

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2017 - 2018

Agency - Registered Organisations Commission

Department of Employment Question No. EMSQ17-004300

Senator Xenophon provided in writing.

Question

ROC - Processes regarding whistleblowers

1. How will the Registered Organisations Commission approach its compliance and enforcement work in relation to the new whistleblower laws?
2. What are the processes in place?
3. Will any other processes be put in place and, if so, please describe?
4. What resources are allocated to Whistleblowing?
5. Have there been any disclosures to date?

Answer

1. The Registered Organisations Commission (ROC) will approach its compliance and enforcement work in relation to the new 'whistleblower' provisions contained with Chapter 11, Part 4A of the *Fair Work (Registered Organisations Act 2009 (the RO Act))* in a number of ways.

First, the ROC will continue its detailed internal analysis and review of the new provisions and regulations. At the same time, the ROC will continue to deliver relevant and associated training to its staff. An internal checklist has been developed to assist ROC staff in understanding and applying the new protected disclosure provisions.

Secondly, the ROC is working toward developing and implementing a 'Protected Disclosure (Whistleblowers) Scheme' which will respond to the legislative provisions, develop internal processes to ensure compliance with those provisions, develop processes to co-ordinate responses by specified agencies and inform relevant stakeholders about the scheme.

To assist in further developing the scheme, (including developing a Protected Disclosures Register) the ROC is liaising with a range of stakeholders including the Fair Work Ombudsman (FWO), Australian Building & Construction Commission (ABCC), Fair Work Commission (FWC), Australian Competition and Consumer Commission (ACCC), Australian Securities and Investments Commission (ASIC), Australian Federal Police (AFP), the Department of Employment and the Commonwealth Ombudsman.

Thirdly, the ROC has convened a Protected Disclosures (Whistleblowers) Working Group with partner agencies to ensure the scheme to be developed is as efficient and effective as possible. The working group has conducted its initial meeting and is next scheduled to meet in July 2017.

Fourthly, the ROC has developed and published a 'Whistleblower Fact Sheet' designed to educate stakeholders and members of registered organisations about the new provisions.

Fifthly, the ROC is in the process of seeking advice from the Australian Government Solicitor (AGS) about the operation of certain provisions contained within Chapter 11, Part 4A of the RO Act.

2. See response to 1. above
3. See response to 1. above.

It is also intended to develop further information and advice to create a user friendly website to step potential whistleblowers through the process.

The ROC will carefully analyse and consider any further processes or recommendations which might emerge from the extensive liaison currently being undertaken or the work of the Protected Disclosures (Whistleblowers) Working Group. The ROC will also take into account any potential processes emerging from the current Parliamentary Joint Committee on Corporations and Financial Services relating to whistleblowers in the corporate, public and not-for-profit sectors.

4. The ROC is comprised of 19 staff and has a range of functions and responsibilities regarding the regulation of more than 100 federally registered organisations comprised of approximately 400 reporting units. The ROC utilises its staff to perform all of its functions and therefore there are no specific resources allocated to Whistleblowing.
5. Since the commencement of the relevant provisions on 2 May 2017, there have been two (2) disclosures falling with the provisions of Part 4A of the RO Act. Both of these disclosures have been finalised. A further seven (7) contacts have been received which potentially fall within Part 4A of the RO Act.

Of the 7 potential contacts:

- two have been finalised as they did not concern disclosable conduct; and
- five are under review as to whether they amount to eligible protected disclosures.