and so on that are no longer suitable given the increased volume of traffic, the disruption that would be caused is substantial. There are also other issues, such as I had contact from one MP pointing out to me that a local council was going to name their hall after the current member of Parliament or a recent member of Parliament. That is not a good look from the Electoral Commission's viewpoint. There are all those issues.

Mr M.J. FOLKARD: Where we have seen where they have embedded them in commercial business locations, the impact on the surrounding businesses has been absolutely chaotic. This is why I am saying we have an opportunity here to embed, to identify or locate—do our homework for want of a better term. I pick up on your responses that you gave to us, but we have this luxury that we know when our election is. We have this opportunity and you mentioned that you do have people locking

in a small hall. I pick up the sensitivities of the name, but I am certain that across the state and what we have here, there would be opportunities that we could lock this stuff down now.

Mr Kerslake: Part of it is you have got to look at the type of facility. You are looking for a larger facility, you are looking for a very accessible facility. The reality is with the great increase in early voting that those ideal centres are much more likely to be commercial centres than the small hall that may be available. When you are looking in that commercial area, people will not—if I came to you and said, “Look, in three years’ time, I want to rent your building for three weeks. Can I lock it in now?”, you are going to say—and we mentioned this to the committee previously—“No way, Jose. I’m going to rent it out to the first person who comes along; I’m not waiting for you.” It is only when we get closer to that time that we can look at what is on the market at that point in time. It is not from want of looking; it is the availability of centres and their preparedness to do so. We could try to do what some political parties do, they rent premises six months out from a state election, but they use them to campaign from for that six-month period. We would have them sitting idle until the last three weeks, and we would be paying a lot of money, which we do not have, for those centres.

Mr M.J. FOLKARD: And that is why the focus is on local government, like the community hall. It takes away from the commercial precincts. I know there is a plethora in the northern corridor in my own specific circumstance. I am certain if I was to have the same conversation with the other members on the committee, they would be reflecting the same.

Mr Avent: There are a number of local government facilities which we can use. As the commissioner was saying, we are presently looking at the distribution of the electorate across the Perth metro area in particular and where the optimum locations of the distribution of early voting centres will be. But in terms of local government facilities, if you looked at the Darling Range by-election, we used the Roleystone hall. If we tried to book the whole hall, that would not be possible. As it was, there is an anteroom, a smaller room, which we could use. So in some facilities there will be rooms that we can put a tentative, long-term booking on. But if a hall is used for badminton, the local yoga group and various other groups, there are ongoing bookings. If we went to a local government and said, “We want to book that hall for three solid weeks”, they are going to say, “Hang on, that is three weeks in a four-year period; we’ve got four, five, six, seven community groups that book that hall, we’re not going to kick them out because they already pay us on an ongoing basis for the use of that facility”. It really does depend on the facility. If there is a side room or a smaller facility we can use, we can, and we will be investigating potentially booking those. But it is not as simple as saying, “Every local government hall, we should be able to book it now” because often the response in the past was, “No, we won’t rent it to you.” That is one issue. The other issue is that we have used, when we trialled it in the 2013 election, we trialled using local governments as paying them to issue early vote. We had five lined up. In the end, we had to drop two of them because in two cases, a mayor in those facilities ran as a state candidate and it would have been inappropriate for us to use that venue where the mayor is sitting there running as a candidate. There are other contentious issues associated with local government, but certainly there is the possibility to book some of those, but it is not as simple as saying, “We want your room, your hall, in three years’ time or two years’ time to use it for a three-week period.”

Mr Kerslake: Can I just add to that; I think we can do better. There is no question that we can do better. But we may not be able to do as well as you would like us to do. Can I put it that way. But it will not be a lack of effort on our part.

The CHAIRMAN: That is acceptable. I think we understand it from your perspective. You also need the certainty of funding early on so you can start making some of these commitments. But at least being aware of it, getting out there early and identifying potential sites is a good thing.

Mr Kerslake: Yes, we are already working on that and we have taken on board the committee's advice on that matter.

The CHAIRMAN: I think you would probably agree with most pundits that the demand for early voting is only going to continue to increase.

[10.50 am]

Mr Kerslake: We look at it. Whatever estimate we put on the increase at the next election is probably going to be double. We study every other electoral commission, we look at their increases, we factor that into ours and then we add more on and then it invariably ends up being greater than even you anticipated.

Mr M.J. FOLKARD: The election day I think is a day of the past. I think it is an election period. I think that is what we are moving into.

