



RO POD episode 44 – New officer essentials

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AN Welcome to RO pod: Talking about governance of registered organisations with the Registered Organisations Governance & Advice Branch at the Fair Work Commission. The official podcast about the regulation of unions and employer associations. In this monthly podcast we'll share essential information, uncover handy hints and tips and reveal our best tools for proactive compliance with the complex legislative requirements.

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SM Hello and a warm welcome to the first episode of RO pod being broadcast from the Fair Work Commission. My name is Sandra Marrari and I'm an Administration Assistant in the Registered Organisations Governance & Advice Branch at the Commission.

As you may be aware, the regulator of registered organisations has recently changed. From 6 March 2023, the Registered Organisations Commission was abolished and the functions of the Registered Organisations Commissioner have now transferred to the General Manager of the Fair Work



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Commission. Registered organisations still have the same obligations under the *Fair Work (Registered Organisations) Act* – or as we call it, the RO Act.

Before we turn to the topic of this podcast episode, we thought it would be helpful to briefly explain what you can expect from RO Pod as part of the transition from the ROC to the Commission.

The ROC delivered 43 podcast episodes which covered a diverse range of topics from whistleblower disclosures through to best practices for minute taking. The feedback we received about the podcast was very positive so we will continue to release new episodes of RO Pod on the last Friday of each month.

Most of the previous podcast episodes from the ROC will continue to be available on the Commission's website and if we reference an old episode for you to listen to for more in-depth information on a particular topic, we will continue to give you the title and episode number.

While this podcast has a new name, you'll hear many of the same voices you're used to hearing as well as new voices from the Commission about topics that we know people in registered organisations will find interesting.

As always, we welcome feedback from anyone involved in registered organisations, including suggestions about potential podcast topics you think might be useful.



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Many of you will know that the General Manager of the Fair Work Commission has been given additional functions under the RO Act which include embedding a culture of good governance and voluntary compliance.

Consistent with these new functions and the importance of good governance, the name of the new branch assisting the General Manager to perform the functions previously delivered by the ROC is the Registered Organisations Governance and Advice Branch. We will also be continuing with our popular Good Governance in Practice Series of podcast episodes as part of RO Pod.

In this instalment we'll be covering all the essentials for new officers in registered organisations.



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Joining me on this podcast today is my colleague, Cynthia Lo Booth who is a lawyer and senior adviser in our compliance team. Welcome to RO Pod Cynthia!

CL Thanks Sandra – it's good to be here.



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SM Cynthia, would you join me in congratulating any new officers listening? Stepping up to a new role is an achievement and here at the Commission we want to wish all new officers every success.

CL Indeed, we do Sandra. You know, a person may never have been an officer of a registered organisation before, or they may have recently been elected or appointed to a new office with a greater level of responsibility. There are important rules to follow and it's good for people to know exactly what these are as they take up their new role.

SM That's right! Understanding the significance of their compliance obligations helps a new officer have confidence from the 'get go'.

CL True. And we know that it can look like a lot of information to become familiar with. But it can be broken down into a step-by-step process, that makes compliance easier to understand and manage, because sometimes all this new information can be overwhelming.



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SM A key part of taking up an officer role in your organisation is that you will have a duty to act with due care and diligence in the best interests of your organisation and your members, to comply with your rules and the RO Act. So, on that note, what's a good first step for a new officer, Cynthia?

CL A good starting point for a new officer should be to properly understand their functions and responsibilities and the powers they can exercise in their office whether individually or as part of a collective body of officers (such as a management committee).



The RO Act requires that the organisation's rules provide for the powers and duties of offices. So, reading your organisation's rule book is a *really* good beginning. Copies of a registered organisation's rules can also be found and downloaded from the Commission's website.



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- SM And those rules will be unique to every organisation, won't they?
- CL Yes. Though it is worth remembering that some key offices have powers and functions that are similar across many organisations, such as a secretary for example – but the rule book will spell out exactly what the functions are as they relate to your organisation.
- SM A second step would be for the new officer to ask about any induction programs or procedures that may be in place within an organisation – if they haven't been offered one automatically. Asking for help, is always a good thing to do. We have a podcast specifically on what to include in officer induction for anyone interested in starting a program at their organisation. It is episode number 15 titled 'Good Governance in practice: officer induction' and is available from our web site.
- CL I should say, that by 'induction' we mean the steps or programs put in place to welcome new officers to the organisation and giving them the information and knowledge they need to perform their roles successfully.



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- SM How officers are inducted or introduced to their duties will not be the same across all organisations. It may depend on several factors, like the size, structure, or resources of their organisation.
- CL That's right! There are a variety of ways that registered organisations can deliver an induction; it can be through a manual or training programs delivered online or in person, as well as mentoring new officers or on-the-ground training. And in many times, it can be a combination of all these methods.
- SM Yes. It's worth noting too, that some organisations may not have introduced an induction process yet, which is where our resources, specifically, our revamped Officer Induction Kit will come in very handy.



