



ROCpod episode 22 – Lodge on time, one time, every time

Speaker Key

AN	Unidentified announcer
KM	Kristina Menzies
MI	Matthew Indrigo
DV	David Vale
SW	Sarah Wilkin

AN Welcome to ROCpod: Talking with the Registered Organisations Commission. The official podcast of the ROC about the regulation of unions and employer associations. And 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.

Don't forget to subscribe and see how ROCpod can help you and your organisation.

KM Hello and welcome to ROCpod: Talking with the Registered Organisations Commission. Thank you for joining us today for another episode. My name is Kristina Menzies and I'm a Senior Adviser in the Education and Reporting Team.

In this episode, we'll talk about what happens, before and after you make a lodgement with the ROC. We'll discuss what we look at when we assess matters like financial reports. We'll also explore what our assessing officers review when you lodge prescribed information for elections. And we'll give you tips on how to avoid those unnecessary delays and share with you the best compliance tools available.

I'll be speaking with three of my colleagues who play a critical role in the assessment of these matters.

First I have with me Matthew Indrigo, Matthew is a data analyst in our Education and Reporting Team.

MI Hi Kristina, thanks for having me.

**00:01:36**

KM So Matthew, can we just quickly talk about what happens before a document is lodged with us?

MI Sure thing, Kristina.

Here at the ROC we use a case management system that keeps track of when certain things should be lodged with us. So for example, Elections, Annual Returns, Financial returns... all of these are expected at particular times in the year from organisations and branches. The case management system keeps track of all these deadlines and creates digital files in anticipation of the organisation lodging something with us.

**00:02:04**

KM Okay so what you're saying is that it expects most lodgements and knows when the document is due? Even when different organisations have different financial years and election timeframes?

MI That's spot on. It means we often have months of notice for things like your financial report or election prescribed information being due. That's why we start emailing courtesy reminder letters. We try to include lots of helpful tools in these letters, like a link to a template or fact sheet that will help assist you.

But, really organisations should be tracking their internal deadlines too – which is why we strongly recommend you spend some time using our Compliance Calculator to work out all your deadlines.

KM Yes, the compliance calculator is a great tool, and that's a handy tip Matthew. Thanks for joining us today.

MI You're welcome. It really helps us to keep track of what's being lodged when and what could be late.

**00:02:52**

KM Okay so next we'll talk about what happens after your document has been lodged. I have with me my colleague David Vale. David is a member of the ROC's financial reporting team and he has a lot of experience with assessing lodgements and the requirements that have to be met.

DV Thanks for having me. I'm always happy to help with financial reporting. It's a technical subject, with several steps required to achieve compliance. But it certainly makes my role, and the follow-up with organisations, easier if financial reports, loans,



grants and donations statements, and applications for registration by auditors are all submitted correctly – on time and without errors.

KM So today's episode is mainly about how the ROC handles compliance matters after they've been lodged. And we're doing this in response to feedback from people in registered organisations who have told us they want to know how we analyse their lodgements like their financial reports, to get a greater understanding of our process and to help identify areas for improvement.

So David, you have expertise in the financial reporting process as principal adviser in the team. Can you share with us what your role involves?

DV Yes sure, I work closely with four other colleagues in the financial reporting team. So we're a small team, but we oversee more than 340 reporting units in registered organisations and branches. Most reporting units don't hold an exemption, and this means they are required to prepare and lodge a financial report with the ROC every year.

I assess financial reports for compliance with the Fair Work (Registered Organisations) Act – or the 'RO Act' for short - the Accounting Standards, the reporting guidelines and the RO regulations. Because the team is small and there are so many reporting units lodging reports every year, we assess them against a risk-based model. This helps us focus our efforts and resources where they are most needed.

Our aim is to improve overall compliance rates and we've been able to do this incrementally over the years which has been really pleasing.



00:04:54

KM What does the risk-based model involve for the assessment of financial reports? Can you perhaps tell us what factors determine how a financial report is assessed?

DV Yes I can, Kristina. We monitor the performance of reporting units against their obligations. If we see a pattern of non-compliance that isn't rectified in the following years, or if a reporting unit is subject to an inquiry or investigation, it's more likely that their financial report will undergo an advanced assessment.

KM What do you look at in an advanced assessment?

DV An advanced assessment is a comprehensive analysis of the financial report. We look at whether the report meets all the requirements set out in the Australian Accounting Standards, the financial reporting guidelines, the RO Act and the regulations. It's a thorough assessment, and if we pick up on errors we then actively engage with reporting units to provide education and rectify issues where possible.

