



## ORP panel discussion – 22 July 2020

### Speaker Key

<b>CLB</b>	Cynthia Lo-Booth
<b>CB</b>	Catherine Bebbington
<b>KM</b>	Kristina Menzies
<b>DC</b>	Declan Clifford

**CLB** Hello, and welcome to the ROC's online question and answer panel, about the ROC and officer-related party disclosure statement. We also call this the ORP statement. Thank you for joining us online or via telephone. We're pleased to have so many of you with us, and we hope that in the next hour you can learn something new, or refresh your skills, or we can answer a question you might have.



00:00:28

**CLB** My name is Cynthia Lo-Booth. I'm a lawyer and senior adviser in the ROC compliance and investigations team. I would like to introduce you to the members on our panel today, who will give you guidance and answer questions you may have on ORP statements.

I'm joined today by my colleague, Catherine Bebbington. She's the principal adviser and team leader of the education and reporting team. Hi, Catherine.

**CB** Hi, Cynthia.

**CB** We have Kristina Menzies, a senior adviser, who is also from the education and reporting team.



00:01:03

**CB** Hey, Kristina.

**KM** Hi, Cynthia.

**CLB** Hi. And, finally, we have Declan Clifford, the executive assistant to the commissioner. And he's also on our compliance team, one of our compliance officers, and a lawyer, who assesses ORP statement. Hi, Declan.



**DC** Hi, Cynthia. Hi, everyone.

**CLB** We've all been involved in assessing ORP statements, and consulting with organisations and branches about ORP statements that they have lodged with the ROC.



**00:01:34**

**CLB** It has been two years since the legislation came into effect, requiring organisations and branches to prepare an ORP statement and lodge it with the ROC. Over that time, we have seen a real improvement in compliance rates.

We are pleased to say that the vast majority of ORP statements are lodged on time. However, it's still a relatively new requirement, and your organisation or branch have most likely only lodged two statements with us.



**00:02:02**

**CLB** And the ROC continues to answer questions, and provide education about how to lodge a compliant ORP statement. And that is what we will address in today's session. Before I launch into the questions, I want to cover off a few housekeeping issues.

To help us achieve good audio quality, everyone who's registered is on a default mute setting, and only members of the panel will be able to speak.



**00:02:29**

**CLB** We have requested questions in advance of this webinar, so many of the questions you will hear today have been asked of ROC in advance of today's session. However, if you want to ask the panel a question during the webinar and you've joined us by computer, on your control panel there's a question box.

You can expand this box and type in your question, and I'll ask the panel to address the question towards the end of today's session, unless your question is seeking clarification that is currently being discussed.



**00:03:02**

**CLB** If we run out of time, we will try to publish answers to the questions on our website after this session. We will also publish a copy of this online presentation on our website.

For those of you who have joined us via the computer, you will see that we've loaded our ORPs and guidance notes for you to download from the GoToWebinar control panel. This document is really helpful, and it covers off a lot of frequently asked questions about how to complete the ORP statement.

**00:03:35**

**CLB** If you are responsible for drafting the statement on behalf of your organisation or branch, I recommend that you have a copy of this guidance note while you're completing the statement.

We also uploaded a copy of the ORP statement template. We will be referring to this throughout the session. If you're joining us by phone, or you want to access these documents later, a copy of both the guidance note and the template can be found on our website, under the tools and resource tab.

**00:04:06**

**CLB** Before today's session, we emailed you a hypothetical question, so that you can test your knowledge about the first table of the ORP statement. That is the table about the remuneration paid to the top five branch officers.

If we have time at the end of today's session, we will go through the answers. And a copy of the question is also available to download on the control panel.

**00:04:30**

**CLB** We will publish the answers to this hypothetical question on our website, at the end of this presentation. You will also receive a link to a survey via email. We encourage you to complete this. It will help us improve our education services.

So, let's begin our panel discussion. The first question I have is, what are the common errors you see with ORP statements that are submitted to the ROC?

**00:05:00**

**CLB** And how can these issues be avoided? Now, this is a really great point. When errors are made in statements, it slows down the process, and it increases the chance that you, as an officer of the organisation or branch, may have to redo the statement.

I will share this question around the panel, as my colleagues have identified different errors over the past few years of assessing ORP statements. And we'll start with Catherine. Hi, Catherine. Welcome to the panel.

**00:05:30**

**CLB** What issues have you seen with ORP statements?

**CB** Thanks, Cynthia. And I'm happy to be here on today's panel. Look, I'd like to start answering this question by stating that many issues and misunderstandings can first be avoided simply by using the template we provide.



We carefully draft our templates to encourage better compliance with the little details. And we do make updates to them based on your feedback, or if we see common issues emerging. So, do make sure you're using the most up-to-date one.



**00:06:00**

**CB** So, what do I think is a common error? A common error I think we see a lot of is nil statements. Or, really, we don't see them enough.

