



# Fair Work Ombudsman and Registered Organisations Commission Entity

Annual Report 19-20

The Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2019–20





The Hon Christian Porter MP

Attorney-General and Minister for Industrial Relations

Parliament House CANBERRA ACT 2600

18 September 2020

Dear Minister

In accordance with section 686 of the Fair Work Act 2009, section 329FC of the Fair Work (Registered Organisations) Act 2009 and section 46 of the Public Governance, Performance and Accountability (PGPA) Act 2013, I am pleased to submit the Fair Work Ombudsman (FWO) and Registered Organisations Commission (ROC) Entity annual report for the financial year ending 30 June 2020. It includes information on the Entity's general organisation, administration and performance.

As the accountable authority for the FWO and ROC Entity, pursuant to section 17AG of the PGPA Rule 2014, I certify that we have:

- a fraud risk assessment and fraud control plan
- appropriate fraud prevention, detection, investigation and reporting mechanisms that meet the FWO's and ROC's specific needs
- taken all reasonable measures to appropriately deal with fraud.

Yours sincerely,

Sandra Parker Fair Work Ombudsman

Sandu Parker

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#### Year in review



Pictured: Sandra Parker, Fair Work Ombudsman.

In the 2019–20 financial year, the Office of the Fair Work Ombudsman (FWO) continued to deliver on its purpose of promoting harmonious, productive, cooperative and compliant workplace relations in Australia.

Our intelligence-led approach to education and compliance activities, reinforced by our focus on priority sectors and a revised enforcement posture, resulted in record recoveries of over \$123 million in unpaid wages for over 25,000 workers.

The year has also brought unforeseen challenges to the Australian workforce, most notably from the bushfires and the coronavirus (COVID-19) pandemic. The pandemic in particular has caused severe disruption to workplaces, industries, small business and employees, resulting in an unprecedented demand for our services. As the head of the agency, I am proud of how we have increased our service offerings to support our customers during this time.

#### Our 2019–20 priorities

In June 2019, I announced the FWO's 2019–20 Compliance and Enforcement Priorities:

- · fast food, restaurants and cafes
- · horticulture and the Harvest Trail
- · supply chain risks
- franchisors
- · sham contracting.

In addition to the above, we continued to prioritise matters that:

- · involve vulnerable workers
- are of significant public interest or scale
- · demonstrate blatant disregard for the law
- present an opportunity to test the law.

We chose these priorities based on operational intelligence, experience and data. The priorities guided our service offerings and compliance activities for 2019–20. Setting priorities helps us determine where the FWO's discretionary efforts are best directed so we can utilise our resources to deliver maximum benefit to the Australian community.

In the 2019–20 financial year, we have:

- conducted 1432 targeted compliance activities nationally, with our investigations strategically targeting high-risk sectors, such as food precincts<sup>1</sup> and major horticulture regions around the country<sup>2</sup>
- achieved significant litigation outcomes, including the largest penalty decision to date<sup>3</sup> and our first litigation outcome involving new provisions to protect vulnerable workers<sup>4</sup>
- established a dedicated sham contracting unit
- worked with business, community organisations and government agencies to better understand the drivers of non-compliance
- launched numerous tailored educational resources and campaigns to educate the Australian workforce about their rights and entitlements
- reshaped our organisation to meet the significant challenges created by the coronavirus pandemic.

#### Our response to the COVID-19 pandemic

The COVID-19 pandemic has had a major impact on Australian workplaces. Since it began, we have redeployed our resources to make supporting workplaces through the pandemic our top priority. We are working closely with other federal departments and agencies to support efforts to boost the economy and we are also assuming new enforcement responsibilities to uphold the integrity of the JobKeeper scheme.

COVID-19 has created a surge in demand for our services, with a substantial increase to the number of calls, online enquiries and website visits we received in the last quarter of the financial year.

To quickly meet this demand, we increased resourcing for our frontline services, created a dedicated coronavirus website and set up a dedicated coronavirus hotline. We also set up an internal taskforce to coordinate the agency's ongoing response to the pandemic, and established a Workplace Legal Advice Program to provide free advice to eligible employers.

We will continue to work across government and with relevant stakeholders to uphold the integrity of the JobKeeper scheme and further understand the impacts of COVID-19 on workplaces. We will also continue to educate employers and employees about their rights and obligations by refining and adding to our suite of resources.

#### A revised enforcement posture

We strengthened our compliance and enforcement posture in mid-2019, following an internal capability review and recommendations from the Migrant Workers' Taskforce report.<sup>5</sup> Our revised Compliance and Enforcement Policy resulted in a firmer approach, and an increased use of most of our compliance and enforcement tools in the past financial year.

In particular, our new approach to compliance notices (CNs) has achieved significant results. In 2019–20, we issued 952 CNs, recovering more than \$7.8 million in unpaid wages.

<sup>1</sup> FWO media release: FWO audits Brisbane's West End, 25 July 2019, <a href="www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/july-2019/20190725-media-release-fwo-audits-brisbanes-west-end-final">www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/july-2019/20190725-media-release-fwo-audits-brisbanes-west-end-final</a>

<sup>13</sup> FWO media release: Sushi operators hit with record penalties, 18 May 2020, <a href="www.fairwork.gov.ou/about-us/news-and-media-releases/2020-media-releases/may-2020/20200518-hero-sushi-us/news-and-media-releases/2020-media-releases/may-2020/20200518-hero-sushi-us/news-and-media-releases/2020-media-releases/may-2020/20200518-hero-sushi-us/news-and-media-releases/2020-media-releases/may-2020/20200518-hero-sushi-us/news-and-media-releases/2020-media-releases/may-2020/20200518-hero-sushi-us/news-and-media-releases/2020-media-releases/may-2020/20200518-hero-sushi-us/news-and-media-releases/2020-media-releases/2020-media-releases/may-2020/20200518-hero-sushi-us/news-and-media-releases/2020-media-rel

<sup>4</sup> FWÓ media release, Sushi operators penalised \$125,000, 21 August 2019, www.fairwork.gov.au/ about-us/news-and-media-releases/2019-media-releases/august-2019/20190821-sushi-79-penalty media-release

<sup>5</sup> Australian Government, Report on the Migrant Workers' Taskforce, www.ag.gov.au/sites/default/files/2020-03/mwt\_final\_report.pdf

This is more than triple the number of CNs (274) and nearly eight times the monies recovered compared to the 2018-19 period. These notices have a compliance rate of approximately 96%.

In the past financial year, we commenced numerous legal proceedings against companies and accessories that failed to comply with a CN. These litigations, and the corresponding media releases, send a clear message to businesses that these notices should be taken seriously.

#### Self-reported underpayments by employers

Since July 2019, we have seen a significant increase in the number of large corporate entities self-reporting non-compliance with their workplace obligations. These matters usually involve large and complex underpayments affecting thousands of workers across several years.

The prevalence and the scale of this type of non-compliance is extremely disappointing and concerning. That so many companies are now self-reporting to us indicates that our compliance and enforcement activities, along with negative community sentiment about underpaying workers, is having a deterrence effect on large employers.

In response to the increase in these self-reported matters, we have established a Corporate Sector Taskforce that is dedicated to investigating large employer underpayments. I also wrote to the Chairs and CEOs of Australia's largest corporations to seek their assurance that they are taking their obligations seriously and have appropriate governance mechanisms in place to ensure their entities are, and will remain, compliant with workplace laws.

Our revised Compliance and Enforcement Policy sets out how we approach matters where businesses self-report non-compliance to us. Where businesses undertake comprehensive remediation of underpayments, address any impacts of the contraventions and cooperate fully with our investigation, we may consider nonlitigious outcomes. For example, in 2019-20, we entered into 9 Enforceable Undertakings (EUs) with businesses who self-reported non-compliance to us.

#### Educating and assisting our customers

In addition to compliance and enforcement, one of our core functions is providing education, assistance and guidance to employers, employees and organisations.

In the past financial year, our frontline staff answered more than 490,000 customer enquiries over our phone and digital channels (including social media), and returned over \$19 million to underpaid workers through our assisted dispute resolution services. The community also lodged over 19,000 anonymous reports of suspected non-compliance and made over 5.7 million pay tool calculations.

Our website recorded 20.7 million visits — the highest number of visits for a financial year so far. We continued to educate the community about their workplace rights and obligations and develop new and tailored resources for our online channels, including:

- a new and improved Fair Work Information Statement, and translating it into 35 languages
- a new Horticulture Showcase including education videos on key topics
- educating hospitality apprentices and employers by sending out approximately 6000 tailored text messages
- a new online course on workplace laws for business advisers was added to our Online Learning Centre
- in-language educational videos for Pacific Island workers.

#### Outlook

COVID-19 will continue to have an unprecedented impact on Australian workplaces. Supporting workplaces through the pandemic and recovery phases is our overarching priority for 2020–21. We will focus on supporting vulnerable workers, small businesses and industries hardest hit by the pandemic. We will also continue to uphold the integrity of the JobKeeper scheme through appropriate and proportionate compliance activities.

High-risk sectors such as fast food, restaurants and cafes, horticulture and franchise networks will remain a priority. We acknowledge many of these sectors have been seriously impacted by the pandemic, and this will be taken into account in our education, engagement and compliance activities.