Mr Z.R.F. KIRKUP: Just on that, gentlemen, on the other sort of satellite voting centres or early voting centres, as part of the work that you have been doing, commissioner, is there an anticipated sort of volume that you would like to see expected to go through them? I am going to take the example of one I am most familiar with, in the case of Mandurah, serving the districts of Mandurah, possibly Baldivis, Murray–Wellington and certainly mine in Dawesville—the second busiest voting centre second to Perth. Are you anticipating as part of this work that the commission will be going to say, “We want to see no more than say, 10 000 go through that at any point in time”, and thus that is how you will be breaking it up? I mean, I am conscious that you will go through the geospatial breakdown and will connect communities of interest that might be servicing certain areas. But at some point in time, do you think you will get to the point where you will move to say, “Look, we know we can only service this number of people to make sure we can maximise them and enfranchise their vote.” Is that something you will be looking at?

Mr Kerslake: If I am understanding your question correctly, the answer is probably no. Whatever the demand is for early voting, it is what it is, and we have to try to cater for that demand. We certainly would not want to try to put any limit on that. We look at it now that people have the right, as Mr Folkard said, it is a longer voting period; people vote when they choose. We certainly will not be limiting that in any way, because we put the needs of the elector first and foremost. The issue for us perhaps is do you go for early voting over a full three-week-period, or maybe two and a half weeks? We look at our numbers and we will revisit our numbers in that regard. We will certainly have more flexible voting hours. In the by-elections, we found that we got quite heavy demand in some periods, but in other periods, taking up your point, I think, hardly anybody turned up on some nights we had open. We will certainly look at that and cater primarily for where the heavy demand is expected.

The CHAIRMAN: One of the recommendations we made was for the commission to liaise with political parties to ensure consistency of rules around what campaigning can take place in early voting centres. You did not actually support that recommendation, but clearly all the evidence that we received pointed to the fact that there was mass confusion, ranging from the centre that the member for Burns Beach and I are familiar with at Joondalup, where it was really tent city and thousands of volunteers and voters and this mishmash impacted on the local business, to perhaps in Balcatta, I think it was, where no campaign workers were allowed inside the business part that the early voting centre was located in and there was a table of how-to-vote cards, where voters

could just go pick up as many cards as they wanted. Those inconsistencies were highlighted as perhaps requiring attention. If you do not go down the pathway of reaching an agreement with the political parties, how would you ensure that there is more consistency at the next election?

Mr Kerslake: Can I clarify my position? Firstly, at the last election there were areas where we would acknowledge that we could have done things differently, in terms of making facilities available for parties to leave how-to-vote cards and so on. There are some things we could have done better, which we will review this time around. Secondly, we always welcome feedback from anybody with local knowledge—their feedback is always appreciated. Where I have to be careful is for me to turn around and say, “Yes, I will work closely with political parties on certain things.” There will be independents who will stand at the next election who will then start asking questions about, “What about me?” And so on. I have to make sure that I am treating everybody equally as candidates. That is why I made the statement that I could not go to that extent. That does not mean that we do not welcome feedback from local members, and that we would not take that into account. Because of course we would.

The CHAIRMAN: That is important and I recognise the need to treat all candidates equally, but at the end of the day, political parties are key stakeholders in this, and we have got such a plethora of political parties here in this state already. You can go across this table in relation to what an early voting centre should look like, from a campaigning point of view, and you would probably get five different opinions from five different members, and that would be spread right across the board, but I think the one thing that clearly came up was consistency—that if at Joondalup you can have party workers handing out how to vote cards and at Balcatta or Mandurah or wherever you cannot, that that is an inconsistency —

Mr Kerslake: That is a fair point, and comes under the heading that I mentioned at the outset that there are some things that we acknowledge that we would do better.

Mr D.T. PUNCH: I think, commissioner, I am hearing that you welcome feedback from parties or candidates, but that is quite different from reaching an agreement with parties.

Mr Kerslake: That is exactly right, Mr Punch. There is a difference there. The agreement brings me a little bit closer than I feel comfortable, but the feedback is much surer.

The CHAIRMAN: And at the end of the day it is you who is going to make the determination of what can be done and what cannot be done.

Mr Kerslake: Yes.

The CHAIRMAN: I think that is fair enough.

Mr Avent: We will be issuing to parties and candidates guidelines with respect to what can and cannot be done at early voting centres at the next general election. But there will always be the possibility that if one is a local government facility or a courthouse or one is a commercial premise in a larger complex, and that was all we could locate in that particular area, there may be different rules in terms of whether party workers can assemble within the six metres of the entrance and so on. There will be some variation.

Mr Kerslake: If the rules were different, it would be because they are imposed upon us—if we need to use that centre and therefore it has to operate under those rules. Airports are a classic example of that.

Mr M.J. FOLKARD: Whatever the environment is for that particular pre-poll centre or polling centre.

Mr Avent: It is about getting the advice out to parties and candidates as early as possible as to which centres there may be some limitations, and the airports is an example, where the airport authority will not allow campaign workers to assemble, for security reasons and so on.

Mr A. KRSTICEVIC: Just on that point, some locations where the staff or the person in charge has made a ruling saying, "Well, that is not appropriate; However, I haven't got the time or the inclination to go and do anything about it, I'm just making the ruling, saying that is not appropriate. I'm too busy dealing with the job I have to do." What do you do in those situations where someone is clearly breaking the rules, but nobody is actually prepared to do anything about it?