An issue we regularly make up follow-up enquiries about is the way in which the tables in the template have been completed. It's sometimes not clear if parts of the table have been left blank because there was no disclosure to be made, or if information is actually missing, or the person didn't understand what was supposed to be put there.



**00:06:29**

**CB** Let's start with the example where you have absolutely nothing to declare at all, and it's not uncommon. Under the RO Act, you still need to launch the ORP statement with us. And it makes a lot more sense to us and to your members, if you've written nil or something similar into the two tables. Rather than just leaving the whole template blank.

For those of you who are familiar with the ORP statement template, and as Cynthia has just said, you can download it off the site if you want to look at it now. There are two tables.



**00:06:58**

**CB** The first table asks for the disclosure of the top five officers, based on their relevant remuneration, and then on cash benefit. And the second table asks for disclosure of payments to related parties, and declared persons or bodies.

Another common example we see is if you have one blank table. For instance, you don't have a disclosure to make in table one, because no officer received relevant remuneration. Or, you don't have any disclosures to make in table two, because you didn't make any related-party payments, for instance.



**00:07:30**

**CB** We do ask that you expressly tell us this and your members, by writing into the form, there are no disclosures to be made. Or inserting the word nil in each of the boxes. Or something to that effect.

This is particularly relevant if you're making a partial disclosure. For instance, let's say you've got three officers that you're trying to disclose, but they don't have any



non-cash benefit. In that case, you would be including their office, their name, and the relevant remuneration, but you would be putting nil into the non-cash benefit cell of the table.



**00:08:05**

**CB** You would also put nil into the fourth and fifth officer position, because you're only telling us about three. This makes it really clear to everybody that you've understood the question, and answered it fully.

If the boxes are left blank, or your responses are ambiguous, the officer from the ROC, who is assessing your matter, is likely going to give you a call to follow that up.



**00:08:29**

**CB** This is particularly so, because during the 2020/2021 year, we're still focusing on nil statement. So, you can avoid this by submitting a clear and complete ORP statement in the first place. So, remember, use your nil statement, and use the template.

**CLB** Thanks, Catherine. Kristina, do you have an answer to the question, what's another common error do you see with ORP statements?

**KM** Sure, Cynthia.



**00:08:57**

**KM** So, I've done my fair share of assessing ORP statements as well, and some of the common errors I've seen relate to the top five ranked officers by relevant remuneration. So, this is the information contained in that first table of the ORP statement template.

So, the officers must be in an order, from the highest earning as rank number one. And then, the remainder of the top five rankings must be in descending order of remuneration.



**00:09:27**

**KM** And so, what I've seen some organisations do is incorrectly put the officers in an order based on the importance of the role of the officers. And this is incorrect, unless of course the most senior officers are paid the most.

However, this isn't always the case, all the time. So, the legislation is really clear that the order requires the officers to be in their order by their remuneration amount.



00:09:59

**KM** It's also important to remember that this is the top five rankings, which may be more than five people. So, if you have two or more officers with the same remuneration, you have to show both of them that that only counts as a single rank.

And this is particularly common in cases where members of the committee of management are paid the same. An assessment of the top five rankings of officers also requires the person who is completing the ORP statement to have a really good understanding of who their officers are.



00:10:35

**KM** So, what I mean here is that the people listed in the first table of the template, they must be the RO Act definition of an officer. The mere fact that the person's title has the word officer in it, like the chief executive officer or the chief financial officer, that doesn't make those people an officer under the act.



00:11:02

**KM** So, under the act, the president, vice president, secretary, and the assistant secretary, those people are deemed to be officers. So, those people in all organisations will be officers.

However, for other positions, what is important is the person's function. So, for example, if a person is part of a committee of management and they have the power to manage the affairs of the organisation, or if they can make or change rules.



00:11:35

**KM** So, I won't go into the full legal definition of the word officer under the RO Act. You can find this in section nine of the act. It would be quite a lengthy discussion to be had. But if you do require guidance around how to determine who the officers in your organisation are, we've seen this as a particular issue, and we've picked up on that.



00:12:00

**KM** And we've produced a podcast episode specifically to provide you with additional guidance. So, you can have a listen to that, download that from the podcast library of our website.

What's really important, though, is that all officers are elected. The point I'm making here is that it's essential for the person completing this ORP statement, that they know who the organisations in their offices are.

**00:12:30**

**KM** Sorry. Who their officers in their organisation are. And I mention this point, because in some statements I've seen and assessed, there have been instances where a person listed in the statement is not an officer of the organisation. But rather, they're an employee of the organisation.

And the ORP statement does not include information on people who are purely employees of the organisation.

**00:13:02**

**KM** We publish your ORP statements on our website. It's publically available information. And the ROC, we're really mindful of protecting people's privacy.

So, we realise that people's identities, and also the money that they're paid, that's quite sensitive information. So, it's really important that we only collect and publish information that's required under the RO Act.