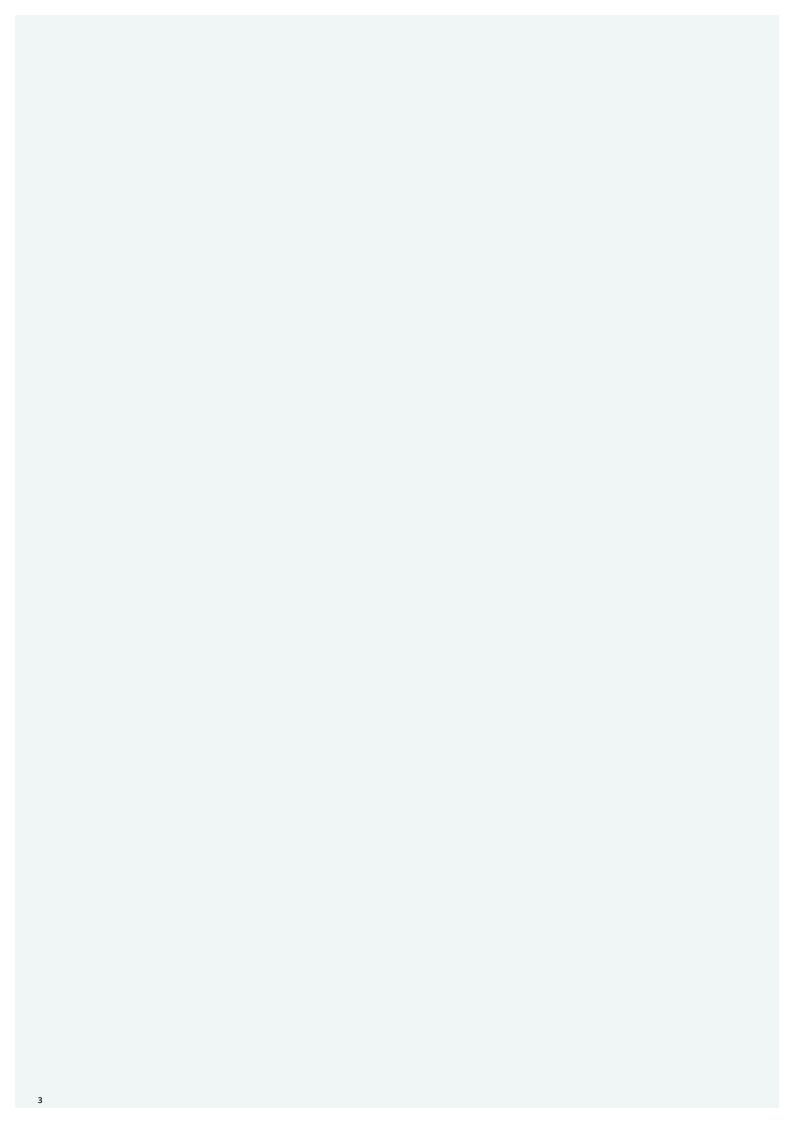
We will continue to focus on compliance of large employers to ensure major entities are meeting their obligations and have appropriate governance and systems in place to identify, remediate and prevent large underpayments.

We will also remain responsive to changing economic conditions, legislation or Fair Work instruments, and the evolving needs of the community.

COVID-19 has significantly changed the industrial relations landscape. In 2020–21, the Fair Work Ombudsman will play a crucial role in supporting Australia's businesses and workforce to recover from these challenging times.



Image: Fair Work Ombudsman Priorities and Approach 2020–21



# 01: Entity overview



Pictured: Jeremy O'Sullivan, Chief Counsel; Kristen Hannah, Deputy Fair Work Ombudsman – Policy and Communication; Sandra Parker PSM, Fair Work Ombudsman; Michael Campbell, Deputy Fair Work Ombudsman – Corporate and Mark Scully, Deputy Fair Work Ombudsman – Compliance and Enforcement

The Fair Work Ombudsman and Registered Organisations Commission Entity (the Entity) comprises two independent government bodies:

- the Fair Work Ombudsman (FWO), created by the Fair Work Act 2009
- the Registered Organisations Commission (ROC), established under the Fair Work (Registered Organisations) Amendment Act 2016.

## Outcome and planned performance

#### Fair Work Ombudsman

Outcome 1 — Compliance with workplace relations legislation by employees and employers through advice, education and, where necessary, enforcement.

#### Program 1.1 — Education services and compliance activities deliverables

- · Provide information, advice and education on the requirements and flexibilities of workplace laws to foster voluntary compliance.
- · Investigate claims regarding alleged breaches of workplace laws and undertake targeted activities.
- Litigate, where necessary, to enforce compliance with workplace laws.

#### Registered Organisations Commission

 $\label{eq:composition} Outcome~2 - Effective~governance~and~financial~transparency~of~registered~employee~and~employer~organisations~through~regulation, investigation~and~appropriate~enforcement~action.$ 

#### Program 2.1 — Registered Organisations Commission deliverables

- Conduct inquiries and investigations into breaches of the Fair Work (Registered Organisations) Act 2009.
- · Commence legal proceedings in respect of contraventions of the Fair Work (Registered Organisations) Act 2009.
- · Refer possible criminal offences to the Director of Public Prosecutions or law enforcement agencies.
- Arrange registered organisations' elections.
- · Receive complaints from members of registered organisations.
- · Provide information to members of registered organisations about their rights.
- · Educate registered organisations about their obligations.

## Entity structure

Figure 1: Entity organisation structure, as at 30 June 2020

Sandra Parker PSM
Fair Work
Ombudsman

- Mark Scully
  Deputy Fair Work
  Ombudsman
  Compliance and
  Enforcement
- Kristen Hannah

  Deputy Fair Work

  Ombudsman

  Policy and Communication
- Michael Campbell
  Deputy Fair Work
  Ombudsman
  Corporate

- Lynda McAlary-Smith

  Executive Director

  Enforcement
- Nicky Chaffer

  Executive Director

  Communication
- Naomi Bleeser Executive Director People

- Antonia Parkes

  Executive Director

  Customer Services
- Anthony Fogarty

  Executive Director

  Policy
- Michael Clark

  Executive Director

  Technology

- Steven Ronson

  Executive Director

  Compliance
- Louise Peters

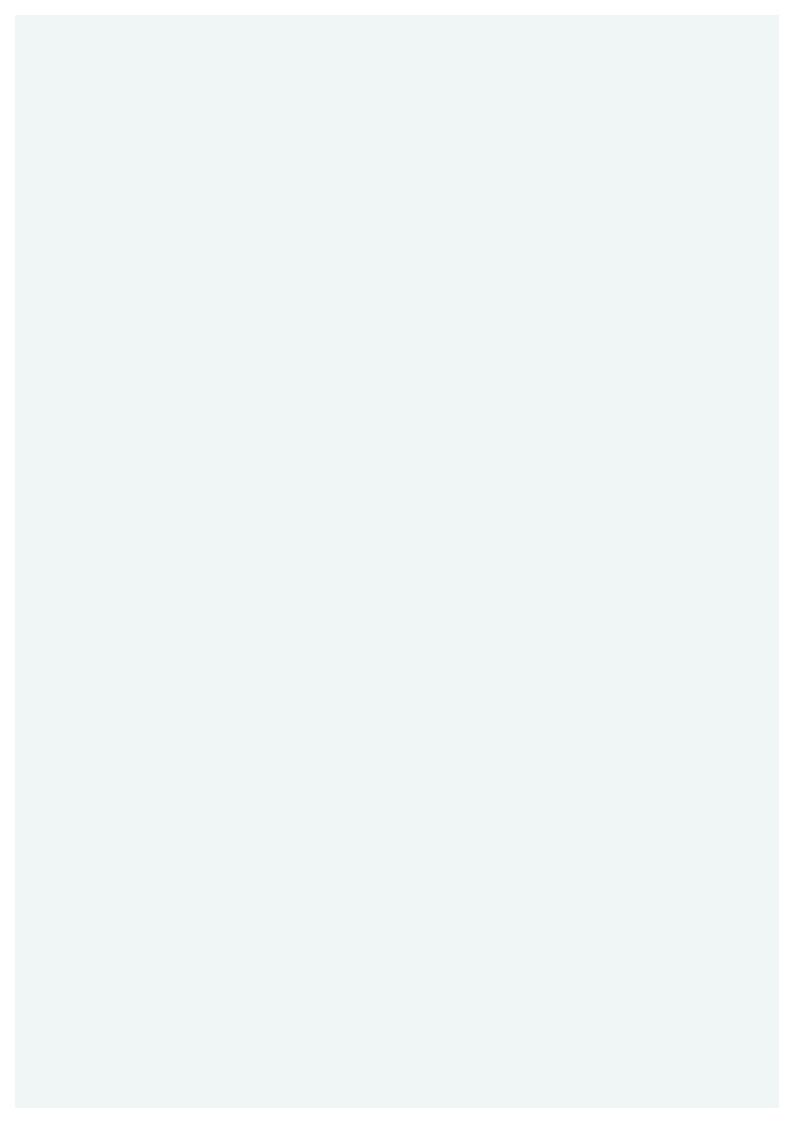
  Executive Director (a/g)

