



RO POD episode 49 – A Conversation with the General Manager

Speaker Key

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SG Hello and welcome to RO pod. My name is Sam Gallichio and I'm a Senior Adviser in the Education and Advice team of the Registered Organisation Services Branch at the Fair Work Commission. Today I'm joined by the General Manager of the Commission, Murray Furlong, who'll be talking to us about what's happening with the regulation and governance of registered organisations and his plans for the year ahead and beyond. Welcome, Murray.

MF Thanks, Sam. It's great to finally be on an episode of the RO pod.

SG We're very happy you've joined us. There's been a bit of a change over the past few months with the regulation of registered organisations and we thought it would be a good opportunity for registered organisations, branches and their auditors to hear directly from you about what's been happening and what will be coming up in the future. As our listeners are probably aware, the functions of the former Registered Organisations Commissioner were transferred to you as the General Manager of the Fair Work Commission in March this year. How has this been going for registered organisations?

MF Thanks for asking, Sam. There's a couple of things I'd just like to touch on here. As you mentioned, the functions of the Registered Organisation Commission transferred to me on 6 March as a result of ROC being abolished at that time. The first thing I'll say is that I've worked in industrial relations for coming up to 25 years and I've got the greatest respect for ROs and I'm honoured that I now have a meaningful opportunity to support them for the benefit of their members.



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When it was confirmed that the Secure Jobs Better Pay reforms had secured their passage through Parliament, I thought about the transition and the fundamental approach to the transition was that it would be seamless from the perspective of the registered organisations. I wanted to ensure that they could continue to focus on the needs of their members. All of the ROC staff transferred across to the Commission and organisations were able to keep working with the same action officers on the matters that they had prior to the transition on 6 March.



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There is an incredible amount of work goes into transitioning an agency and the entire agency staff from one organisation to another and I've been very, very impressed with how it's gone. As well as the staff, the former ROC systems were migrated successfully, which allowed for uninterrupted services and assistance for registered organisations. We've brought the Commission's existing registered organisations team, they have traditionally looked at right of entry permits and rules, together with the former ROC team to create the new Registered Organisations Services branch.

This brings registrations, permits and rules processes together with the regulatory functions of the annual returns, ORPs, elections notifications of change, financial reports and compliance and enforcement in addition to the deep support that we provide on a daily basis to registered organisations in relation to information and education.

SG I understand there are some new responsibilities that came across to you as well. Can you tell us a bit more about those?



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MF That's right, Sam. The Secure Jobs Better Pay Act made some changes to the Fair Work Registered Organisations Act or, as we call it, the RO Act. One of the changes is that I as the General Manager am now required to embed cultures of good governance and voluntary compliance as a law within organisations. This is something that I am very passionate about. I want to support all organisations to do the right thing while also, at the same time, lowering their regulatory burden.

Registered organisations play a vital role in our society and they do incredibly important work on behalf of their members. My broad strategic approach is to enhance the democratic functioning, transparency and accountability of organisations for the benefit of their members. I want to encourage members to feel like they can confidently participate in the governance of their organisations. I want to ensure that they've got the support that they need to step up and participate in the democratic functioning of their own organisations.



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And we'll be doing this by working with organisations and their peak bodies to solve problems together and lift governance together. It is a co-production. It is a partnership model in a lot of ways and, at the end of the day, organisations are responsible for ensuring that their members' money is spent appropriately, so members' interests are 100% of my priority.

There are 92 registered organisations currently, and they come in all shapes and sizes. There are some that are entirely run by volunteers and have limited resources. To the bigger organisations that have many millions of dollars' worth of assets and pay specialised staff.

SG That's right, there's definitely a wide range of registered organisations, from the Shearing Contracting Association of Australia, they've got just under 200 members, and up to the CFMMEU that have almost 150,000 members and obviously quite a bit more resources at their disposal.