**00:13:30**

**CLB** Okay, Kristina. I think I understand that employees are not usually included in an ORP statement, but what if the person is both an officer and an employee of the organisation?

**KM** Yes, so, the ORP statement does not include employees, unless they are also an officer who is also within the top five when ranked by remuneration. So, the RO Act requires organisation and branches to disclose the remuneration of the top five ranked officers.

**00:14:04**

**KM** The RO Act does not specify that the disclosure relates only to the money that the officer receives in their capacity as an officer. So, if an officer is also an employee and they make the top five, then we do think that the act requires organisations to disclose the money that the person has received in both their capacity as an officer, and also as an employee.

**00:14:34**

**KM** So, let's say that you have a president who is getting paid a salary to be the president, but they're also getting a salary because once a month they do all the bookwork for the organisation as a casual employee.

Both of these incomes, they're both being paid by the organisation, and so we think they should be included in the ORP statement.

**00:14:59**

**KM** In reality, what this may mean is that the person may rank higher than if it was just their salary as an officer. What we've seen organisations do in these circumstances to avoid confusion is we've seen them place additional notes on their ORP statement, to explain that person's dual role.

So, we think that these additional notes that explain the dual role, they add transparency, and they add clarity.

**00:15:30**

**KM** So, at the ROC, we support this approach. But what I would like to say is, just like Catherine did, is a great start is to use our template. So, start with our template, and then add additional information that you believe is relevant.

**CLB** Thanks, Kristina. And, finally, Declan. What issues have you identified in your experience in assessing ORP statements?

**DC** Thanks, Cynthia.

**00:15:59**

**DC** So, look when we talk with organisations, a really common question that we get is, what's included in this amount of relevant remuneration?

So, the definition in the RO Act is very broad. It includes pay, wages, salary, including super, allowances, leave, benefits, or other entitlements. So, as I said, a wide definition there. And it's going to capture things like superannuation, payments like travel allowances, and leave pay-outs as well.

**00:16:28**

**DC** It's also going to capture reimbursement amounts paid to the officer, where the sum of money is not paid for a business-related expense. So, an example of an expense or a reimbursement that's not business related could be a gym membership.

And there's lots of information on reimbursement in our guidance notes, so if you need more help, I'd encourage you to look at the guidance notes. There's lots of great examples in that one. Now, Kristina has just been talking about how relevant remuneration captures money paid to a person, who's both an officer and an employee of the organisation.

**00:17:03**

**DC** But I want to make it clear, relevant remuneration doesn't actually normally cover employee income, unless you are an officer of and employed by the organisation. So,





if you're an officer of an organisation, the remuneration includes the money paid to you by the organisation. Yes.

But you're probably also an employee elsewhere. A teacher, manager, nurse, working for another company.



**00:17:28**

**DC** That employment money, which is not from the organisation, is not included in the amount of relevant remuneration that needs to be put on the ORP statement.

So, in some circumstances as well, remuneration can include money from third parties, like board positions or from a related party. So, in relation to the point on board positions, I've also been asked before, what happens when the money is paid to the officer because of a board position, but the officer doesn't get to keep the money?



**00:17:57**

**DC** For example, where the rules require that the officer passes that money on to the organisation. Well in those circumstances, the money actually has been paid to the officer, so we think it's captured for the disclosure.

However, we have seen organisations include additional notes or a table in the ORP statement, to explain that the officer didn't get to keep this amount.

And this provides a really clear picture to members, that what the officer was paid, that we support this approach. And you hear it lots of times throughout this panel, that the chairman is all about transparency.



**00:18:31**

**DC** So, we encourage including that additional information where appropriate.

**CLB** Thanks, Declan. I think I've disappeared from the screen, but I hope you can all still hear me. Catherine, can organisations change the template?

**CB** Absolutely. Cynthia, our templates here to help. And we see it quite a bit in ORP statements in particular, that an organisation, as Declan's just said, adds a table below the first table, for instance.



**00:19:03**

**CB** To express which board paid money to the officers, and that it was then forwarded to the organisation. If you're adding more information to our template, making it more transparent to your members, then that's a great thing. Though it may be redacted when we publish it on our website, if it's sensitive or private information.



Remember, the ORP statement is about telling your members about their officers, so that they can make informed decisions and hold the organisation accountable.



**00:19:29**

**CB** As Declan's just said, it's all about the transparency. So, yes, you can make changes to our templates, if you're including more information. However, if you find yourself about to make a change that will be removing information, please give us a call.

While we do create our templates to achieve optimal compliance, when you take things out, you run a real risk of not complying with the basic requirement of the RO Act.



**00:19:56**

**CB** Another benefit of calling us if you don't understand a part of the template or think it could be better is that we do make changes to our templates, all of our templates, in response to your feedback.

And it may be that your question today triggers a change to wording or format that helps a dozen other branches fill in next year's ORP statement template.