  Engagement
- Tom O'Shea

  Executive Director

  Corporate Services
- Daniel Crick
  Executive Director (a/g)
  COVID-19 Response
  Taskforce

- Jeremy O'Sullivan Chief Counsel
- Chris Enright Executive Director Registered Organisations Commission
- Janine Dennis **Executive Director** Legal
- Michelle Carey **Executive Director** Corporate Sector Taskforce

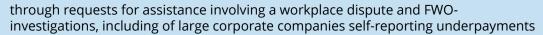


# 02: FWO performance report

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Total monies recovered

\$123,461,548







25,583 workers back paid



Completed disputes 21,914



**54** litigations filed

Matters currently before courts:

**72**\*

Court ordered penalties:

\$4,348,778

\*as at 1 July 2020



Record penalties of **\$891,000** for a matter involving 3 sushi outlets and young overseas workers



**3** litigations filed relating to serious contraventions, and first penalty judgment for a matter filed under the Protecting Vulnerable Worker provisions



Total website visits (including dedicated coronavirus website):

21,823,841



Pay tool visits:

4,579,011



Pay tool calculations:

5,780,388



My account logins:

590,231



My account registrations:

99,485



Online enquiries answered (Facebook, Twitter, LinkedIn, webchats, MyAccount and email):

67.217



**Email subscribers:** 

596,610



Calls answered:

424,255

Social media followers:



**151,686** Facebook



**20,424** Twitter



**36,291** LinkedIn



12 enforceable undertakings entered into, with \$56,870,550 in unpaid wages recovered



603 infringement notices issued, with \$891,173 in on the spot fines



952 compliance notices issued, with more than \$7.8 million in unpaid wages recovered



## **COVID-19 response**

- Coronavirus website page views: 4.1 million
- Coronavirus hotline calls answered: 56,765
- Coronavirus emails sent to over **570,000** of our subscribers
- Workplace Legal Advice Program referrals: 415





Fast food, restaurant and cafes sector account for 50% of total litigations initiated. We also secured courtordered penalties of **\$1,877,162** from **13** litigation decisions in this sector



Secured **\$2,987,149** in court ordered penalties for migrant workers, and recovered **\$1,740,856** in unpaid wages



Established a Sham Contracting Unit, and recovered **\$363,976** for sham contracting and misclassification matters



Fact sheets and best practice guides collectively viewed over **4.2 million** times



Record my hours downloads: 19,834



Views of in-language information:



Find my award searches:



Pages translated:



1,067,749



263,533

222,672



Online courses commenced:

47,709



WARD: Best People and Culture Award at the 2019 Government Contact Centre Week

# Fair Work Ombudsman annual performance statement

I, Sandra Parker, as the Entity's accountable authority, present the 2019–20 annual performance statement, as required under paragraph 39(1) (a) of the Public Governance, Performance and Accountability Act 2013 (PGPA Act). The statement is based on properly maintained records, accurately reflects the Entity's performance and complies with subsection 39(2) of the PGPA Act.

#### Agency purpose

The FWO is the Australian Government agency responsible for ensuring compliance with workplace relations laws. Our purpose is to promote harmonious, productive, cooperative and compliant workplace relations.

#### Results

Performance criteria	Indicator	Target	Achieved	Further information on results	
The FWO manages requests for assistance in a timely manner.	Average number of days requests for assistance involving a workplace dispute are finalised	30 days	21 days	Advice, education and dispute resolution services, p.17	
The FWO provides information and advice that is	Availability of website services (time available as a percentage of total time)	99%	99%	Online services, p.14	
accessible, timely and reliable.	Availability of contact centre services (percentage of availability during advertised hours)	99%	99%	Phone services, p.17	
The FWO takes a risk-based and proportionate	In 2019–20, the performance indicators for this criteria changed between the publishing of the agency's Portfolio Budget Statements (PBS) 2019–20 and the publishing of the FWOROCE's Corporate Plan. Both sets of indicators have been provided below for transparency.			Advice, education and dispute resolution services, p.17	
approach to its compliance and enforcement	impliance and impliance and impliance and enforcement efforts proportionate to the seriousness of the matter				
activities.	<ul> <li>apply a risk-based approach to our col</li> </ul>	pproach to our compliance and monitoring activities			

have streamlined and coordinated compliance and monitoring approaches

 $\bullet \quad \text{publish key strategies and act on feedback regarding the effectiveness of our operations.} \\$ 

**Achieved:** The FWO continued to take a risk-based and proportionate approach to its compliance and enforcement activities, guided by its 2019–20 compliance and enforcement priorities into sectors and cohorts that our intelligence indicates are at high risk of noncompliance.

We revised our compliance and enforcement posture in response to the changing environment in which we operate, and after careful consideration of recommendations from an internal capability review, the Migrant Workers Taskforce Report, and findings of the Banking Royal Commission. This resulted in an increase in the use of most of our enforcement tools, and most notably compliance notices, which saw a threefold increase in use and an almost 8 times increase in monies recovered compared to the 2018–19 financial year.

We secured our first penalty decision using the provisions introduced in the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017, and initiated litigations in 3 other matters under the 'serious contravention' provisions introduced by the Act. We also achieved our highest aggregate penalty judgment to date, securing penalties of almost \$900,000 against 3 sushi outlets and their accessories.

We completed 22 investigations into companies who self-reported breaches of the Fair Work Act, and secured back payments of over \$90 million for more than 12,000 employees.

We also issued 116 media releases over the year that reported on our compliance and enforcement activities.

#### PBS performance indicators:

Indicator	Target	Outcome
Requests for assistance involving a workplace dispute are finalised through education and dispute resolution services	At least 90%	89%
Requests for assistance involving a workplace dispute are finalised through compliance and enforcement tools	No more than 10%	11%

**Not achieved:** FWO revised its approach to its use of compliance and enforcement tools following recommendations from the Migrant Workers Taskforce Report, which advocated for greater use of our compliance and enforcement tools. This revised approach resulted in an increase in the use of most of our enforcement tools in 2019–20. As a result, the agency changed the performance indicators for this criteria in the 2019–20 Corporate plan, so as not to put any limits on the use of our enforcement tools but rather focus on a more general proportionate and risk-based approach.

Performance criteria	Indicator	Target	Achieved	Further information on results		
The FWO has a	Indicator: Seek to gain a more comprehen	nsive understanding of the reasor	ns for non-compliance with workplace relations laws.	Investigations and activities, p.17		
positive impact on sectors/regions or issues of importance to the	operational priorities and activities target	Achieved: The FWO continues to undertake detailed analysis to understand trends in the internal and external environment to ensure perational priorities and activities target problematic sectors and industries. Our 2019–20 compliance and enforcement priorities, which uided our activities for the year, were based on extensive research, intelligence and operational data.				
community.		on. We continue to monitor inquir	tion and the ongoing Senate Inquiry into unlawful y submissions to gain a further understanding of the mployee and community organisations.			
			compliance received this financial year, we established a pe and nature of contraventions in these types of matters.			
	We hit a milestone with our anonymous reports in 2019–20, surpassing over 60,000 reports received since the tool was launched. We continue to use the intelligence gathered from these reports, in conjunction with other operational data, to inform our targeted compliance activities into high-risk sectors.					
	We continue to work across government a approaches and position ourselves as a le		cluding international stakeholders, to leverage best-practice			
			loped in consultation with a number of government tionally with like-minded regulators and institutions			
			es division of the Ministry of Business, Innovation and e greater levels of compliance with workplace laws			
	<ul> <li>progressing our Horticulture Strateg Action' community forums in key ho</li> </ul>		an external industry reference group and holding 'Awards in ntry			
	<ul> <li>working across government to admi Departmental Committee and its 3 v</li> </ul>		uding being a member of the JobKeeper Program Inter-			

Source: FWO and ROC Entity 2019–20 Portfolio Budget Statements: Program 1.1 (p.149) and FWOROCE Corporate Plan 2019–2020.

#### Analysis of performance against FWO purpose

In 2019–20, we met all our Corporate Plan performance indicators.

Use of our main service offerings, including our website and Infoline, increased from previous financial years, indicating that the community continues to access our advice, resources and assistance at their convenience. This was particularly relevant when our services were in high demand as a result of the COVID-19 pandemic. In response, we:

- reallocated our staff to effectively manage the increased demand for our services
- ensured our information and advice was constantly updated as the situation evolved with a dedicated coronavirus website and hotline established
- developed and launched a number of new pandemic-related resources.

Our 2019–20 compliance and enforcement priorities, coupled with our proportionate and risk-based approach to compliance and enforcement, allowed us to focus our activities into high-risk sectors. This approach ensured we targeted our resources into issues and industries where we would have the most impact.

We worked across government and with relevant stakeholders to enhance our understanding of the reasons for non-compliance with workplace laws. This included making submissions to a number of relevant Senate Inquiries, and working with relevant stakeholders to inform our education and compliance activities.

# Our priorities, services and activities

The FWO provides education, advice and a range of tailored dispute resolution tools to promote harmonious, productive, cooperative and compliant workplace relations. In the 2019–20 financial year, this also included a number of new resources and services to assist the community through the ongoing COVID-19 pandemic.