**00:05:49**

- KM** So all other financial reports go through a primary assessment, don't they?
- DV** Yes, that's right Kristina. A primary assessment doesn't look at all the requirements, but just a few important ones like whether mandatory timeframes have been met and all the documents have been lodged.
- KM** I've heard your advice, David, about reviewing the filing letter you issued about last year's report before the next report is prepared. Can you tell us why are filing letters so important?
- DV** All ROC filing letters are valuable sources of information for organisations. The financial reporting filing letter identifies any compliance issues with the previous year's financial report. I don't think I can say enough just how important it is to read the previous year's filing letter before you prepare the following year's financial report. This helps to reduce repeat errors, which is a consideration for the type of assessment your report will have under our risk-based model. Put simply, issues that recur over a couple of years are more likely to lead to an advanced review. As an action officer, I'll check the filing letter before I do the assessment, so I know what happened last year.

**00:06:55**

- KM** If you can't find last year's filing letter in your own records, you can download them from the ROC website.
- Another handy tip is to download the primary and advanced checklists from our website. One way to check your financial report for compliance before you lodge it is to compare your report against those assessment checklists.
- DV** Yes, we know that some organisations and branches do this as routine practice and they find it hugely beneficial. This means that when they lodge their financial report, they have confidence that it complies with the requirements. And if it's doesn't, then they can fix issues before the report is lodged or raise things with us if they cannot be fixed, so that we know in advance that they are aware of the issue. And it is the same checklist I use as an action officer. You can literally see each thing I will be checking as I assess your report.

**00:07:44**

- KM** So you mentioned earlier, David, that compliance rates have improved over time for financial reporting. What are the latest compliance rates, and what do you think is contributing to this improvement?
- DV** So far for 2020 compliance with the issues we check against the primary checklist is



around 84%. This may reduce once we assess all of the December 2020 financial reports but it's up from 79% in 2019.

When we look at data over a longer period, we can see that compliance rates for financial reporting have significantly improved. Back in 2015 compliance was around 54%.

Several factors are likely to have contributed to this improvement. We know that regulatory intervention in the form of education, advice and assistance works. Those of you who have been involved in organisations for a while will have observed that we provide far more resources, tools, templates, education and advice than ever before.

The ROC has invested heavily in educating organisations about compliance obligations. For example we have produced tools, like the compliance calculator Matthew mentioned earlier, which we know reporting units use to ensure they meet the timeframes. While we're a small team, we do try to engage with organisations to provide tailored advice and to share the latest information in workshops and online webinars.



00:09:08

KM So the ROC has developed many resources to assist reporting units with their financial reporting. Who is the intended audience for these education resources?

DV We aim to cater to everyone who contributes to the financial reporting process. This includes auditors and accountants, through to officers who may have little or no financial qualifications or experience. We've also produced guidance material for members of organisations, to help them read and understand their organisation's financial reports.

Some of our resources help organisations to comply, like the model financial statements, while some of our factsheets provide general information to encourage active participation.

KM Another type of file you assess is related to the requirement for officers with financial management duties to complete financial training. So organisations can apply for an exemption on behalf of an officer, in circumstances where the officer understands their financial management duties because of factors like experience or qualifications.

David, your team assesses these applications against the criteria in the RO Act. Can you tell us more about that?

DV Yes, that's right. We've recently provided a lot of education about this requirement. Our audit in 2019 and 2020 confirmed there was non-compliance in this area, so we've been engaging with organisations to improve this. In many cases, organisations have rectified any non-compliance by arranging training for their



officers or by lodging exemption applications with us. Once the application is allocated to me, I assess it against the legislative criteria. This is part of helping the Commissioner to decide whether they can be satisfied that the officer understands the financial duties of their office.

**00:10:50**

KM How can an organisation lodge a financial training exemption application with the ROC?

DV Organisations should use the application form on our website. When I get an application submitted on the form I know it probably has addressed all the exemption criteria, and most likely only provides information that is relevant to the application. I also know exactly how it's set out which makes it faster to process. For example, we would expect to see details about the officer's experience in exercising financial management duties as an officer of an organisation, and any relevant qualifications they have.

KM And how long does it take for the ROC to issue an exemption decision?