**CLB** Thanks, Catherine. So, organisations shouldn't be afraid to call up and ask us questions.

**CB** No, not at all. We're genuinely here to help organisations and their branches comply with these requirements.



**00:20:31**

**CB** If you have a question, it's often much easier to answer this before this ORP statement is completed and signed, before it's been sent to members, and before it's been lodged with us, than afterwards.

**CLB** Now, Declan mentioned about leave payments, and Kristina talked about knowing who is an officer. What about past officers? Kristina?

**KM** Thanks, Cynthia. That's a great question.



**00:20:58**

**KM** Frequently, officers do leave during the financial year, and we think that officers who have left are included in the ORP statement, provided of course that they are still within the top five when ranked by relevant remuneration.

**CLB** Thanks. Now, we've also been asked a question about non-cash benefits. I'll read out the question.

**00:21:23**

**CLB** If an elected official has a car provided by the union, and that car is available for business use each day, is the carpark provided on the union-own premises required to be disclosed in the ORP statement?

Now, a car provided to an officer by the organisation is a non-cash benefit. Non-cash benefits given to officers ranked in the top five by remuneration are disclosable in the ORP statement. Kristina, would the carpark and the value of the carpark also need to be disclosed as a non-cash benefit?

**00:22:03**

**KM** So, when an organisation is considering the value of a car as a non-cash benefit or, indeed, any non-cash benefit, the organisation would need to consider the associated running costs, or any other fees or charges associated with accessing the benefit.

**00:22:22**

**KM** So, to answer this particular question, if the officer is provided a carpark free of charge, that would otherwise attract a charge if they didn't have their special arrangement in place, then I think it does need to be disclosed on the ORP statement, as part of the officer's non-cash benefits.

So, the cost of parking could be included as part of the costs of the car, or the carpark could be identified separately on the ORP statement. I think either of those approaches would be fine, as long as it's included somewhere.

**00:23:02**

**CLB** Okay, thank you. Well how about a more basic question, then? We've also been asked, why do I need to lodge an ORP statement? Isn't all this information captured in the financial report? Declan, what do you think?

**DC** Look, there is a great deal of similarity between the information in the ORP statement and the financial report, yes. But there are a lot of differences, too. And the differences are actually very important.

**00:23:30**

**DC** So, the ORP statement is all about transparency to members, and what it does is it provides the breakdown of the individual remuneration of the top five officers. Whereas the financial report just includes the total amount of the remuneration to officers.



The ORP statement will also include income from other sources, and itemise those payments to related parties and to same persons or bodies. Also, the definitions between the two documents can be different in some of the cases.



**00:23:59**

**DC** So, for example, related parties. The definition used for the ORP statement is different to the definition used in the accounting standard. It's also worth mentioning as well that not all branches are actually reporting units.

There are some branches of organisations who don't need to lodge a financial report, because they're appearing in someone else's. But they do need to lodge an ORP statement. So, yes, Cynthia, you will need to launch an ORP statement and the financial report. They are different requirements, and they're both required by the RO Act.



**00:24:33**

**CLB** Thanks, Declan. Another question we have received prior to this session is the following. Our organisation is entitled to have three directors to sit on a board of an industry fund. What do we have to declare? Kristina, do you want to take this question?

**KM** Sure. So, Declan touched earlier on the point that money that is paid to an officer because of a board position, is included in the officer's remuneration amount.



**00:25:04**

**KM** So, what should happen in these circumstances is that the officer should first make a disclosure to the organisation, that they have received money from the board position.

The RO Act requires the officer to make this disclosure to the committee of management in writing, as soon as possible after it's paid. Or, if it's part of a standing disclosure, after the first payment is made.



**00:25:31**

**KM** So, your organisation that you should have governance procedures in place, which encourages disclosure and also ensures the proper keeping of those records.

At the end of the financial year, if this officer is ranked in the top five by remuneration, then the money that's paid from their board position, that must form part of the officer's remuneration amount.



00:25:58

**CLB** Thank you, Kristina. I'm getting a few questions, and I'm trying to get those questions up. I'll hop onto the next question, and then I'll go through some of those which I was trying to seek clarification to what we just said.



00:26:35

**CLB** Here, this is just going back to the carpark one. If the car is provided to an officer mainly for work purposes, I understand that that's not disclosable. Is that correct? I think we just answered that.



00:27:00

**CLB** So, if it's mainly for work purposes, we did just answer that that would be disclosable.

**KM** Yes, that's correct. So it is. So, regardless, it would be. If you go back to the definition of a non-cash benefit, in the RO Act there are exemptions to particular non-cash benefits. And they relate to a computer, a mobile phone, or other electronic devices.



00:27:31

**KM** They're not considered non-cash benefits. But if a car is provided to an officer, then that is a non-cash benefit that's required to be disclosed.

**CLB** Thanks, Kristina. The next question that we have is, our branch has a state-registered association. The office holders elected to the branch are deemed to be elected to the state association. The office holders are paid by the state-registered association, and not the branch.