We also enforce workplace laws in response to requests for assistance and through FWO-initiated activities. Further details about our functions and approach are included in our Purpose and our Compliance and Enforcement Policy, which are both available on the FWO website.

In 2019–20, we recovered over \$123.4 million in unpaid wages for more than 25,000 workers through requests for assistance involving a workplace dispute, FWO-initiated activities and large corporate companies self-reporting underpayments to us.

To support deterrence, we issued 116 media releases over the year that reported on our compliance and enforcement activities.

# Our response to the COVID-19 pandemic

Since the onset of the COVID-19 pandemic, the FWO has quickly responded to ensure we are delivering the most up-to-date information and advice to our customers as the situation evolves.

The pandemic has had a significant impact on Australian workplaces, with many businesses being temporarily closed or having reduced capacity, new temporary clauses being inserted into many awards, and legislative changes such as the JobKeeper scheme being introduced.

As a result, the number of employers and employees seeking our assistance has grown significantly. Since mid-March, the average number of calls to our Infoline per day increased by 40% compared to the same period last year. Website sessions across the FWO's main and coronavirus websites increased by 43%, and enquiries to the FWO through our phone and digital channels increased by 36%.

In response, we adjusted our resources and services to meet the evolving needs of our customers.

The FWO was allocated an additional \$46.3 million in funding from the Australian Government over 3 years, from 2019–20 to 30 June 2022. The extra funding will enable us to continue to meet the high levels of community demand for our assistance, and provide enhanced advice and education services for businesses and employees.

In addition, 5 staff from ROC and 11 staff from the Australian Building and Construction Commission were seconded to FWO to assist with critical work, including frontline services.

#### COVID-19 online services

#### Coronavirus website

On 4 February 2020, we published information addressing COVID-19's impact on workplace laws on our website. The information was updated frequently as the situation developed.

On 25 March 2020, we launched a dedicated coronavirus website at coronavirus.fairwork.gov.au. The mobile-friendly site provides the community with up-to-date information and advice, and addresses the most common enquiries and issues that employers and employees are seeking our advice about. Information and topics covered on the site include:

- pay and leave
- the rules relating to the JobKeeper scheme
- temporary changes to workplace laws, including award specific flexibility provisions and pandemic leave
- · health and safety in the workplace
- · alternative working arrangements
- stand downs, ending employment and redundancy.

The information on our coronavirus website can also be translated into 34 languages.

We have created new tools and resources to help small business employers manage their obligations during the coronavirus outbreak, including template letters to help employers manage JobKeeper obligations and stand downs. We have also updated our existing online tools and resources including the Restaurant and Fast Food Industry infographics to provide help and guidance on issues like pandemic leave and increased workplace flexibility.

As at 30 June 2020, there had been over 4.1 million page views of our coronavirus web content.

#### Virtual assistant

To help further address the significant increase in pandemic-related customer enquiries, we upgraded the coronavirus website in early June to include a new virtual assistant named 'Frankie'. Frankie is designed to help answer our online customers' COVID-19 related questions.

Frankie's knowledge base comes from 110 frequently asked questions and is based on the most common queries that our customers are seeking our advice on. We continually update and refine Frankie to ensure she is meeting user needs and answering frequently asked questions.

If a customer asks about information that is outside our jurisdiction, Frankie will direct them to the most appropriate government website, such as Services Australia, the Australian Taxation Office or the Department of Health.

Where Frankie can't answer a question, she will respond with a safety net response, advising the customer that she can't answer all questions. As at 30 June 2020, Frankie's safety net response rate was 6.54%.

As at 30 June 2020, Frankie has had a total of 2059 sessions (the number of times the virtual assistant has been opened) and 2771 questions from customers.

Year in review Entity overview FWO performance report ROC performance report Management and accountability Financial statements Reference materials

#### Online communications campaigns

In the 2019–20 financial year, we used our subscription service and social media channels to run ongoing communication and education campaigns relating to COVID-19 and Australian workplace laws.

As at 30 June 2020, we had:

- posted more than 120 updates across our Facebook, LinkedIn and Twitter accounts
- · reviewed over 6400 social media comments
- responded to over 1400 social media enquiries
- sent emails to over 570,000 of our email subscribers, notifying them of workplace relations changes as a result of the pandemic, including in relation to the JobKeeper scheme, and on changes to awards.

#### Phone services - coronavirus hotline

We established a dedicated coronavirus hotline for our customers on 10 March 2020. Customers are directed to the hotline if they select COVID-19 as the reason for their call through our Interactive Voice Response system.

Between its launch and 30 June 2020, the hotline answered 56,765 calls. The majority of these came from employees (76%).

The top 3 industries to call through were from:

- · health care and social assistance
- · accommodation and food services
- · retail.

Almost one-third of all calls we received to the hotline related to the JobKeeper scheme.

The key areas our customers wanted information on related to:

- general wages (such as hourly rate)
- hours of work
- · termination and redundancy
- · leave.

#### Workplace Legal Advice Program

To assist workplaces during the COVID-19 pandemic, we established a pilot Workplace Legal Advice Program in April 2020. The program forms part of the Australian Government's additional funding to the agency to respond to the pandemic.

The program established a panel of external legal service providers with specialist skills in workplace relations. These providers give free advice and information to eligible workplace participants referred from the FWO, helping them respond to and recover from the impacts of the pandemic.

As at 30 June 2020, the program had 11 external legal service providers on the panel and had made 415 referrals to the panel for free advice.

The FWO will continue to expand the Workplace Legal Advice Program in the new financial year.

#### COVID-19 stakeholder activities and engagements

We have been working closely with key government and community stakeholders to respond to workplace relations issues arising out of the COVID-19 pandemic and to share learnings and strategies.

Key engagements include:

- working with government agencies, specifically the Australian Taxation Office and the Fair Work Commission, to administer the JobKeeper scheme. FWO is a member of the JobKeeper Program Inter-Departmental Committee and its 3 working groups, each of which oversees key aspects of the program. Our 3 agencies, along with Treasury and the Attorney General's Department, will continue to work together to ensure the integrity of the JobKeeper scheme
- meeting with industry, employer and employee organisations such as The Council of Small Businesses of Australia, the Australian Chamber of Commerce and Industry, the Australian Council of Trade Unions and the Australian Industry Group to further understand the impact COVID-19 has had on different industries and organisations, and to seek feedback on our tools and resources
- meeting with our New Zealand counterpart, the Employment Services division of the Ministry of Business, Innovation and Employment (MBIE) to share and learn from their experience in managing the impacts of the pandemic
- writing to key stakeholders, intermediaries and contacts to promote our COVID-19 resources.

#### COVID-19's impact on our services

The FWO continues to discharge its statutory functions to provide education, advice and enforcement in a proportionate and appropriate way, consistent with the public interest. Due to the impact of COVID-19 on Australian workplaces, the number of employers and employees seeking our assistance has grown significantly. In response, we have adjusted our services and priorities to meet the changing needs of our customers. This has included focusing our resources on assisting employers and employees navigate the complexities of the Fair Work Act in the context of the evolving COVID-19 pandemic.

FWO offices have been closed to the public since 18 March 2020, for both the health and safety of our staff as well as the wider community. Our field-based work and physical attendance at education events have also been temporarily suspended. Social distancing, travel restrictions, the health and safety of FWO staff, and restrictions to some businesses and industries mean Fair Work Inspectors are only undertaking desk-based investigations but will recommence site visits to businesses when appropriate.

## Online services

Our website, <a href="www.fairwork.gov.au">www.fairwork.gov.au</a>, is our largest customer-service channel, providing education and advice on Australia's workplace relations system. The mobile-friendly site provides:

- comprehensive information about workplace rights and obligations
- industry-specific information on workplace laws
- self-service tools, including pay and leave calculators, online learning courses and interactive templates
- a translation tool that allows customers to view website information in 36 different languages
- professionally translated information and resources in over 30 languages.

In 2019–20, visits to fairwork.gov.au increased by 16% from the previous financial year to over 20.7 million visits. This is the most visits the website has ever had in a financial year to date. In the last 2 years, traffic to the website has increased by over 3.9 million visits.

Table 1: Website visits and users, 2018-20

	2019-20	2018-19	2017–18
fairwork.gov.au visits	20,706,559	17,846,171	16,756,865
fairwork.gov.au users	11,790,566	10,081,020	9,383,211

Note: Visits represent the total number of individual visits to the website. Users represent the number of individuals who have visited the website. These figures count visits from the same user as an additional visit, but not as an additional user.

#### Tailored information and resources

We have continued to enhance and expand our suite of online resources to provide more tailored information and assistance to our customers.

#### Horticulture showcase

As a key part of our Horticulture Strategy, we developed a digital Horticulture Showcase that provides industry-specific information, tailored resources and self-help tools for employers and employees in this industry. The showcase was co-designed in consultation with an external Horticulture Reference Group, comprised of key industry stakeholders. It covers topics most relevant to growers and workers, including:

- · pay and piecework rates
- sourcing labour and how to use labour hire lawfully
- tips for working on the Harvest Trail
- deductions for accommodation, transport and job finding.