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CL Agreed! Our Officer Induction Kit was originally developed following feedback from a senior leader at an organisation, and while they had been a member for a long time, they needed to know what their responsibilities were and they told us they were “desperate for help”. In response, we created the kit which is kept refreshed with up-to-the-minute resources; in fact, the latest update is available from our website now!



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SM That’s right, Cynthia, and if you’re a new officer it’s a pretty good head-start. It includes a clear index with hyperlinks to our useful templates, fact sheets and guidance notes, such as the officer’s duties fact sheet, our guide to understanding financial statements, and our fact sheet about conducting meetings. It can help officers to identify their responsibilities, and the relevant time frames for compliance activities.

CL I do want to add, that the Officer Induction Kit does not cover everything, and it does not replace reading your organisation’s rules and asking questions about your role, but as a quick reference guide, it’s a great place for a new officer to build on their knowledge. It’s also a live document that we regularly update, so you don’t necessarily want to print it or save a local version and then never come back for the updates. This is why it contains a mixture of hyperlinks and documents.



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SM There are many tasks and duties involved in running a registered organisation. This includes things like approving expenditure, keeping records, calling meetings, and preparing budgets – just to name a few, and that can mean some roles have extra administration. Which is why we have so many useful tools, templates, and resources on our website to support new officers, as it can be quite a bit of information to take in. And we want to help officers succeed in their roles.

CL Yes, and knowing what documents must be lodged with the regulator, and when they need to be lodged...



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SM That's right, things like annual returns of information, notifications of changes to the organisation, officer and related party disclosure statements, prescribed information for elections, and financial reports.

CL Yes Sandra. We regularly get questions about financial obligations. If you're a new officer, you need to know your financial duties, these are partly explained in your organisation's rules or rule book and partly in policy.

Some typical examples of things to keep an eye out for might be:

- your ability as an officer (or group of officers) to enter into contracts.
- authorising spending
- making donations
- the purchases or disposal of property
- the powers to incur liabilities on behalf of the organisation or branch.



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SM Cynthia, could you give us a common example of a high risk area for any new officers listening out there?

CL Sure Sandra, there are often corporate responsibilities that new officers might not have encountered before like having the use of a branch credit card. The use of credit cards is one area where we see a range of issues being raised in whistleblower complaints.

The new officer's organisation might have a Credit Card Policy, which explains what kind of expenses are allowed, and the process for reconciling transactions. New officers should make sure they know where to find these policies and familiarise themselves with them. This is all part of developing a culture of compliance and good governance in registered organisations, so that members of organisations can have confidence in how they are being run. And ask questions!



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SM Yes! We can't emphasise this enough – it's a big part of your role as a new officer to ASK QUESTIONS. If you don't understand how members in your organisation can use credit cards and their limitations, or what you are being asked to approve about the financial statements, you're a new set of eyes and you have a duty to ask questions. No doubt you won't be the only person wondering. I'm new here at the Commission and I've been asking a million questions as I learn my role.

CL Questions are important, not just to learn your role, but to hold the organisation to account. And to ensure you're meeting your obligations.

The Commission believes that educating new officers about their duties, such as their financial responsibilities under the RO Act, can make a real difference to compliance and can even protect the organisation against misconduct. But we also believe that officers can self-educate and we have tools to help with that.

It's important to remember that both individual officers as well as organisations can be held responsible for failing to meet compliance obligations, including in the most serious cases through penalties imposed by a Court.



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SM Yes, Cynthia! Let's remind our listeners the RO Act requires new officers with financial duties to complete approved financial training within six months of taking office – preferably sooner. (Unless they receive an exemption from the General Manager of the Commission). Non-compliance can attract a civil penalty and can be avoided entirely by following the rules.

This financial training is very useful for new officers! It includes practical skills like:

- how to understand financial statements
- how to keep proper financial records
- how to avoid conflicts of interest in relation to financial decision-making



Refresher courses are useful too, because often if you have different duties, you're paying attention to different things and looking at them with a different view. Also, technologies and trends change!



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CL That's so true! Good governance is something that may not come naturally, and these processes do need to be learned; however, once you learn them, they really do prove very useful, not just in a compliance sense but in the workplace generally.

A good case study here, is a Federal Court case involving a Branch Secretary who consistently failed to prepare and present financial reports in a timely way over a three-year period. The pattern actually occurred over a much longer time period and involved many requests to the Secretary from the regulator to lodge financial reports so that members could understand how their money was being spent.

The Court found that because the Branch Secretary consistently failed to lodge financial reports with the regulator within statutory time limits, he had not exercised the degree of care and diligence that a reasonable person would expect.

The Judge in this case said that officers who exercise effective control of organisations shouldn't believe that their reporting obligations will be treated lightly.