MF I come from an operational background and I get it, I really do get it. I've been a volunteer in community organisations. I've had leadership roles in community organisations that are made up completely of volunteers. I understand some of the challenges but I want to learn more of the challenges that the people in registered organisations are facing to comply with their obligations and by having a deeper understanding and knowledge of the way they seek to meet their obligations, I believe that we'll be able to, as a public service, support registered organisations to meet their obligations.



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If I can understand, then I can help registered organisations do better. So, what I'm committing to, in delivering as the General Manager is a program. It's called the Listen and Learn program that I hope to start next month, and it'll actually involve me sitting down with the compliance officers of registered organisations on an ongoing basis, at least once a quarter, so that I can learn the specifics about their jobs and the daily challenges that they face. And so we can find out how we can support them to make their jobs easier to comply with their obligations under the RO Act.



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SG One of the first things you did as part of the registered organisations functions coming to the Commission was to establish the Registered Organisations Commission Transitional Advisory Committee known as ROCTAC. Can you tell us a bit more about this?

MF This goes back to the start of this conversation, Sam, where you asked about what's the experience been of registered organisations in the transition and our objective, our strategic goal and ensuring that it was seamless. I've learnt through my time in public service that it is often the people at organisations that hold the obligations under legislation are best placed to know and to explain how they can best meet those obligations.

So, one of the first things that I did was reach out to the ACTU, ACCI and Ai Group to form a committee to assist me in the transition to make sure that we got it right for all registered organisations. So, I initially established ROCTAC and that commenced prior to 6 March and it was made up of senior representatives of the ACTU, ACCI and Ai Group and they've played a really important role in identifying the opportunities to ensure a seamless transition for registered organisations, but to also consolidate and improve our service delivery for organisations, including something that I'll speak about in a moment, about the external independent review that I commissioned to go out to all registered organisations to see how we could improve our services for them.



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SG That's a good lead into what I want to talk about next, actually, the Registered Organisations Governance and Compliance External Review. You've received the findings that have come back from the consultants and your response has been published on our website. What would you like to tell our listeners about that review and its recommendations?

MF First of all, I'd like to extend my appreciation to the registered organisations and their peak bodies for their meaningful engagement with this independent review. Everyone's very time-poor and I just wanted to acknowledge the time, the energy and the thoughtfulness that went into their feedback that they provided through the review. One of the many things that the former President of the Fair Work Commission Justice, Iain Ross, said to me as I worked with him for the better part of a decade,



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and it continues to really resonate with me, is that even the most successful and enduring institutions have a tendency to decline unless they continue to evolve and innovate.



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Anyone who has worked with me over the years will know that I'm unrelenting in my efforts to improve how we deliver our services and support the Australian community. The reviewers wrote to all registered organisations to invite submissions on the issues covered in the terms of reference, which we published on the website. In terms of the publishing of the terms of reference, I'm 100% committed to being open and transparent in the delivery of services to registered organisations.

We received about just over 20 submissions. The reviewers also conducted workshops and meetings with representatives from registered organisations, both state and federal branches and their peak bodies. We received a really diverse range of registered organisations participate, which I was really pleased to see. They varied in size, in industry sector, in complexity, location and financial resources and across employer and employee interests as well.

I received consistently positive feedback about the conduct of the external review and I'd like to use this forum to pass on my thanks to Anna Booth and Jonathan Hamberger for their work on this review. The reviewers made approximately 25 specific recommendations that relate to the current statutory framework. We were already working on over half the report's recommendations at the time I published my response.



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But I just want to stress that while a great deal of work is already underway, we are just at the start of this journey. There is a lot of work ahead of us, but we understand, through working with the registered organisations through this review what good looks like to them and we are absolutely committed to ensuring that our services meet those expectations. So, I look forward to providing you with further information on our activities in relation to implementing the recommendations over the coming months and years.



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SG And listeners can read your response to the review in depth on our website at www.fwc.gov.au. I just wanted to touch on some of those recommendations and the work that has already occurred and, as you just said, one recommendation was to create the permanent advisory council that has now been established. What are some of the other things that the Commission was already working towards?