The showcase also includes a series of educational videos, an inbuilt automatic translation tool that enables users to translate content into 36 languages, and an interactive tool that growers can use to check their knowledge of workplace rights and obligations and get tailored help where they identify gaps.

Since its launch in September 2019, the pages in the showcase have collectively been viewed nearly 95,000 times.

#### **New Fair Work Information Statement**

We redesigned the Fair Work Information Statement (FWIS) to make it more accessible to Australia's diverse workforce, and in response to customer and stakeholder feedback, including from the Migrant Workers' Taskforce.

The new FWIS simplified technical workplace relations terms, added design elements and graphics to highlight key information, and reordered topics based on relevance. There are also links to free resources to help employees manage workplace issues and a referral to the FWO's coronavirus website for additional information about rights and entitlements during the coronavirus outbreak.

User testing on the redesigned FWIS indicated that 84% of users preferred the new FWIS to the previous version. In 2019–20, the FWIS was downloaded over 240,000 times.

#### Fast food, restaurants and cafes

In 2019–20, our tailored website section continued to provide industry-specific information for fast food, restaurant and cafe businesses and workers. The section includes interactive tools and templates, and covers common issues that employers and employees in the sector seek assistance with, such as:

- award coverage
- pay
- · payslips and record-keeping.

These pages were collectively viewed over 200,000 times in 2019–20.

#### Business advisers online course

In 2019–20, we created a new online course tailored towards business advisers, such as accountants, bookkeepers, payroll providers and consultants. The new course provides information about workplace laws, including:

- identifying and discussing problems with clients
- providing clients with the right advice on common workplace issues
- · managing their risk and liability.

The course has been accessed nearly 5000 times since it launched in November 2019.

#### Outworkers

We developed new webpages for outworkers (people who work at home or at a place that isn't a typical business premises) in the textile, clothing and footwear industry, and their employers. The pages provide industry-specific information about outworker entitlements, including:

- · minimum conditions
- what information employers need to provide to outworkers
- · written agreements
- information on supply chain management.

#### In-language information

We provide professionally translated in-language information in 30 languages, which includes downloadable resources and videos.

In 2019–20, we expanded and enhanced our professionally translated in-language content by:

- translating our redesigned Fair Work Information Statement into 30 languages
- translating existing storyboard videos into 8 new Pacific Islander languages for our Seasonal Worker Programme and Pacific Labour Scheme workers
- translating metadata to improve the performance of our translated content in in-language searches.

Our Anonymous Report tool is also available in 16 languages (in addition to English). Further information about anonymous reports is detailed in Investigations and activities.

As at 30 June 2020, our in-language resources were viewed over 222,000 times, a 77% increase from the previous financial year. Our in-language videos were also viewed over 56,000 times.

To ensure users have access to the information they need, our website also has an auto-translation tool, which translates most pages on our website into 36 languages for people from culturally and linguistically diverse backgrounds. In the 2019–20 financial year, over 263,000 website pages were translated using the auto-translation tool. The most translated pages related to pay and minimum wages.

Table 2: Website translation tool most popular languages, 2019–20

Language	Number of pages translated
Simplified Chinese	109,489
Korean	28,419
Spanish	22,581
Japanese	20,341
French	13,377

#### **Email subscription services**

Subscribers to our email update service increased by over 100,000 during the year, to over 596,000 active subscribers. Subscribers can opt-in to receive email updates on various topics, including:

- pay rates and entitlements
- new products and resources
- industry and award specific updates.

During the year, we launched 64 email campaigns, sending out over 2.7 million emails to subscribers, with an open rate of 42% (the average open rate for government emails sits at around 30.5%).

#### Online education and compliance tools

Our online tools have been developed to educate employers and employees about their workplace obligations and entitlements, and empower them to resolve issues. The majority of our online tools saw consistent or increased usage this year in comparison to the previous financial year.

In 2019–20, we expanded our suite of interactive templates (online forms that employers and employees can fill out to generate a tailored template letter) with a new piecework agreement template. Our interactive templates are designed to reduce the time needed to prepare correspondence for those navigating employment-related decisions, and were collectively downloaded over 25,000 times. Additionally, our non-interactive templates were downloaded over 500,000 times.

Our pay calculator, part of the online Pay and Conditions Tool (PACT), continued to be popular with users, being viewed over 4.5 million times and processing 5,780,388 calculations.

Our Find My Award tool, which helps customers identify which award applies to them or their workplace, was also used over 1 million times.

Our fact sheets and best practice guides, which provide detailed information on workplace relations topics and best practice advice for small business employers, were collectively viewed over 4.2 million times.

Our Online Learning Centre, which provides free interactive online courses that teach skills and strategies to assist employers and employees work better, saw a 24% increase in courses undertaken, with users commencing 47,709 online learning courses.

The most popular courses included:

- difficult conversations in the workplace employee and manager course
- managing performance
- diversity and discrimination
- starting a new job.

Our Record My Hours smartphone app, which uses geofencing technology to assist employees to record their hours of work, was also downloaded 19,834 times.

#### Behavioural economics

During 2019–20, the FWO partnered across government and industry to deliver education-based behavioural economics projects.

FWO partnered with the Behavioural Economics Team of the Australian Government (BETA) and the Department of Education, Skills and Employment on a project to improve hospitality apprentices' and their employers' understanding and awareness of workplace rights and obligations.

The project involves the FWO sending apprentices and their employers a series of SMS and email messages over the first year of their apprenticeship. During 2019–20, we sent approximately 6000 text messages to hospitality apprentices and their employers.

We are also partnering with Monash University's BehaviourWorks Australia to deliver a behavioural economics project to encourage international students to engage in good workplace practices including keeping records of time worked, collecting payslips and contacting the FWO via online channels if they need assistance resolving a workplace issue.

This pilot project involves a workplace rights quiz for international students who are starting a new job in Australia or who have recently worked in Australia. After completing the quiz, students are prompted to sign up for education resources. Then, over a series of four weekly emails, students are encouraged to adopt good workplace practices using behavioural approaches. The pilot will be evaluated during 2020-21.

#### Online enquiries

In 2019–20, we answered 67,217 online enquiries via My account, web chat, email, Facebook, LinkedIn and Twitter, an increase of 7% from the previous year.

My account, our online customer portal, allows customers to:

- send general enquiries about workplace issues
- save website pages and wage calculations
- receive communications and information tailored to their industry
- undertake online learning courses.

We answered 49,970 My account enquiries, most of which came from employees and their representatives (78%). The majority of enquiries came from the following industries:

- health care and social assistance (12%)
- accommodation and food services (11%)
- professional, scientific and technical services (10%)
- retail trade (10%)
- construction (8%).

We answered 12,593 enquiries over web chat and email, and an additional 4654 enquiries through our Facebook, LinkedIn and Twitter accounts, an increase of 78% from the 2018–19 period.

Our Facebook followers grew by 23% over the year, with 151,686 followers at 30 June 2020. Our Twitter account had 20,424 followers, a growth of 8.2%. We also significantly increased our activities on LinkedIn, which resulted in a 279% increase in followers - from 9572 to 36,291 followers.

### Phone services

Our advisers answered over 424,200 calls in total in 2019–20, with the majority of calls coming from employees or their representatives (72%).

Our dedicated Small Business Helpline answered 78,556 of those calls. The most common enquiry types for the Small Business Helpline were:

- · entitlements
- wages
- termination.

Table 3: Calls answered, 2017-20

Phone Service	2019–20	2018–19	2017–18
Non-Small Business Helpline	345,699	301,725	277,583
Small Business Helpline	78,556	81,481	98,641
Total (Fair Work Infoline)	424,255	383,206	376,224

We were awarded Best People and Culture Award at the 2019 Government Contact Centre Week in Sydney.

# Advice, education and dispute resolution services

The FWO assesses each request for assistance we receive involving a workplace dispute, including the circumstances and issues, on a case-by-case basis. We may provide education, advice and various dispute resolution tools to assist parties resolve instances of potential non-compliance before they escalate into formal disputes. This approach helps maintain productive, harmonious and cooperative employment relationships and enables the faster recovery of unpaid wages.

The FWO completed 19,544 workplace disputes (89% of all disputes) through our advice, education and assisted dispute resolution services.

#### Early intervention

Where employees and employers need assistance to resolve their workplace issues, we may refer them to an early intervention specialist in the first instance.

The early intervention specialist tailors advice in response to the issues raised and the needs of the customer in order to promote compliance with workplace laws. This can include discussions with one party or both parties, with a focus on:

- supporting parties to have effective workplace conversations to resolve workplace issues
- advising customers how to raise concerns with their employer or employee and assisting them to do so
- providing advice and education in relation to workplace rights and obligations
- beginning a mediation where appropriate
- referring a matter to an inspector for possible issuing of a compliance notice or a broader investigation.

We completed close to 17,000 disputes through early intervention in 2019–20. Of the nearly \$19.2 million recovered from our education and dispute resolution activities in the last financial year, over \$14.4 million came from early intervention, amounting to 75% of our total education and dispute resolution recoveries.