And both the organisation and the Branch Secretary had to pay civil penalties.



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SM That's right, it shows that not only do organisations have to take the financial reporting obligations of their branches seriously, but that there are consequences for officers who fail to meet their obligations under the organisation's rules and the RO Act.

CL Yes! It's a cautionary tale. While we're here, I do just want to touch on the topic of when you **don't** need to do financial training. I'd like to point out that an officer is not required to do more training if they are re-elected to the same office without a break in service. For example, if an officer is re-elected to the branch committee as a committee member and has already undertaken training or been exempted.



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This is different for officers who **change** from one office to another – say you were previously the committee member and now you’re the president, because if they have financial duties the officer will be required to undertake **new** training (even if they have already done so in a previous office) unless they obtain an exemption within six months.

Here's a practical tip, if you do want an exemption, just a reminder for organisations (and officers) to get a request for an exemption from financial training in early. We ask that if organisations want to lodge an exemption application with us that they do so at the commencement of the officer’s term of office, so they do not miss the six-month deadline.



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- SM A reminder too, that we have many ready-to-go templates available which can be accessed on our ‘RO Flower’; these can really save time!
- CL I don’t think I can emphasise enough just how critical it is for officers to understand what their duties are under the law. The duties set a minimum standard of conduct for officers, and they are essential to good corporate governance. An officer runs the risk of financial penalties if they fail to meet those standards, and some misconduct may even be a criminal offence.
- SM That’s right Cynthia. One misconception about officers’ duties is that they only apply to senior leaders like the Secretary, or to full-time officials. That’s just wrong.
- CL A good point. The general duties of officers apply to **all** officers of registered organisations, and many of them apply to all officers with financial duties, including who you share them with, like Committee of Management members. The law requires ALL officers to discharge their duties with care and diligence, to act honestly, in good faith and with a proper purpose, in the best interest of their members.



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- SM On this topic, another red flag officers should be aware of is the law around disclosures and conflicts of interest.



CL That's right, we do see issues with conflicts and disclosures. Basically, there are thousands of office holders in federally registered organisations and every one of them is likely to have social, family and business relationships or interests. Often, these bring positive benefits to registered organisations, their officers, and members; however, it is a compliance requirement that organisations and officers take steps to avoid potentially negative risks and consequences regarding conflicts of interest, non-disclosure, or misleading disclosures.



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SM The good news is that conflicts of interest and disclosures, can be successfully managed through good governance practices and procedures, which is great because it can give new officers a sound framework to start with. And here, I might recommend our earlier podcast on how to handle conflicts of interest as a powerful resource for new officers to protect themselves and their organisations. It was episode number 33 titled 'Managing Conflicts of Interest'.

CL That's right, Sandra. An important point to make here, is that conflicts of interest and disclosures can be an actual conflict, a potential conflict, or a matter of perception; so a good rule of thumb is to consider how a situation may be objectively perceived by members and therefore officers should act appropriately.

Remember that the penalties for breaching disclosure obligations and can attract civil penalties or criminal charges. If ever in doubt, disclose!



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SM Again, going to the rules and policies of your organisation should give the new officer information on disclosures and conflict of interest procedures. Of course, we offer a wealth of resources, tools and templates that are freely available to help new officers in this regard.

CL That's right, and they can be found on the Commission's website!

There are also real-life examples that new officers can learn from - our website has many plain English summaries from actual court cases. These include summaries of Federal Court decisions, and several of the cases involve officers who breached their duties. The court judgments themselves can be quite



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lengthy and complex to read, so we've published summaries for busy people like new officers, who just want to extract the key points and the lessons that come from the cases.

Can I give out a quick reminder to organisations that if they have new officers, they must update their records and lodge a notification of change (such as the election of new officers) with the Commission. And this must occur within 35 days of the change occurring.



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SM Thanks for that reminder, Cynthia!

CL At the end of the day, a key takeaway for our listeners, is that your responsibilities started from the day you took up office, so you need to quickly come to terms with the rules of your organisation (including the duties as an officer) and any internal policies and your statutory (legal) obligations, so that you don't get into grief down the track.

SM Thanks Cynthia, as a new person myself I know it can seem like a lot, but it is so important you're always taking these first steps to learn it. We don't have time in this podcast to cover every single area of a new officer's roles and responsibilities, but we have covered the essentials. More information can be found on our website and in our new Officer Induction Kit.

CL That's right! And a reminder that here at the Commission, we're here to encourage good governance in registered organisations and a culture of voluntary compliance so reach out if you have questions you want to ask us. Because asking questions is essential to your role.

Again, we'd like to congratulate all new officers on their new roles and wish them every success going forward.



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SM Indeed! Thank you for your time, Cynthia, it's been a pleasure speaking with you.

CL You're welcome, Sandra.

SM And listeners, take care and please join us again next month for another episode of RO Pod. Where we will be speaking with another expert!



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