MF Okay. Let's start with organisations' rules, because I know this was a topic at the last RO pod episode. The review has recommended that model rules, including election rules, should be developed in consultation with ROAC, which is Registered Organisations Advisory Committee, to encourage democratic and efficient management in registered organisations.

The Registered Organisations Services Branch within the Commission has begun a process of gathering information to inform a public tender for expertise and drafting a practical set of model rules that will work for many organisations, existing organisations, but will also support, if the needs are there, the future registration of additional organisations going forward. The Branch will also develop and maintain a publicly accessible bench book about these processes.



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The review also recommended that the branch should improve the time it takes to deal with applications for rule changes, and should adopt performance standards in processing rule change applications. They also recommended that feedback should be provided on where applications are up to in the assessment process and explanations provided for any delays. In response to this feedback, and we received this feedback early, we have already introduced new and transparent internal reporting and tracking mechanisms.

We have introduced a prioritisation process. We have recruited additional managerial resources to oversee the function. We have commenced an education and awareness focus relating to the rule alteration processes. We have begun a review of operational processes, including piloting refined timeliness benchmarks and also providing regular feedback to organisations about the progress of these applications.



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And this goes back to my early comments about my absolute desire, focus and commitment to operate in an open and transparent manner. Anyone who has heard me talk about the importance of timeless in the service delivery of our operations at the Commission will know how dedicated and how committed I am to this area of our service delivery. I know that registered organisations are waiting on us to do things and it impacts on the way that they can govern their own organisations.

I want to make sure that we are assisting them as opposed to doing anything that may hinder or slow down their own operations for the benefit of their members.

SG I understand there were several recommendations also made about right of entry permits. The review has recommended the process for obtaining right of entry permits should be streamlined and the need for one-on-one meetings to verify identity should be eliminated. They also said that the process for getting a permit shouldn't be any more onerous than getting a passport, unless there were good grounds for questioning whether the proposed permit holder is a fit and proper person.

In addition, they also recommended that the renewal application should be more streamlined, in particular there should be no need for further identity checks. What's the Commission's response to this?

MF First thing I want to say is that the feedback has been heard and we've started to move on our response. We've made significant improvements. Early improvements, there's more work to be done, but some of the things that we've done in response to this feedback already, we've removed the requirement for a committee of management representative to confirm they've made the relevant application.



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The branch has already removed the reidentification process that was previously required for people applying to renew an entry permit, and I understand that that was one of the great challenges of those permit holders. And they've also prepared an amended right of entry checklist and peer review checklist to streamline some of the processes. The branch will be undertaking a review to achieve



further efficiencies for organisations and I'm committed to further streamlining the processes as much as possible.



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One of the areas that I've asked for recently is to establish timeliness benchmarks at both the fiftieth and the ninetieth percentile for dealing with routine right of entry permits. However, there are some legislative restrictions on what we can and can't do with some aspects of this and I'll be communicating with the Department of Employment and Workplace Relations if there are technical issues we encounter in achieving these efficiencies.

SG Another one of the recommendations touches on what you were talking about earlier in the podcast with compliance officers. The reviewers recommended that there should be a regular Compliance Practitioner's Reference Group, also known as the CPRG for short, consult on technical matters. Will that be happening?

MF That work has already started and I recently wrote to the members of ROAC to ask them to nominate members from registered organisations to participate in it. So, the work is well and truly underway. As I said earlier, it's important to hear from the people who are on the ground during the regulatory compliance work in organisations. This is another element in addition to my Listen and Learn initiative. These are the people making sure the financial reports, the elections, the annual returns, the notifications of change and all other legislative requirements are correct and lodged on time.



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The first meeting of the Compliance Practitioners Reference Group is scheduled for December this year and then I anticipate that they will meet on a quarterly basis but more regularly if the members request it. Another one of the recommendations is that an induction pack for organisation compliance staff should be developed in conjunction with the CPRG. The branch already has an induction pack for new offices, so it makes sense to also produce one for the people in organisations doing the compliance work, to make it easier for them to meet the statutory obligations of their organisations.