#### Mediation

We mediate workplace disputes where the parties consent. In 2019–20, our accredited mediators worked with parties to complete 1808 disputes and recovered nearly \$4.3 million in unpaid wages.

In addition to monetary settlements, outcomes agreed to by the parties can include apologies, changes to working arrangements and the return of goods and documents.

#### Small claims assistance

Customers can seek our assistance with lodging a matter in the small claims court. This avenue is available to both employees and employers for matters where the claim is for less than \$20,000.

Our assistance team helps customers in a number of ways, including:

- · drafting a pre-claim letter to the employer
- · discussing different court options
- · preparing and presenting calculations
- · completing court forms, such as applications and responses
- · explaining different stages of court processes
- filing and serving court documents.

In 2019–20, the FWO provided information and guidance to assist 791 people with small claims, recovering \$252,203 in unpaid entitlements.

FWO lawyers also attend small claims hearings as a 'friend of the court'. In this capacity, we don't act for either party but can assist the court and the parties on points of law or procedure. In 2019–20, the FWO attended as a friend of the court in 220 matters.

## Investigations and activities

#### 2019–20 Compliance and enforcement priorities

In mid-2019, the FWO publicly announced its compliance and enforcement priorities for 2019–20:

- fast food, restaurants and cafes (FRAC)
- horticulture and the Harvest Trail
- supply chain risks
- franchisors
- · sham contracting.

These specific priorities were determined after an analysis of operational data, intelligence and experience. In addition, we continue to prioritise matters that involve vulnerable workers, are of significant public interest or scale, demonstrate blatant disregard for the law, or present an opportunity to test the law.

Our 2019–20 compliance and enforcement priorities guided our investigations and activities for the financial year, allowing us to strategically focus our resources on issues and sectors that our intelligence indicates as having the highest risk of non-compliance. Our priorities were also designed to allow us to continue to monitor compliance more broadly and take action where needed, including on emerging issues such as large corporations self-reporting non-compliance of workplace laws.

#### Investigations in response to requests for assistance

In 2019–20, we conducted 2370 investigations into more complex or significant matters (involving vulnerable workers, serious non-compliance and /or uncooperative employers), in response to

requests for assistance involving a workplace dispute. From these investigations, we recovered over \$5.8 million in underpayments.

#### Compliance activities

Our compliance activities target priority industries, geographic regions and businesses with high and systemic levels of noncompliance.

These compliance activities allow us to:

- verify our intelligence by targeting priority industries, sectors and businesses that our intelligence indicates are at high-risk of non-compliance
- better understand the drivers of non-compliance
- provide targeted education, information and advice to noncompliant businesses
- develop strategies for sustained behaviour change
- recover wages for underpaid employees.

In 2019–20, as part of our compliance activities, we investigated 1432 workplaces and recovered \$7,843,790 in unpaid wages.<sup>7</sup>

Key compliance activities for the 2019–20 year included a series of compliance activities involving popular food precinct areas, including conducting surprise audits of a number of bars in Melbourne's popular Chapel Street district, in response to allegations (including enquiries and anonymous reports) that workers at venues in the area were being underpaid and not receiving entitlements such as overtime and penalty rates. For more information on these activities, see Fast food, restaurants and cafes (p.18).

The overall non-compliance rate for our audits for the year was 71%, with the most common contraventions relating to:

- hourly rate underpayments (12%)
- failure to provide payslips in their prescribed form (9%)
- penalty rates for weekend work (9%).

Compliance and contravention rates for targeted audits do not necessarily indicate general rates of compliance across all Australian workplaces. FWO compliance activites are targeted at industries or geographic areas where compliance risks are present.

#### Anonymous reporting

Our Anonymous Report tool lets members of the community notify us if they suspect a business or individual is breaching workplace laws.

The data we collect from anonymous reports, combined with other operational data and research, helps to inform and improve our targeting for compliance activities. For example, our compliance activities into 50 businesses in Brisbane's West End food district was in response to receiving over 100 anonymous reports about restaurants and fast food outlets in the area.

The tool is available in 16 languages (in addition to English). This enables more migrant workers, one of our most vulnerable cohorts, to report workplace issues anonymously to us in their language.

In 2019–20, we received 19,345 anonymous reports. This was a 17% increase from the previous year and the highest number of reports we've received in a financial year since the tool launched in 2016. Of these reports, 1085 were in languages other than English.

In line with previous years, we continued to receive the most reports from the hospitality industry (including fast food, restaurants and cafes), accounting for 34% of all reports received in 2019–20. The next highest industries were retail (13%) and building and construction (5%).

The top languages to make reports in languages other than English were:

- Simplified Chinese (26%)
- Traditional Chinese (20%)
- Korean (17%)
- Japanese (10%).

We received the most in-language anonymous reports from the hospitality industry, totalling 39% of all in-language reports. This was followed by:

- food manufacturing and processing (12%)
- agriculture (10%)
- retail (6%).

#### Fast food, restaurants and cafes

The fast food, restaurants and cafes (FRAC) sector is one of the FWO's key compliance and enforcement priorities, due to both its disproportionately high levels of non-compliance and its vulnerable workforce. While only accounting for approximately 5% of employed persons<sup>8</sup>, the hospitality industry has consistently had the highest number of disputes we've assisted with for the last 6 financial years.

The hospitality industry made up a third (34%) of all anonymous reports we received in the 2019–20 financial year (nearly 3 times more than the second-highest industry, retail). Within this industry, the highest rates of non-compliance are found in the FRAC sector. In 2019-20, this sector alone accounted for 50% of our total litigations initiated.

Our ongoing FRAC Strategy, which we launched in the 2018–19 financial year, seeks to address the systemic non-compliance in this sector. Our strategy employs a multi-pronged approach, including engagement, education and compliance activities, to improve compliance levels in this sector.

As part of the strategy, we delivered a communications campaign between November and December 2019 to raise awareness of the workplace rights and responsibilities of employees and employers in the FRAC sector. The campaign included social media promotion (on Facebook and Instagram), and digital display and Google search advertising. The campaign messaging was seen over 6.3 million times across all platforms, with over 19,000 click-throughs to the FRAC-specific resources on our website. For more information on these resources, see Online services (p.14).

We also continued to conduct a number of compliance activities that targeted popular food precincts and FRAC franchises around Australia. This included surprise audits of:

- 50 bars, restaurants and cafes in Brisbane's West End food district
- 50 fast food, restaurant and cafes in food precincts around inner-Hobart, including North Hobart, Salamanca and Constitution Dock
- 17 Top Juice outlets in Victoria, New South Wales, Queensland and the ACT
- a number of bars that form part of the La La Bar Group in Melbourne's popular Chapel Street district.

<sup>7</sup> The total number of compliance activities include all FWO initiated activities, including selfinitiated compliance activities, local initiatives, inquiries and other FWO-initiated matters

<sup>8</sup> Percentage of industry employment is based on the number employed persons in the Accommodation and Food Services ANZSIC division divided by total employment. Source: ABS 6291.0.55.003 - Labour Force, Australia, Detailed, Quarterly, May 2020.

We also finalised a range of compliance activities and enforcement outcomes against non-compliant FRAC businesses in 2019–20. Some key examples include:

- finalising outcomes for 2 separate food precinct activities, which involved auditing a combined total of 249 businesses around the country. The activities:
  - found non-compliance rates of 75% (activity one) and 86% (activity two) among FRAC businesses, respectively
  - recovered a total of \$733,137 for 1091 employees
  - resulted in issuing 85 infringement notices,
     55 compliance notices and the initiation of 1 litigation
- finalising outcomes in our Gami Chicken & Beer compliance activity, which audited 19 franchise outlets across Victoria, New South Wales and Western Australia in 2019. The activity:
  - found a non-compliance rate of 100% for the 19 outlets audited
  - recovered \$233,087 for 353 employees
  - resulted in the issuing of 9 infringement notices and 18 compliance notices.

In 2019–20, we accepted court-enforceable undertakings from 4 businesses in the fast food, restaurants and cafes sector, including MADE Establishment<sup>9</sup> and MOS Burger<sup>10</sup>. We further initiated 27 litigations and secured a total of \$1,877,162 in court-ordered penalties against non-compliant companies, business owners and their accessories, including the largest aggregate penalty the FWO has secured to date. For more information about these cases, see Enforcement outcomes (p.22).

#### Horticulture

The horticulture industry has a number of characteristics that, based on our operational data and intelligence, makes the sector at high risk of non-compliance. These include:

- the nature of the work (often low-skilled and seasonal)
- the way labour is procured
- the type of people seeking work (often visa-holders looking to meet visa requirements).

Our Harvest Trail Inquiry Report (November 2018) informed our Horticulture Strategy, which we continued to implement in 2019–20. The aim of the strategy is to build a culture of compliance in the horticulture and viticulture sectors, based on engagement, education and enforcement activities.

A key part of the strategy involved the launch of our digital Horticulture showcase in September 2019. The showcase provides industry-specific information, tailored resources and self-help tools to employers and employees in this industry. For more information on the showcase, see Online services (p.14).

We ran a number of communications campaigns to educate employers and employees in the horticulture industry. The first and largest campaign coincided with the launch of the showcase and ran from September to October 2019. Activities included social media promotion (on Facebook and Instagram), as well as digital display and programmatic video advertising. The campaign messaging was seen over 6.7 million times across all platforms.