Mr Kerslake: Let me clarify that firstly, the differences should only be differences that are imposed upon us externally, not differences because different polling officials have a different view of the world. We strive to get as much consistency there. Having said that, I am not going to sit here and try to guarantee that that will not happen, because we have hundreds of officials and somebody is going to make a mistake somewhere along the line. But there have been instances, and there was one in the Darling Range by-election, where I became aware of something in visiting a polling place, and I just simply said, "No, no, no, we should be able to do this; we can do that." And I intervened and arranged it. If we become aware of those things, we are always happy to listen. We might agree to disagree, but we might be able to actually get something done, if you draw it to our attention.

Mr A. KRSTICEVIC: But the point is that something is identified as being not appropriate, so the person in charge of the building says, "Yes, that signage is misleading, it is not appropriate. However, look, I am busy over here dealing with my staff and the voting is going on, I haven't got the capacity to go and cut that down or get someone to remove it." So they just effectively ignore it but make this assessment that that is not appropriate.

Mr Kerslake: It depends upon the circumstances. Bear in mind that we do not regulate. We only regulate within a certain distance of our polling place. It is one of the issues that we face up to. Our jurisdiction is limited. For example, you might get parties complaining that somebody else got in first, there's no room left on the school fence because they have got all of their signs up, we have not got any room for us. We do not regulate school fences. They are not within six metres of the polling place. There are unfortunately some areas where the parties and candidates have to work things out between themselves. We might get involved if there is a bit of a dust-up, and we need to keep order in the polling place.

[11.00 am]

Mr D.T. PUNCH: Here is hoping it does not come to that. Commissioner, I have to apologise, I have to leave early, but thank you very much for your work on this.

Mr Kerslake: Thank you Mr Punch.

The CHAIRMAN: I do not think we are that far away from concluding, anyway. In your response to our recommendations you indicated that the commission is looking to extend opening hours at early voting centres and you have already experimented with extended opening hours at the by-elections. I think there might have been ups and downs, but overall that was met with quite good feedback, but you also indicated you would not reduce the effective three-week voting period for early voting. How would you be able to achieve the extended opening hours and maintaining the current voting period with the resources that are available and are likely to be available to you?

Mr Kerslake: That is a conundrum. What we need to be able to do, now that the legislation has changed with early voting, is to be able to look at where we might be able to reduce resources in polling places on election day. I am not saying we will take away polling places, I am saying if you look at the volume of traffic on a polling day, it may be reduced, because a lot of people have already

voted early. Having been through that experience once, we would look at whether we were able to reallocate resources from one to the other. We were clearly limited in being able to do that at this recent election, because it was the first time we had had available early voting for anybody, so we had no idea how that would translate on polling day. But now we have got some better indication, we will look at that, or if there are other areas that we simply need to reallocate resources to be able to do it.

The CHAIRMAN: Raising election day is an interesting conversation all of its own in the future of what an election day will look like. You obviously monitor pretty closely the throughput that you have on a half hourly or hourly basis during election day. Is there any indication that given the length of early voting has been increased and has become more popular, that the times that polling booths are open on election day may be reduced in the future?

Mr Kerlake: That is covered for in the legislation, so it is not something we have the capacity to do. One of the things that we could do a more practical thing is that you may be able to consider operating shifts with polling place staff, particularly ones who might live locally, whether they can come in for the first couple of hours and so on. That is something that we have not discussed in the commission. I know it is something that other commissions have looked at, whether they should apply shifts on polling day. Taking into account that sometimes you can have staff sitting there with very little throughput of voters at certain times of the day.

Mr Avent: With extended hours at early voting centres we did run shifts. In Cottesloe we ran from 9.00 am to 7.00 pm for the three weeks. We found that the extended hours in the first week and a half did not significantly warrant the number of staff. We did reduce the number of staff during that period. At Darling Range the model we adopted was we ran extended hours in the last week and on the Saturday before the election day, that pattern seemed to work very well. But we did run shifts for early voting centres in that extended hours week.

The CHAIRMAN: We thank you for your time, as ever, as you know, we consider ourselves key stakeholders in all of this too and that you consider us that.

Mr Kerlake: I would not want you to think that we thought other than that. The political parties are certainly the key stakeholders. There are just other stakeholders.

The CHAIRMAN: You will receive a transcript of the hearing for correction of minor errors. You need to make those corrections on the transcript within 10 working days and get it back to us. If you do not, we will just deem the transcript to be correct. You cannot add new material through the corrections process and you cannot change the sense of the evidence that you gave today, but if you want to provide any additional material or elaborate on anything that we have discussed, please feel free to make a supplementary submission for us to consider. Once again, thank you for your time.

Hearing concluded at 11.05 am