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We're committing to produce an education pack for compliance officers to be completed by the end of this financial year. This will be undertaken in consultation with the Compliance Practitioners Reference Group and the Registered Organisations Advisory Group to ensure that we actually meet the needs of the compliance officers in the organisations that we're looking to support with this initiative.

SG Well, compliance is the next issue I wanted to talk to you about. So, that's a good introduction. The review recommended that you should publish a compliance and enforcement policy that uses the Fair Work Ombudsman's policy as a basis. They want the policy to provide for a positive regulatory culture that encourages voluntary compliance and supports the democratic functioning of organisations and is aligned with the interests of the members. When can organisations expect to see this?

MF At the moment we have published an interim Compliance and Enforcement Policy and that is on our website. It's available for downloading. We're in the process of drafting an updated Compliance and Enforcement Policy that incorporates the feedback from the review. I'm scheduled to talk to the Registered Organisations Advisory Committee about this draft policy in the coming months.



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Now, the new Compliance and Enforcement Policy will include some draft guidelines on how I propose to use our new enforcement powers that came as part of the Secure Jobs Better Pay reforms. These include enforceable undertakings and infringement notices. I'll also outline the strategic approach that I'll be taking towards compliance, including triaging and prioritisation of complaints and the nature of those complaints.

I've spent a great deal of my working life as a regulator. I get it. I'm very comfortable operating in this space. And, as I've said previously, I want to support registered organisations so that they can support their members, and that is 100% my focus. So, the new policy will reflect this, whilst striking the right balance between the efficient, effective and ethical use of public resources and the time that's passed since alleged contraventions occurred.



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So, the first step is always going to be working with registered organisations to put those foundations in place, so they have the cultures of good governance and they've got the tools and the experience, the resources available to them so they can do the right thing by their members. Engagement with ROs and providing them with the tools and resources they need will help organisations and office holders to develop and maintain those cultures of compliance.

But when we become aware of allegations of non-compliance with the RO Act, we'll be assessing each of those matters on a case by case basis. Yes, we'll include things like whether the organisation has voluntarily disclosed the conduct and is assisting, if any steps have been taken to fix the issue, whether there's been a blatant disregard of the laws or repeat offending, whether the conduct is of a significant scale, or the impact it has on its members of the organisation. We'll be considering things like that.

All of these factors will be taken into consideration to determine how we respond. The reality is that non-compliance does occur from time to time. Some of it is incidental and some of it is very serious and I expect officers in organisations to behave by always acting in the best interest of their members, always. This includes being proactive in taking action when they become aware of issues of non-compliance.



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We are collectively, that is the offices in ROs and me as the regulator, all responsible for ensuring that organisations are accountable to their members. So, the members of ROs, I want you to know, I want you to have the confidence that the Commission will protect your interests by taking disciplined, well-resourced and decisive action in those very few instances where I find that officials have egregiously failed to live up to their obligations, especially where the matter results in financial disadvantage to organisations or their members.

SG It's important that people understand that the regulator can only enforce the provisions of the relevant legislation and, in this case, it's the RO Act. The new enforcement options that were included in the RO Act is a good example of how things can change when the Act is updated. But it's the Parliament, not the regulator, that has the power to change legislation.



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Murray, I know that some of the recommendations from the review would require legislative change for you to be able to implement. What will happen with those recommendations?

MF You're right, Sam, there were a number of recommendations that will require the government to change the legislation to be implemented, including a long-term review of the financial reporting requirements in the RO Act that are in excess of those required by listed companies, allowing for electronic voting in elections, consolidation of the annual return, financial statement, loan grants and donations report and the officer and related party disclosure statement to be consolidated into one audited return, less requirements for the reporting of changes of office holders, removing the requirement for financial training for anyone who has changed office, if they've done the training in the previous five years, and auditing registered organisations to the tier two auditing standard that applies to charities and not for profit entities.