DV It's difficult to give a timeframe, as they're all different. Some are straight forward and can be decided quickly. For example, if the officer completed financial training last year, but has recently moved to a different office with similar financial management duties, they should be processed quite quickly. A straight forward application can be assessed and finalised within 1 week from lodgement, and on many occasions we have completed the process within 3 days. However some applications require greater analysis and take longer to consider.

**00:12:03**

KM Are there ways organisations can assist the ROC to issue a decision quickly?

DV Using the application template is a good starting point. This will help organisations to include all the information we need to make a decision. If an application is incomplete, I will need to chase up the information, and this can slow down the process.

It's also a good idea to lodge any exemption applications early, as there is only a six month timeframe, from the time they get elected or appointed, for officers with financial management duties to complete the training or to obtain an exemption. Organisations must make sure the officer doesn't fall into non-compliance while the application is being considered or if an exemption is not granted.

KM And what about bulk exemption applications? For example, after an election an organisation might want to apply for exemptions for several of their officers. Does a separate application need to be filled out for every single officer?



DV That's a good question Kristina, and the answer is no, they don't always need to be done separately. If an organisation would like to apply for an exemption on behalf of more than one officer at the same time, they are encouraged to contact us to discuss the most efficient way to proceed. We are always mindful of resources, and if there are smarter ways to do things, we will consider other options.

KM Along with the assessment of financial reports and exemption applications, the ROC's financial reporting team routinely provide guidance over the telephone and by email.

DV Yes we do and I encourage anyone to get in touch with us if you have any questions about the obligations of your reporting unit. Or if you just want to check on the progress of a lodgement. We are always happy to help, and because we are a small team, you should be able to connect with the person who is working on your matter.

KM Thank you for your time today, David.



00:13:50

KM My next guest today is Sarah Wilkin. Sarah is a Senior Adviser in the Compliance team. She assesses various lodgements, including prescribed information (or what we call PI) for elections.

SW Thank you for having me, Kristina.

KM Okay let's start with PI. This is the document that organisations and branches lodge to get a decision from the ROC about an election that needs to be conducted. With elections we often find that organisations and branches have a timeframe in mind for when they want their election to proceed. In these circumstances, they are often eager for a decision to be issued quickly, aren't they?

SW Yes, that's right. There can be a greater urgency around the assessment of election matters. Organisations will wait for a decision from the ROC, and this is effectively the green light for the Australian Electoral Commission or the AEC to begin conducting the election.



00:14:43

KM If organisations have preferences for matters like when nominations open or close, is that something the ROC can accommodate?

SW Well, it depends really. At the moment, as we're easing out of COVID restrictions and the AEC clears the backlog of election matters from 2020, it might be difficult for the AEC to run elections to a particular timeframe. However, we do ask that organisations and branches communicate with us clearly in the PI about what their rules say regarding elections, as well as any further preferences they might have.



Distinguishing preferences from what the rules say is important, but as I said, we will work with organisations to try to accommodate preferences where possible.

KM The ROC has a KPI to issue an election decision within 40 working days from the lodgement of PI. We are currently issuing decisions much quicker than that. On average I think this year, it takes the ROC about 18 days to issue a decision. Sarah, what is going on behind the scenes during the assessment stage, and how can organisations support the ROC to make a timely decision?

SW Well, when an organisation or branch lodges PI, what it is doing is telling us all sorts of information about the election that is apparently due under its rules. For example, the name and number of offices that need to be filled, who is voting, and when nominations open and close. Those are just a few of them. The source for this information is the organisation's rule book, and I cannot emphasise enough how important it is to describe the correct rules in your PI, including the rule number. This will help me, as the assessing officer, to pinpoint the relevant rules and determine whether an election is due. Sometimes I find errors and omissions, which really can slow the entire process down.



00:16:33

KM Yes David mentioned this earlier about exemption applications for officer financial training. So this applies to all lodgements that are made with the ROC. They will proceed quicker if you provide complete and correct information at lodgement.

What would an assessing officer like yourself do if you discover errors during an assessment?

SW Well what I'll contact the organisation or branch to get the correct information, because I cannot proceed without it. For example, the number of offices to be elected might be based on a formula in your rules. And to work out the formula we might need to know extra information like the number of members you had at a particular date. If you don't tell us in your PI how many members you have on the relevant date, we won't know how many offices your organisation is entitled to. And until we do, the ROC usually can't issue an election decision. Chasing up missing information obviously takes time. And delays can be amplified where the election is a large one or if your rules are complex. It's important to take care to lodge PI correctly the first time. Using one of our prescribed information templates on our ROC website is a really good start.