00:28:01

**CLB** Does the branch need to disclose in their ORP statement the money paid by the state-registered association to the branch officers? Catherine, can you take that one?

**CB** Okay, that's a complicated one, but a great question. It comes back to the definition of relevant remuneration that Declan was talking about earlier. Relevant remuneration to be disclosed on the ORP statement comes from three sources.



00:28:29

**CB** The first is remuneration paid by the organisation or branch to the officer. And that isn't the case here, because it's not being paid to the officer by the organisation.

The second source of relevant remuneration that you do need to disclose is payments to the officer by a related party, in connection with the officer's duties as an



officer. The state association is not a related party of the branch. They are specifically excluded by the definition of related party in the RO Act.



**00:28:59**

**CB** That applies to your ORP statement. So, this income isn't captured here. However, as Declan's just said, do be aware that this definition for related party is different to that in the accounting standard. For the purposes of your financial report, the state association may be a related party.

The third source of relevant remuneration is remuneration to the officer from certain board positions, as was just discussed.



**00:29:27**

**CB** As Declan said, the definition of remuneration does include remuneration paid to the officer from an external board, such as a super board, or an industry health fund. And it includes boards that they have been nominated to by the organisation, or branch, or a peak council.

Or, that they're on only because they are an officer of the organisation. And that's the relevant bit here. It means that the officer is automatically on the state board, because they are elected to the office in the federal organisation.



**00:30:00**

**CB** For example, let's say that you're elected to president of the state branch of the organisation we regulate at the federal level, and you're automatically president of the state association under its rule, that income is being paid only because you're an officer of the organisation, and it could be captured in your ORP statement.

So, if the officer makes the top five because of the amount they're receiving from the board payment, this will need to be included in the branch's ORP statement.



**00:30:33**

**CLB** Thanks, Catherine. Another question we have is, our organisation has had a longstanding contract with a member to provide a service to our organisation. During the financial year, the member has been elected to our committee of management. Do we need to declare the money paid under the contract in our ORP statement? Declan, what do you think?



**00:30:59**

**DC** Yes, it certainly could. Because when the member of the organisation was elected to the committee of management, what's essentially happened is it triggered a



circumstance where a related party or declared person or body payment may need to be disclosed.

So, if you're familiar with our template, you'll know that the payments to related parties and declared persons is the information that's required on the table, on the second page of the template.



**00:31:26**

**DC** So, now that that person is an officer, they are deemed as a related party of the organisation, and the money paid under the contract may need to be disclosed on the ORP statement.

The RO Act has a lengthy definition of who is a related party of the organisation, and this definition includes officers. Now, as the officer is on the committee of management, they're likely to have financial management duties, and need to make a material-interest disclosure to the organisation in relation to the contract because of that.



**00:31:59**

**DC** Now, material-interest disclosures don't appear on the ORP statement, but what they do is they make the person, company, or entity, a declared person or body, as well as a related party.

So, it's likely the payments under the contract will have to be included on the ORP payment, as a payment to a related party and, or, declared person or body in this case.

Now, of course there are some exemptions to the requirements to disclose related-party payments under the RO Act. And it may be that the payment to the related party in this instance is exempted.



**00:32:31**

**DC** We would need a bit more information about the scenario there. But you also need to be aware that the exemptions to disclosure of related-party payments actually don't apply to declared persons or bodies.

So, in this case, because the officer's business is likely to be a declared person or body, the payment needs to be disclosed regardless of whether the exemption to disclose the related-party payments applies in this case.



**00:32:58**

**CLB** Thanks, Declan. Our final submitted question is, our organisation has a senior officer's family member as the organisation's representative on a board. Our organisation isn't paying the board fees to the family member, but we did appoint



them to the board. We are unsure if this amount needs to be disclosed in the ORP statement. What do you think, Catherine?

**CB** Another good question.



**00:33:28**

**CB** In this scenario, the board fees are being paid to a person who is not an officer of the organisation, and they're not being paid by the organisation. So, the first part of the ORP statement is all about payments being made to officers.

This person's not an officer, so it's not going to be captured in the first table. It's also not going to be captured as a payment to a related party in the second table, because the organisation is not the one paying the money to the relative.



**00:33:58**

**CB** It is worth noting, though, that if the organisation is making payments to a relative of an officer, that would likely be a payment to a related party, and may be in this table. But for these reasons, in this particular circumstance, it doesn't look like it's going to appear on the ORP statement.

However, as Declan's just explained, it may be something that could be captured as a material personal interest, and need to be declared to the committee of management. Remember, material personal interests don't need to be purely financial or even directly to the officer. It can be to a close family member.



**00:34:30**

**CB** It also looks like this raises concerns around conflicts of interest, and the need to ensure that the officer does not take part in decisions involving or benefitting their family member. If it is a material personal interest, this will be recorded in the minutes of the committee of management meeting, and will need to be provided to members upon request.

