



Australian Government
Registered Organisations Commission

Ref: MS21-000733

24 December 2021

Senator the Hon Michaelia Cash
Attorney General
Parliament House
CANBERRA ACT 2600

Dear Minister,

Thank you for your correspondence of 21 October 2021 outlining your expectations of my role in administering the Registered Organisations Commission.

I appreciate your acknowledgement of my responsibility to regulate Australia's federally registered organisations and my independence in performing functions conferred by the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

I am pleased to provide you with the attached Statement of Intent, which sets out how I intend to meet the expectations you have outlined.

Your Statement of Expectations and my response through this Statement of Intent will be published on the Registered Organisations Commission's website and will also be incorporated into the ROC's 2022-23 Corporate Plan and 2021-22 Annual Report processes.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Bielecki', with a long horizontal flourish extending to the right.

Mark Bielecki

Registered Organisations Commissioner

Registered Organisations Commission

Regulator Statement of Intent – December 2021

This Statement of Intent sets out my intentions, as the Registered Organisations Commissioner, regarding how the Registered Organisations Commission (ROC) will meet the expectations of the Attorney-General – the responsible Commonwealth Minister – as set out in the Ministerial Statement of Expectations of October 2021 with regard to the functions and powers conferred on the ROC under the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

Overview

I acknowledge the role of the ROC, as outlined by the Minister, is to regulate and educate federally registered employer and employee organisations (registered organisations).

Under the RO Act, the functions of the Registered Organisations Commissioner are to:

- promote the efficient management of organisations
- promote high standards of accountability of organisations and their office holders to their members
- provide education, help, assistance and advice to organisations and their members
- promote compliance with the financial reporting and accountability requirements of the RO Act
- monitor acts and practices to ensure they comply with the provisions of the RO Act

to provide for the democratic function and control of registered organisations. As the Registered Organisations Commissioner, I am assisted by the ROC and its staff to carry out these functions. It is my intention that the ROC will continue to exercise its functions and powers in good faith and to the best of its ability.

Our regulatory approach is grounded in clear communication, interaction, and engagement with registered organisations to promote compliance with the RO Act. Where appropriate, we seek to remedy non-compliance through cooperation and assistance. We take a risk-based approach to what we will inquire into or investigate, including by focusing on the public interest and the interests of members of registered organisations. We also ensure a proportionate and appropriate response to non-compliant behaviours and practices.

Principles of regulator best practice

The ROC intends to embed and act in accordance with the Government's principles of regulator best practice as outlined in the standards set out in the *Regulator Performance Guide July 2021*. This will include incorporating these principles in the conduct of the ROC's operations, as well as striving for continuous improvement against these principles.

In exercising its functions and powers in accordance with these principles, the ROC will, as the Minister expects, focus on:

1. Continuous improvement and building trust

In alignment with the principles of the *Regulator Performance Guide July 2021*, the ROC will adopt a whole-of-system perspective, continuously improving its performance, capability and culture to build trust and confidence in Australia's regulatory settings. To achieve this, the ROC intends to:

- stay informed, aware and responsive to the changing context and operating environment of federally registered organisations. As a very small, but agile, regulator the ROC has been responsive to rapidly changing stakeholder needs and priorities demonstrated by our flexibility during the COVID-19 pandemic. The ROC also maintains an awareness of the financial and other operating issues that can affect its regulated community.
- actively share insights by engaging with other regulators and stakeholders to encourage best practice and share lessons learned. The ROC intends to encourage registered organisations to adopt good governance practices to help achieve high rates of voluntary compliance with the RO Act through the ongoing provision of timely and targeted delivery of educational tools and resources. The ROC also intends to continue to work with other regulators where relevant to share appropriate information and lessons.
- build and maintain collaborative relationships with other regulators to minimise regulatory impact and reduce duplication. The ROC intends to continue to work cooperatively with the Australian Electoral Commission to ensure the delivery of industrial elections for registered organisations as required under the RO Act to facilitate democratic control of organisations by their members. The ROC also intends to continue to engage with other relevant Commonwealth and State agencies to administer a comprehensive protected disclosure (whistleblower) scheme and reduce duplication in areas of shared regulation.
- hold itself to account through internal processes that foster a culture of continuous improvement and reflection. The ROC intends to meet and publish its Key Performance indicators. It also intends to continue to decrease turn-around times for the processing of important documents lodged with the ROC by registered organisations.
- actively develop its staff capability, including ensuring staff have relevant knowledge to address stakeholder needs.

2. Risk-based and data-driven:

In alignment with the principles of the *Regulator Performance Guide July 2021*, the ROC will manage risks proportionately and maintain essential safeguards while minimising regulatory burden and leveraging data and digital technology to support regulated entities to comply and increase in efficiency. To achieve this, the ROC intends to:

- use intelligence and data to inform a risk-based and proportionate approach to compliance and enforcement activities. The ROC has always taken a proportionate and risk-based approach to compliance and intends to continue to do so.