We ran 2 further social media campaigns in June 2020. The first campaign promoted the showcase's translator function to migrant and overseas workers. The second campaign involved an educational video about supply chains and accessorial liability, aimed at employers, growers and contractors in the industry.

9 FWO media release, 'MADE Establishment signs undertaking', 18 July 2019, <u>www.fainwork.gov.au/about-us/news-and-media-releases/2019-media-releases/july-2019/20190718-made-establishment-ell-media-release</u>

10 FWO media release, 'Burger chain back-pays \$1.1 million to workers', 6 December 2019, https://www.fainwork.gov.au/about-us/news-and-media-releases/2019-media-releases/december-2019/20191206-mos-burger-eu-media-release Further horticulture education and engagement activities we've executed in 2019–20 include:

- leading 4 'Awards in Action' forums in key growing regions (Bundaberg, the Lockyer Valley, Shepparton and Coffs Harbour) to engage with industry participants on key issues in this sector. Attendees included local growers, employer associations and labour hire operators. The insights and learnings from these forums will be used to inform existing and future resources for the industry
- the creation of an interactive piecework agreement template that allows growers to quickly and easily create personalised piecework agreements
- presenting at the Harvest Trail Services Providers webinar forum, which aims to link workers with seasonal harvest jobs to meet seasonal peaks across Australia.

Another key element of the Horticulture Strategy is working with stakeholders to build a culture of compliance in the sector and enhance the frameworks that govern the industry. To this end, we:

- worked closely with an external Industry Reference Group, comprised of major employer and employee organisations, retailers and growers, who provided their expertise and industry knowledge on the sector
- continued to support the Pacific Labour Scheme and Seasonal Worker Programme, by providing educative resources and advice to seasonal workers and participants
- contributed to a Regional Agriculture Migration Cabinet Submission to address labour shortages in regional areas
- discussed and shared the horticulture sector's concerns about the COVID-19 pandemic with relevant departments, including the Department of Home Affairs, the Department of Agriculture, Water and the Environment and the Department of Foreign Affairs and Trade.

In 2019–20, we also conducted a number of compliance activities in relation to the horticulture industry, including:

- compliance activities in key regions, such as Moreton Bay and Wide Bay
- a revisit of non-compliant employers on the Harvest Trail
- monitoring of the Seasonal Worker Programme.

#### Supply chain risks

Breaches of workplace laws are more likely to occur when a business engages in multiple levels of subcontracting and without having processes in place to monitor or manage their labour supply chains. Where systemic issues of non-compliance occur, they usually involve vulnerable workers performing low-skilled work. This is why supply chain risks was one of the FWO's priorities in 2019–20.

Companies at the top of a supply chain have a responsibility to ensure that their networks are not engaging in unlawful conduct. We have a number of resources to assist them to do so. This includes a dedicated section on our website for contracting labour and supply chains, and downloadable resources and guides. Over the financial year, these resources were collectively viewed over 34,000 times.

We also launched our Horticulture Showcase in September 2019, which provided horticulture-specific guidance on managing and achieving compliance in labour supply chains. For more information on the showcase, see Online services (p.14).

We ran 2 separate digital communications campaigns in June 2020 to raise awareness of compliance within supply chains. The first targeted the cleaning industry and was promoted through social media (Facebook and LinkedIn), Google search and digital display advertising.

It was seen 7.3 million times across all channels. The second provided advice to employers, growers and contractors about supply chains in the horticulture industry, and was promoted through social media (Facebook and LinkedIn). It was seen 3.7 million times.

We also continued to support and encourage businesses at the top of their supply chains to promote a culture of compliance within their network and participated in industry-driven initiatives aimed at fostering sustainable, long-term culture changes. Key activities for 2019-20 included:

- participating in and supporting the Cleaning Accountability Framework — a multi-stakeholder industry-led initiative that seeks to improve labour and cleaning standards in Australia through a supply chain certification scheme
- continuing our compliance partnerships with United Trolley Collections (UTC), Australia's largest trolley collection company, in relation to their trolley collection supply chain<sup>11</sup>; and Woolworths Group Limited in relation to their trolley and cleaning services supply chain. 12 Under the terms of these partnerships, UTC and Woolworths have committed to a range of measures aimed at improving workplace compliance in their networks, including regularly reporting to the FWO
- supporting Growcom's Fair Farms initiative by providing funding through our Community Engagement Grants Program. The initiative, which was officially launched in 2019, supports ethical employment practices in Australia's horticulture industry, providing growers with tools and information to implement employment practices that comply with workplace relations law
- continuing our partnership with the Australian Security Industry Association Limited (ASIAL) through a memorandum of understanding. The FWO meets regularly with ASIAL to share insights about the security industry and workplace issues. We've also presented at a number of briefings and contributed to a range of their resources.

#### Franchisors

As a result of the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017, franchisors can now be held legally responsible if their franchisees don't comply with workplace laws, unless they have taken reasonable steps to ensure compliance in their networks.

What counts as reasonable steps will depend on a number of factors, including:

- the size and resources of the franchisor
- steps taken to support or train franchisees to comply with workplace laws
- whether there were procedures in place for handling complaints about possible breaches of workplace laws in the franchise
- whether the franchisor had any arrangements in place to monitor or assess the franchisee's compliance with workplace laws.

In 2019–20, 10% of all anonymous reports the FWO received related to franchises. Of these, the vast majority came from the hospitality (52%) and retail (29%) industries.

We have a range of resources to help franchisors and franchisees understand their workplace obligations and comply with workplace laws, including guides and dedicated web pages. In the last financial year, these resources were collectively viewed over 21,000 times.

To further promote our resources and raise awareness of the importance of workplace compliance in franchise networks, we ran a communications campaign in December 2019. Activities included social media promotion (Facebook and LinkedIn), digital display advertising and Google search advertising. The campaign messaging was seen nearly 7 million times across all platforms.

In 2019–20, we entered into a court-enforceable undertaking with MOS Burger Australia, a fast food franchise operating in Queensland. As part of the undertaking, we recovered \$1.12 million in underpayments for 285 former and current workers across 6 stores.

We also finalised the outcomes of a compliance and enforcement activity into emerging fast food, restaurant and cafe franchises. The activity audited 76 businesses across 7 franchises that have recently commenced operations in Australia — Chatime, GongCha, Hot Star Chicken, PappaRich, Sushi Izu, Nene Chicken and The Sushi 79. These franchises were selected based on intelligence, including anonymous reports, requests for assistance and stakeholder referrals.

#### The activity:

- found a 78% non-compliance rate across all franchise businesses
- recovered \$731,648 for 780 employees
- resulted in the issuing of 13 infringement notices, 8 compliance notices and 6 litigations.

Of the litigations arising from the activity, we secured \$125,700 in one case against The Sushi 79 and \$307,802 in another against 3 PappaRich franchisees and their accessories. See Enforcement outcomes for more information (p.22).

Outside of this activity, we also secured \$57,000 in penalties against service station chain Westside Petroleum, and 3 of its management staff, for underpaying 22 employees across 12 petrol stations over \$60,000.

We have recently commenced a second phase of compliance activities into emerging franchises, to determine whether the issues we identified are confined to overseas-based brands, are more closely related to the FRAC industry, the number of years a franchise has been operating or a combination of these factors.

#### Sham contracting and misclassification

Sham contracting occurs when a person working as an employee is told they're an independent contractor when they're not. These types of arrangements can be set up by employers who are seeking to avoid responsibility for paying legal entitlements to employees, such as paid leave and superannuation. Underpayments can also occur due to the misclassification of workers as contractors.

Addressing the drivers of sham contracting and determining if an employment relationship exists is complex. There is no single determining factor, but rather a number of factors that can establish the difference between an employee and an independent contractor. The FWO employs various methods to detect suspected misclassification and sham contracting, including anonymous reports, intelligence gathering and data collection and analysis. We assess individual relationships on a case-by-case basis.

<sup>11</sup> FWO media release: Trolley collectors protected under new agreement, 17 May 2019, www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/may

<sup>2019/20190517-</sup>united-trollev-collectors-pcd-media-release

<sup>12</sup> FWO media release: Fair Work Ombudsman compliance partnership with Woolworths a new benchmark in supply chain governance, 11 October 2017, <a href="www.fairwork.gov.au/about-us/news-and-media-releases/2017collectors-release.

In the 2019–20 budget, we received \$9.8 million over 4 years to establish a Sham Contracting Unit (SCU). In the past year, the SCU has been activated, and the agency has completed 309 disputes relating to sham contracting and misclassification, recovering \$363,976 for 278 employees — a 200% increase in disputes completed and 83% increase in monies recovered compared to the previous financial year.

The SCU has also commenced compliance activities into potential sham contracting arrangements. The most notable of these activities is our ongoing investigation into cleaning arrangements at stadiums in Melbourne (AAMI Park), Canberra (GIO Stadium), Sydney (ANZ Stadium) and Perth (Optus Stadium). As part of this activity, FWO inspectors reviewed employment records and met with cleaners and supervisors to discuss the work cleaners are required to do. A report on these activities will be published on our website in due course.