But it's also about good governance. And we are intending to do a podcast later this year on conflicts of interest.



**00:35:00**

**CB** But what can help you right now, first have a conflict of interest policy or something similar. It's really useful and important. It provides guidance to your officers on what they and their colleagues should and shouldn't be doing.

And it could help define what is a conflict. Another good one that we've seen quite recently from an organisation is they have a process where they send emails to all of their officers, reminding them that they need to disclose these personal interests.



**00:35:31**

**CB** And at the end of the financial year, they require each officer to respond by email, even if the answer is nil. And that way, the organisation can be sure that it is aware of all of the relevant interests and disclosures, and is in the position to declare them in the ORP statement and the financial report, if it's required.

**CLB** Thanks, Catherine. Now, we're just going to give you some general information about lodging an ORP statement with the ROC.

**00:36:02**

**CLB** Kristina, when you lodge an ORP statement?

**KM** ORP statements must be lodged with the ROC after they're provided to members, and then within six months of the end of the financial year. This is another big difference to financial reports, I think Declan raised earlier, the timeframes can be very different. So, just be really mindful about not missing the lodgement of one document, because you're trying to sync them both together to lodge them together.

**00:36:35**

**CLB** And, Declan, who can sign an ORP statement? Can anyone from the organisation or branch sign it?

**DC** Look, ORP statements should be signed by an officer, and dated the day they're signed. So, it comes back to that who is an officer question that Kristina was talking about earlier. So, once it's been signed and dated, you can send it to us by email at [regorg@roc.gov.au](mailto:regorg@roc.gov.au)

**00:37:01**

**CLB** Thanks. And we also have another question from one of our audience members. In relation to nil returns, as none of the officers receive a remuneration or non-cash benefits, does that mean no names or positions are required in the ORP statement?

**CB** I might answer that one, Cynthia. That's quite right. If none of your officers receive any relevant remuneration, and remember, it's not just the stuff you're paying them.

**00:37:31**

**CB** It may also come from relevant boards, so be sure you've checked that. If you've got nothing to disclose, you can simply write where that first table is, we've got nothing to disclose. And that way, nobody's names or officers need to be included in the document.



**CLB** Thanks for that, Catherine. Look, we've got time to go through the hypothetical questions, so we'll do that now.



**00:37:58**

**CLB** Before this session, we had emailed the information about a fictitious XYZ-registered organisation, and payments that were made to six of the officers in the 2019/20 financial year. You can also download this hypothetical question from the control panel of the GoToWebinar site that you're on.

On the third page of the document, you will see the table. And we have provided the order of which the officers should appear in the statement.



**00:38:31**

**CLB** So, first let's start with Thomas. We're told that he is the secretary, and he was paid \$150,000 during the financial year. We're also told that Thomas left office on 1<sup>st</sup> May, 2020. Thomas received a mobile phone for work purposes, and XYZ paid for his income protection insurance, to the value of \$4,000. Thomas received no board income.



**00:39:00**

**CLB** Kristina, you said earlier about disclosing the remuneration of officers who have left their office. Do you want to go through the disclosures for Thomas?

**KM** Sure, Cynthia. So, the fact that Thomas has left office before the end of the financial year, that doesn't exclude him from appearing on the ORP statement.

So, even though he's left office, he is one of the top five ranked officers by remuneration amount for XYZ, in that financial year.



**00:39:31**

**KM** So, information about him must be disclosed on the ORP statement. In this example we've told you by prefilling in that table, that he appears first on the ORP statement. But this is because he is paid the most remuneration during the financial year.

So, that goes back to that earlier point I made, about the list being in order, by highest amount of remuneration, and then in descending order.



**00:40:02**

**KM** So, moving along Thomas's line of the ORP statement, under the word office, you should write secretary, because we've told you he's the secretary of XYZ.



Next, for remuneration, the facts where we've told you is that he's received \$150,000 and no board income. So, under the heading for Thomas actual amount of relevant remuneration, the answer there is \$150,000.



**00:40:32**

**KM** Next, on to non-cash benefits, we are told that he received a mobile phone for work purposes and income protection insurance, worth \$4,000. So, those familiar with the RO Act definition of non-cash benefits, and I raised this earlier on in the presentation, you'll be aware that it specifically excludes a computer, a mobile phone, and also a device used only or mainly for work purposes.



**00:41:03**

**KM** So, for Thomas's non-cash benefits, only the income protection insurance is relevant for disclosure on the ORP statement. So, it should say \$4,000 in the box about the value of Thomas's non-cash benefits, and income protection insurance in the last box about the form.

So, reading across Thomas's line, hopefully the answer you've arrived to says, Thomas Hunt, secretary, \$150,000 for remuneration.



**00:41:36**

**KM** \$4,000 for non-cash benefit value. And income protection insurance for the form.



**00:41:36**

**CLB** Thanks, Kristina. Let's move on to Sophie. We're told that Sophie received \$100,000 for being the president of XYZ. She also received a motor vehicle worth \$10,000. A laptop.