- actively monitor and plan for risks, taking a preventative approach to compliance by raising awareness of common misconceptions and through early identification and remediation of compliance issues. The ROC intends to continue to do this by engaging with registered organisations and their office holders to influence them to act in good faith, with due care and diligence and in the interests of their members. The ROC will also continue to develop educational tools and resources to assist with voluntary compliance and good governance.
- consider the risks, cost effectiveness and impact of regulatory action. The ROC intends to continue to focus on guidance and assistance in the first instance to assist registered organisations with their compliance obligations. In circumstances where further regulatory action is required, the ROC will ensure that it is in the public interest to do so.
- continue to demonstrate flexibility in its regulatory approach in order to encourage voluntary compliance where appropriate and focus on compliance and enforcement activity where risk is greatest. The ROC intends to do this via its education programs and by following its compliance and enforcement policy. The ROC will continue to deliver education tools and resources developed in consultation with stakeholder needs and an assessment of risk. In the more limited but serious cases involving systemic, repeated, opportunistic or deliberate non-compliance, we will use enforcement action to deter misconduct.

3. Collaboration and engagement

In alignment with the principles of the *Regulator Performance Guide July 2021*, the ROC will be a transparent and responsive communicator, and will implement regulations in a modern and collaborative way. To achieve this, the ROC intends to:

- engage genuinely and regularly with registered organisations and their peak bodies. The ROC intends to continue to conduct its various engagement activities, as well as surveys and other feedback mechanisms.
- work cooperatively with stakeholders including registered organisations and registered auditors to enhance compliance and compliance practices. This includes identifying risks and engaging early with organisations to ensure cooperative remediation of potential compliance issues.
- be receptive to feedback and diverse stakeholder views. The ROC intends to continue to examine ways to receive and deliver feedback including through data collection documents, its website and by administering continuous surveys,
- provide up-to-date, relevant, clear and easily accessible guidance and information to assist regulated entities with achieving voluntary compliance. The ROC intends to continue to proactively educate registered organisations and their auditors about financial and other responsibilities and obligations. The ROC will encourage democratic control in registered organisations and provide support through expeditiously arranging for elections to be conducted.
- provide informative and practical tools that empower registered organisations to comply with their statutory obligations and where possible provide transparent

anonymised compliance ‘case summaries’. The ROC intends to continue to develop informative and practical educational resources and tools to assist registered organisations to understand and undertake compliance obligations. This includes workshops, podcasts, a digital classroom, webinars, fact sheets, guidance notes and more.

- provide tailored and personalised assistance to stakeholders where reasonably practicable. The ROC intends to do this by providing tailored letters and advice, through the delivery of its ‘ROC to You’ program and via broad consultation by the Executive Director and other senior staff members with senior officials and influencers within registered organisations and peak employer and employee bodies.

Innovation and regulatory change

The ROC intends to continually monitor the environment it operates in to ensure that its regulatory approach keeps pace with changes in technology, industry practices and community expectations.

The ROC intends to regularly review and, where necessary, adjust policies, protocols and operating procedures, to ensure it can respond to the changing social, technological and commercial context in which it operates.

The Government’s policy priorities and objectives

In addition to the core functions noted above, the ROC intends to observe and contribute to the following Government priorities and objectives:

Deregulation Agenda

The ROC intends to contribute to the Deregulation Agenda – a whole-of-government approach to regulatory policy.

The ROC intends to make this contribution by:

- seeking opportunities to remove duplication and streamline processes in order to improve efficiency and lift productivity – this includes examining inefficiencies in existing systems and processes and using enhanced technology where possible to make it easier for stakeholders to comply with their obligations
- acting in accordance with regulator best practice in its decision-making, policies, processes and communication practices, in order to maximise transparency and minimise compliance costs
- applying the *Regulator Performance Guide July 2021* to its regulatory functions to assess its performance and engagement with stakeholders
- incorporating regulator performance reporting into the entity’s reporting processes, as required under the *Public Governance, Performance and Accountability Act 2013* and *Public Governance, Performance and Accountability Rule 2014*, in order to support greater transparency and accountability of regulator performance

- increasing the use of digital tools and resources wherever possible to meet stakeholder needs. This includes digital delivery of education resources and improvements to systems and infrastructure.

Relationship with Minister and portfolio

The ROC intends to work collaboratively with the Attorney-General's Department to provide accurate and timely information and policy advice on significant issues relating to strengthening compliance with the RO Act. The ROC will also work cooperatively and collaboratively with other agencies in the portfolio, and the wider Australian public service, wherever appropriate.