

## Senate Standing Committee on Education and Employment

### QUESTIONS ON NOTICE Additional Estimates 2015 - 2016

**Agency - Fair Work Commission**

**Department of Employment Question No. EMSQ16-000019**

**Senator Lines provided in writing.**

**Question**

**FWC - Registered organisations**

How many investigations or Commission interventions against registered organisations are currently taking place?

Of those, how many are employee organizations and how many are employer organisations?  
Do you consider there to be a systemic lack of compliance by registered organisations?

**Answer**

1. The following table sets out the formal inquiries and investigations being undertaken by the Commission as at 11 February 2016:

<b>Type of intervention</b>	<b>Number</b>	<b>Employee/Employer organisation</b>
Formal inquiries	9	Each relates to an employee organisation
Formal investigations	3	Each relates to an employee organisation
Total	12	All relate to employee organisations

In addition to formal inquiries and investigations under the *Fair Work (Registered Organisations) Act 2009* a variety of informal inquiries and interventions are taking place at any point in time. These interventions include educating and advising organisations as to their responsibilities under the Act, engaging with stakeholders, seeking information and making informal inquiries, conducting data analysis etc.

In addition to the inquiries and investigations listed in the table above, the Trade Union Royal Commission (TURC) advised in December 2015 that it intended referring one (1) organisation and thirteen (13) individual people to the Commission as a result of its final report. As at 11 February 2016, the matters referred to the Commission cover eleven (11) individuals). These matters are currently being assessed and are not presently the subject of any inquiry or investigation.

2. At the Additional Estimates hearing on 26 February 2015, the following exchange occurred with the General Manager of the Fair Work Commission and Senator Lines (Hansard, pg 58):

Senator LINES: Ms O'Neill, do you consider there to be a systemic lack of compliance by registered organisations?

Ms O'Neill: I am not sure how to answer that, other than to simply point out that a number of inquiries and investigations have been undertaken and

concluded. A number of those have found that there have been contraventions by organisations of their statutory obligations. It is more than one. A reasonable proportion of the inquiries and investigations have found that there have been contraventions. As to how to extrapolate that out to whether it is systemic or not, I am not sure that I can help the committee.

- Senator LINES: Given that your aim is to get to 100 per cent compliance—  
Ms O'Neill: They are different things. They are not the same things. The 100 per cent compliance that we were talking about in terms of the figures and the increase in voluntary compliance is simply around the measures of lodgement of two documents that are required to be lodged with the commission. So even if we reach 100 per cent compliance on those two indicators it is not the same thing as saying that there is 100 per cent compliance by organisations of their obligations under the act.
- Senator LINES: Yes; that is fair enough, and I certainly accept that any investigation or inquiry where you have sought cause to make it that formal is serious. But of all of the organisations you are responsible for, when would you start to think there is a systemic problem? Five investigations and four inquiries—in and of themselves each one of those is important. It shows that you are doing the job you are required to do. If we had 50, then obviously alarm bells would start to ring. When do alarm bells start to ring? You must have some sort of benchmark there?
- Ms O'Neill: No. My benchmark is that all organisations comply with all their obligations at all times.

At the Budget Estimates hearing on 2 June 2015, the following exchange occurred with the General Manager of the Fair Work Commission and Senator Lines (Hansard, pg 207):

- Senator LINES: Do you consider there to be a systemic lack of compliance by registered organisations?  
Ms O'Neill: My recollection pretty clearly is that you asked precisely that same question at the last hearing, and my answer has not changed at all, which is to say: whether it is systemic or not is a very difficult thing to say. Our expectation is that all organisations comply with all of their obligations at all times.
- Senator LINES: So is there a systemic lack of compliance?  
Ms O'Neill: I think the language that I used was: a substantial proportion of the inquiries and investigations that have been conducted have found contraventions of various scales and various numbers by organisations with their obligations. Whether you extrapolate from that—
- Senator LINES: I am asking you: is it systemic?  
Ms O'Neill: I will correct this on notice if need be, but I think every single investigation that has been concluded has found at least a contravention. In those circumstances, that is a 100 per cent strike rate in terms of investigations that have been concluded. I do not extrapolate from that and say it is a systemic issue, but that is as far as I can assist.

The Commission confirms that in each of the investigations conducted since 2009, formal findings of contraventions have been made of a law or rule relating to the regulatory framework of federally registered organisations. The Commission does not extrapolate any conclusions from those findings.