**00:42:01**

**CLB** And mobile phone for work use only, or generally for work use. And income protection insurance worth \$4,000. Sophie's also a director of HIJ Proprietary Limited, and she received \$20,000. We are told that Sophie is a director for HIJ, in connection with her position at XYZ. What needs to be disclosed for Sophie?



**00:42:30**

**CLB** Declan, you spoke about the disclosure of board income, and this is relevant here. Can you take us through this line?

**DC** Yes, sure. So, as you said, we're told that Sophie earned \$100,000 in salary for being the president, and also \$20,000 for being a director. Now, her total remuneration is



going to include both of these amounts. So, in the box labelled actual amount of relevant remuneration, XYZ needs to disclose \$120,000 for Sophie.



00:43:04

**DC** This is because the director's position is in connection with her position in XYZ. For Sophie's non-cash benefit, only the motor vehicle needs and income protection insurance are relevant. As Kristina mentioned before, the mobile phone is excluded. So, for Sophie's table, the line at the table, it should have her full name, Sophie Hayes, her title, which is president. The total amount of relevant remuneration being \$120,000.



00:43:33

**DC** The value of non-cash benefit, being \$14,000. And the description for the non-cash benefit being motor vehicle and the income protection insurance. Now, XYZ might also want to include a note in the table about how they value Sophie's motor vehicle. For example, have they used the HO's calculator there? This isn't mandatory, but it would add transparency and some clarity to the statement as well.



00:44:01

**CLB** Thanks, Declan. The officer ranked third on XYZ's ORP statement is Ravi. We're told that he is a member of the committee of management. Ravi receives an honorarium of \$100 per meeting. In the financial year for 2019/20, Ravi's attended ten meetings. Ravi is also XYZ's chief information officer. He's paid \$95,000 for this role.



00:44:31

**CLB** Catherine, can you please explain the disclosures for Ravi?

**CB** I certainly can, Cynthia. So, Ravi's example is relevant to the circumstance where you have an officer who is also a paid employee of the organisation, as Declan and Kristina talked about earlier. Ravi has been paid \$1,000 in his capacity as a committee of management member, but he also got paid \$95,000 as an employee of XYZ.



00:44:31

**CB** The legislation requires disclosure of remuneration paid to the officer, and as we've already said, it isn't limited to money paid to them in their capacity as an officer. Therefore, both amounts of money that Ravi is paid by XYZ, that for being an officer and that for being an employee, have to be included in the ORP statement.



And this is where we often see an explanatory note from the organisational branch, explaining why this particular committee member earned more than that others.



**00:45:28**

**CB** So, reading left to right, across Ravi's line, it would say his full name, Ravi Ball, committee of management member. \$96,000 for the relevant remuneration. And nil for both of the boxes about non-cash benefits, because we've been told he didn't receive a non-cash benefit during that financial year.

**CLB** Thanks, Catherine. The next person we have is May. We're told that May is paid \$80,000 for being the XYZ vice president.



**00:45:59**

**CLB** She's also nominated by XYZ to be the director of EFG Proprietary Limited. For this, May receives \$10,000, but she doesn't get to keep this money. XYZ also provided her with a mobile phone, and income protection insurance of \$4,000. Declan, do you want to address May's situation?

I think you spoke earlier about the circumstances where the officer is paid a sum of money, but doesn't get to keep it.



**00:46:30**

**DC** Yes, exactly. So, this example falls in those circumstances there. XYZ are required to include the \$10,000 May receives as part of her board income to her remuneration total, because the money is being paid to her.

So, on the ORP statement, under May's remuneration total, it should be \$90,000 in total, being the \$10,000 as part of the board income, and the \$80,000 as part of her salary. XYZ could choose to explain on their ORP statement as well, that May passed on the \$10,000 in accordance with their policies.



**00:47:05**

**DC** And so, for May, you would include both the board income and her salary from the organisation.

**CLB** Thanks, Declan.

**DC** And before I move off of that one as well, not to forget the non-cash benefit there. So, the only disclosable one for that one is income protection for \$4,000 there.

**00:47:32**

**CLB** Thanks. Finally, we have Marco and Paige. They are both ranked at equal number five, because they were paid the same during the financial year. Kristina, you spoke earlier about this issue. Do you want to take us through Marco and Paige?

**KM** Sure, Cynthia. So, yes, I spoke earlier about how the RO Act requires the disclosure of the officers ranked no lower than five.

**00:47:58**

**KM** So, what this means in reality is that the ORP statement may be made up of more than five people. I personally assessed an ORP statement where there were ten people listed on that first page, because the committee of management received the same honorarium amount in that financial year.

So, just to reiterate that officers who are paid the same, are counted as one rank. So, here Marco and Paige, they're both ranked equal, fifth, because they both received \$800 during the financial year.