What I want to say to registered organisations is that they are captured in the report and that I will be providing this information to the Department of Employment and Workplace Relations for their consideration. My powers are confined to the functions prescribed under the RO Act. They don't go to matters of policy. So, for those matters, the normal course of things is they'll bring it to the attention of the Department and I've committed to do so in this case.



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SG One final thing from the review that we haven't mentioned yet is the development of a portal for registered organisations to be able to lodge information with us directly through an interface on our website and that it should be designed in consultation with the Compliance Practitioners Reference Group. Will this be a priority for you?

MF Absolutely, and we're already working on the foundations to enable the establishment of this portal. There is consensus that the current lodgement process is inefficient. ROs need to print, fill out, scan and email any forms to the Commission, which we understand is time and resource consuming for them. Even on our end it's burdensome for our staff who have to manually process all of these forms and, just to manage expectations, while we're absolutely committed to implementing the portal, there



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are a number of foundational systems that we need to uplift before we can move into the development of it, but we're on course to commence it by the middle of next year.



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And, of course, I'll keep organisations informed about this process and seek their assistance to make sure that what we develop meets their needs going forward. The other thing I just want to mention here, and it goes to the way that I operate as a public servant and as a regulator. On the weekend I received an email from an officer in a registered organisation indicating that they had concerns that the portal would not be everything that they need to ensure that they comply with their obligations, and that they will need ongoing engagement with the Commission staff to make sure they continue to meet all their obligations, a really small registered organisation, very limited resources available to them.

So, I picked up the phone, one of the first things I did when I got into the office on Monday morning, and had a chat with that office holder, just to say that it's not just the portal. There will be support. All the advice, all the guidance that is currently available to registered organisations through the really dedicated staff at the Commission will continue to be there.

SG Yes, ongoing communication with the registered organisations is a huge priority for us in the branch, and we'll be continuing to provide regular communication and education items to our stakeholders. We'll soon be developing a new education strategy and what do you see as being the focus of that, Murray?



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MF The focus, the foundation piece is that we want to build trust with registered organisations, and one of the best ways to do that is to better understand the issues facing ROs so that we can tailor our responses, taking the operational constraints of different organisational structures into consideration. We'll consult with ROs every year to identify the education, advice and assistance priorities that they need for the following 12 months. This will be part of a broader education and advice and assistance strategy that we'll renew every three years in consultation with registered organisations and approved by the Advisory Committee.



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And we'll also continue to produce and maintain the information materials, tools, model financial statements, model policies, templates, guidance notes, fact sheets and checklists that you have all come to rely on on our website. We'll continue to deliver presentations and workshops, webinars, tailored advice and podcasts. We'll also continue to send courtesy reminders to organisations about their upcoming obligations. And we will also continue to produce our quarterly newsletter.

We've got an officer induction program that's specifically targeted to enabling officers to understand their roles and responsibilities from the day that they're elected, and all of our educational resources and guidance, together with promoting good governance and voluntary compliance, is designed to support and promote self-regulation and internal management systems by organisations, the democratic functioning of those organisations for the benefit of their members.

SG Thanks, Murray. Do you have any final words for our listeners today?

MF If there's one thing that I would like our listeners to take away from this podcast, Sam, is that I am absolutely unwavering in my focus to support registered organisations to support their members. And this involves the things that we've talked about today. The basis of it is cooperation. It's about working together and it's about me as the regulator learning from registered organisations. These things will be necessary for me to make it easier for organisations to not only meet the minimum standards required by the legislation, but to ensure that they can spend as much of their time and their resources focussed on advancing the needs of their members.



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SG Thanks so much for your time today, Murray. It was great to hear straight from you about what the Commission has planned for registered organisations going forward.

MF It's my pleasure, Sam. And I'm looking forward to doing it again some time, if you'll have me back.

SG Happy to have you any time. And thank you to our listeners for joining us in hearing what the Commission is doing in the registered organisations space.



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