00:17:43

KM Another issue we see is organisations and branches not distinguishing between an election for offices and an election for non-office positions. This can also affect the progress of an election matter. Sarah, you've just mentioned the ROC's PI template.



These are two different types of election and there are templates to cover both types of elections aren't there? And it's important to use the right one, depending on who you are electing.

SW Yes, that's right, Kristina. Most elections are for offices – which, in more simple terms, you can think of as those people elected to participate in the running of the organisation or branch. But some organisations' have rules allow for people who are not office-holders to be elected to their position via an AEC run election. One example of this is an Executive Director who can be elected to their position but actually is acting under the direction of the committee of management. We see this more commonly in employer associations.

The process for these elections for officers is slightly different for non-office positions. So to help step you through the correct process you can use our template that has been specially designed for the election of non-office positions. We've recently updated the template to include a sample letter that you must send to the AEC to request the election of any non-office positions. And the reason we've included this in our template because it was a recurring compliance issue among some organisations. And non-compliance can cause delays in the process, and we want to help organisations avoid delays as much as possible and get the required outcome – which is, obviously in this case getting the steps in place for an election to run.



00:19:20

KM So if you're not sure whether a position in your rulebook is an office or not, you can go back and listen to episode 4 of ROCpod: Who is an Officer? It's a question we are asked all the time, and we explain in episode 4 how you can resolve this issue for your organisation. It's important to know who your officers are and this is for several of your lodgements, including elections, annual returns, and officer and related party disclosure statements just to name a few of those.

So we've discussed the assessment of PI. Once you have reviewed the file as the assessing officer, what happens next?

SW Okay so as the assessing officer, I will take the matter to the Registered Organisations Commissioner or their Delegate to issue a decision. They review the assessment and they decide whether an election is due under the rules of the organisation. If they are satisfied that it is, an election decision is issued, and this will identify the offices for which an election is needed. The ROC then sends a copy of that decision to the organisation and the AEC, and that when they will take over the process and conduct the election.

**00:20:27**

KM I think it's important to mention that the AEC will conduct the election according to the decision. So for example, if your organisation has a rule change immediately after an election decision is issued, you may find yourself in an interesting situation.

SW Yes, that's an important point, and it does highlight just how important it is to communicate with us throughout an election matter. The ROC's decision about an election will be in accordance with the organisation's current rules at that particular time. So if your organisation is undergoing rule changes that may affect an election, we need to know about them. Let us know that in your PI – there's a field in our template to prompt you. And if you leave this field blank, we will actually contact you so we're clear on whether there are rule changes pending.

You don't want the AEC to start conducting an election under one set of rules, only for your rules to change soon after which could require either a new election to be run or cause some other difficulty. So if you tell us early in the process, we can work with you and the Fair Work Commission (who are responsible for certifying rule changes) to make arrangements that best work for your organisation.

**00:21:30**

KM So what I have heard today from both yourself and David is that communication is really important during the process of a ROC file. It's important that lodgements are complete and they're accurate, and for organisations to raise issues with us as early as possible. And if an officer at the ROC detects a compliance issue, they will call or email the organisation, or advise them in their filing letter.

To summarise today's episode:

Registered organisations are required to make several lodgements with the ROC, and this includes financial reporting matters and elections – which have been the focus of this podcast.

Matters are assessed against the legislative requirements, various regulations and other standards. The ROC is a transparent regulator. You can see how we assess your matters by downloading our checklists, which are available on our website. We encourage organisations to use these and other resources to achieve compliance.

If organisations have questions about their lodgements, they can contact us at the ROC to speak with the officer assessing their matter. Organisations are also encouraged to engage with us before lodgement if they have any questions about achieving compliance.

Thank you for joining me, Sarah. It's been a pleasure to sit down with you, and Matthew and David as well.



SW You're welcome, Kristina. The compliance team is always happy to help, we really are and organisations can get in touch with us by phone or email.

KM Please join us next month for another episode of ROCpod.

AN The opinions expressed in ROCpod are the opinions of the particular speaker and not necessarily the opinions of the Registered Organisations Commission.

This information is general and is not intended to be comprehensive. It is designed to assist in gaining an understanding of the relevant provisions of the legislation the Registered Organisations Commission and its work.

AN The ROC is not able to provide legal or accounting advice.

For further information please see the materials on our website www.roc.gov.au or contact us at regorgs@roc.gov.au.