**00:48:35**

**KM** And honorarium amounts, I think Declan spoke earlier about the wide definition of relevant remuneration. That would include an honorarium amount. The facts also tell us that Marco received some other money. I think it was a reimbursement for petrol, to attend meetings.

**00:49:02**

**KM** Now, this sum of money isn't captured by the ORP statement, because this reimbursement is paid for a business-related expense. And, similarly, the income that Paige receives for running her own bookkeeping business, that has no connection with XYZ. So, her income as a bookkeeper isn't disclosable on the ORP statement.

**00:49:30**

**KM** So, Marco and Paige's remuneration during the financial year is both \$800. And so, for both Marco and Paige, the word nil needs to appear in those other boxes about non-cash benefits, because they didn't receive any.

So, for Marco's line, it should say Marco Richie. Committee of management. \$800 for remuneration. And then, nil for the value and form of non-cash benefits

**00:50:01**

**KM** And for Paige, similarly, it should say Paige Marney. Committee of management. \$800 for remuneration. And then, nil in those other two boxes for non-cash benefits.

**CLB** Thanks, Kristina. Thanks, panel members for taking us through that hypothetical question. I hope everyone was able to follow the exercise, to get a practical look at how to apply the legislation to an ORP statement.

**00:50:30**

**CLB** And we'll publish the answers in writing on our website in the coming days. Now, we have a little bit of time on our hands to take some more questions. So, if you do have a question you want to quickly send in, I will read it out for our panel members. Because we have answered each of the questions, I believe, that we've been asked so far on the panel.

**00:50:59**

**CLB** As I wait for that to go through, I just want to let everyone know that you can also refer to the ROC website for the full library of education materials to assist you in preparing a compliant ORP statement.

There, there are the guidance notes, the template ORP statement. There's a checklist there, and that shows you how ROC will assess your ORP statement. There's also two podcast episodes that you might find useful.

**00:51:30**

**CLB** Episode four, Who is an Officer? This one provides further guidance around how to determine who in your organisation is an officer, for the purposes of the RO Act. And there's episode seven, Demystifying the ORP Statement. This provides a more detailed look at the technical parts of the legislation. A copy of this discussion will be published on our website in the coming days, and we will send out a subscriber note.

**00:52:01**

**CLB** And you can subscribe to our updates via our website, and select the topics that you're interested in, in receiving updates about. Now, remember, all attendees in today's webinar will receive an email within a few hours, that includes a link to a survey.

We encourage you to complete it, because your feedback will help us provide practical and tailored education services to meet your need.

**00:52:29**

**CLB** And while we do our best to provide general information in these panel discussions, the ROC cannot provide legal or accounting advice. Our education materials are general information only. So, if you have any specific questions relating to your own circumstances, send us an email or give us a call. And, good, during that time, I've received one question.

**00:53:00**

**CLB** This one is, phone plans often have unlimited call. How do you calculate personal use? Can anyone on the panel help us with that one? I believe before, was it Kristina mentioned where the majority of the use, as long as it's for work use or majority of the use of the telephone or the computer is for the organisation, then it does not require disclosure.

**00:53:41**

**CLB** Is that correct?

**KM** Yes, I would agree with that. Catherine, do you have anything further to add on that?

**CB** The definition of the non-cash benefit says only or mainly. Used for work purposes, it's exempt, and doesn't need to be disclosed.

**00:53:59**

**CB** But it doesn't actually go about telling us how to calculate things like personal use or the value of non-cash benefit. In this case, because it doesn't specifically say in the legislation, it's not something that we specifically know the answer to.

If you wanted to put in a note explaining the method that you've used in calculating whether something was personal use or mainly for business use, you can do so.

**00:54:27**

**CB** The only thing I would say is make sure you're being consistent. So, if you calculate how personal versus business use is on the phone that you've given to the president one way, do make sure you're using the same to calculate it for the phone that you've given to your committee member or elected organisers. Things like that.

So, just make sure whatever you do is consistent. And, as Declan and Kristina has said, it's all about transparency. So, you can include these things as non-cash benefits if you want to, and list them on the statement as additional information.





00:55:00

**CB** Or, you can include notes explaining how you've calculated personal use, and therefore they're not included. So, just make sure whatever you do is consistent. And, as Declan and Kristina has said, it's all about transparency. So, you can include these things as non-cash benefits if you want to, and list them on the statement as additional information.

**CLB** Thanks, Catherine. Now, I'd like to thank our panel, Catherine, Kristian, and Declan, for providing us with your ORP statement knowledge. And thank you for our audience for joining us today.

The general message that I'm hearing from this whole session today is please use the template.



00:55:00

**CLB** So, we strongly suggest that you go to our website, grab the guidance note, and draft the OPR statement accordingly. So, thank you, everyone, for joining us today. And enjoy the rest of your day. Stay safe. Thanks.

**CB** Thanks, Cynthia.

**DM** Thank you, everyone.

**CLB** Bye, everyone.

**KM** Thank you.