Our website provides tailored resources to educate businesses and workers on their rights and obligations and outlines key differences between employees and independent contractors, including a dedicated web page for independent contractors and a downloadable fact sheet. In the 2019–20 financial year, these resources were collectively viewed over 200,000 times.

We also undertook activities to gather further intelligence about sham contracting arrangements in the Health Care and Social Assistance sector. In November 2019, we ran a communications campaign to gain insights into sham contracting arrangements. The campaign promoted a survey that was designed to identify the main issues and areas of non-compliance in this sector. Promotion included social media (Facebook) and digital display advertising. We received almost 2000 responses to the survey, which we will use to inform future resources and activities in this sector.

#### Vulnerable and migrant workers

Vulnerable workers has been a priority cohort for many years and remained a key priority in 2019–20.

Employees can be vulnerable to exploitation due to a range of characteristics, including age, ethnic or cultural background, and language barriers.

Migrant workers in particular continue to be over-represented in the FWO's work, due to limited knowledge about Australia's workplace rights and entitlements, and language and cultural barriers.

While they make up only  $7\%^{13}$  of the Australian workforce , in 2019–20 migrant workers accounted for:

- · 20% of disputes completed
- · 22% of anonymous reports received
- 44% of litigations initiated.

We continued to prioritise addressing the exploitation of vulnerable and migrant workers in 2019–20 through education, engagement, and enforcement activities. Key activities included:

- using enforcement tools to deal with the most serious cases of non-compliance against this cohort. In 2019–20, we:
  - secured \$2,987,149 in court ordered penalties for migrant workers and recovered \$1,740,856 in unpaid wages
- 13 The numbers of student visa holders in Australia are derived from the following resource and refer to visa holders in Australia as at the 30th of June of the relevant FY, except for 2019–20 which refers to 30 March 2020: DHA 2019, Temporary Visa Holders in Australia, published on Data gov.au, as at 30 April 2020.
- The approximate proportion of total workforce who are visa workers is indicative only. It has been derived from dividing the number of visa holders with work rights by the labour force at the same point in time. The Labour force for each period have been sourced from the ABS Labour Force Survey (Labour Force (Seasonally adjusted) May 2020: 13,081,700, June 2019:13,562,900, Jun 2018: 13,281,700)

- commenced 3 litigations under the 'serious contraventions' provisions introduced through the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 PVW Act), all of which involved alleged underpayment of migrant workers
- secured our first penalty judgment for a matter filed under the new PVW Act provisions in a case involving underpayment of migrant workers. See Litigations for more information (p.23)
- continuing to make workplace rights information more accessible for migrant workers, by adding more professionally translated material to our website and making our autotranslation tool available for important new resources, such as our Horticulture Showcase and coronavirus website. For more information on these resources, see Online services (p.14)
- continuing to work with the Department of Home Affairs
  on our visa assurance protocol as a means of encouraging
  migrant workers to report workplace exploitation without
  fear of visa cancellation. Under the protocol, a worker's
  temporary visa with work rights won't be cancelled if they
  have not complied with their visa conditions due to workplace
  exploitation, have sought our assistance with workplace issues
  and meet other criteria, including committing to following visa
  conditions in the future
- supporting the Pacific Labour Scheme and Seasonal Worker Programme by conducting compliance activities and providing educative resources to seasonable workers and workplace relations advice to participants
- running communications campaigns to promote our inlanguage resources, including digital campaigns across social media to promote our professionally translated Fair Work Information Statement and our in-language anonymous report tool
- delivering numerous training workshops to intermediaries such as community organisations, education providers and student ambassadors, who then share the information they've learnt through their networks and communities
- contributing as a member of the Migrant Workers' Interagency Group and assisting with progressing the recommendations of the Migrant Workers' Taskforce
- participating in forums and networks, and working collaboratively with government bodies to combat human trafficking and slavery-like practices.<sup>14</sup> This includes reporting suspected human trafficking and slavery cases to the Australian Federal Police, contributing to the development of the Commonwealth's first annual Modern Slavery Statement and sharing information about our work through the Interdepartmental Committee on Human Trafficking and Slavery and the National Human Trafficking Roundtable.

#### Large corporate underpayments

Since July 2019, the FWO has seen a significant increase in the number of large corporate entities who are self-reporting non-compliance with their workplace obligations to us. Many of these involve significant and complex underpayments (usually involving contraventions of enterprise or collective agreements) totalling tens of millions of dollars and affecting thousands of past and present employees over several years.

The agency received more than 50 self-reports of non-compliance from businesses in 2019–20, including from large corporations. We completed investigations into 22 of these matters. Self-reported non-compliance matters resulted in back-payments of over \$90 million for more than 12,000 employees.

Across these matters, non-compliance was largely driven by ineffective governance and, in some cases, unacceptable complacency about workplace obligations. Some examples include:

- ineffective and outdated manual processes for recording hours of work
- failing to apply an enterprise agreement to all employees it covers
- failing to implement all the terms of a new enterprise agreement
- applying annualised salaries that don't cover the award rates for all hours worked
- failing to undertake annual reconciliations where required.

We investigate each self-report of non-compliance made by a corporate entity. In order to manage this unprecedented body of new work within our existing resources, we established an internal Corporate Sector Taskforce. Our Taskforce works in conjunction with our compliance and enforcement teams to respond to the large body of work presented by the extensive and complex nature of self-reported non-compliance by large employers, and look to test new approaches and processes in these cases.

On 27 February 2020, the Fair Work Ombudsman, Sandra Parker PSM, also wrote to the CEOs and Chairs of the top listed companies across Australia, calling for immediate action to assure themselves, their shareholders, their employees and the community that their companies are meeting lawful obligations.

We encourage all businesses to cooperate with us to rectify their non-compliance, and so far, all of those who have self-reported to us have engaged in remediation activities. In 2019–20, we entered into nine Enforceable Undertakings (EUs) with businesses who self-reported non-compliance to ensure the issues that led to their non-compliance are addressed.

Where businesses fully co-operate, EUs are an effective and courtenforceable enforcement tool to return wages to employees in a timely and cost-effective way.

EUs can also deliver outcomes that are not available via other enforcement tools, such as:

- recovering wages outside of the 6-year statutory limitation period for court orders for unpaid wages
- independent payroll audits for the life of the EU, paid for by the business
- establishing robust mechanisms to achieve ongoing compliance, such as new payroll systems, improved governance, management and staff training and hotlines to report concerns
- public apologies
- · contrition payments.

Three EUs relating to a self-reported non-compliance have included terms requiring the employer to meet the cost of having their underpayments investigated and verified by experts, under the supervision of the FWO, so that the primary burden of calculating underpayments is placed on the employer rather than the taxpayer.

The FWO can and does take litigation action under the Fair Work Act where employers fail to comply with requirements under an EU. For a case study of when we have done so in 2019–20, see Litigations (p.23).

EUs have represented the most appropriate enforcement outcome for a number of the self-reported non-compliance matters completed in the 2019–20 financial year. The FWO will use all enforcement tools available to it in response to these matters, including litigation where it is in the public interest to do so.

## Enforcement outcomes

We use our statutory enforcement tools for cases of serious or widespread non-compliance and for matters in the public interest. This involves an assessment of whether any proposed compliance activity would be an efficient and ethical use of public resources. We also consider our strategic priorities as part of our approach. Examples of where we may use our enforcement tools include:

- · blatant disregard of the law
- the exploitation of vulnerable workers
- systemic issues of non-compliance, where there is a need for specific deterrence.

In mid-2019, we reviewed and updated our Compliance and Enforcement Policy, which resulted in an increased use of most of our compliance and enforcement tools in 2019–20.

We used our enforcement tools in 1621 cases, an 85% increase from the previous year. This figure includes:

- infringement notices
- compliance notices
- · court enforceable undertakings
- · litigations.

Additionally, we wrote to 105 employers, formally cautioning them to correct compliance issues we identified.

Table 4: Enforcement outcomes, 2018-20

Enforcement outcome	2019–20	2018–19
Infringement notices issued	603	563
Compliance notices issued	952	274
Enforceable undertakings executed	12	17
Litigations commenced	54	23

#### Infringement notices

Infringement notices are on-the-spot fines we issue to employers for breaching record-keeping and payslip requirements. Before issuing a notice, we consider:

- the employer's previous compliance history
- the degree to which their lack of record-keeping impacts our ability to find, calculate and recover entitlements.

In 2019–20, we issued 603 infringement notices, with payments totalling \$891,173.

#### Compliance notices

Compliance notices require a person to take specific action to fix alleged breaches of the Fair Work Act. We can issue a notice if we form a reasonable belief that a person or business has contravened workplace laws.

Compliance notices are an efficient tool for addressing and rectifying suspected breaches and ensuring underpaid wages are quickly back-paid to employees.

As part of our revised compliance and enforcement posture, we transitioned to an increased use of compliance notices in 2019–20. This followed careful consideration of:

- · an internal capability review
- findings of the Banking Royal Commission
- the Migrant Workers' Taskforce Report, in which the Chair's overview specifically recommended the FWO make greater use of compliance notices.

Compliance notices are now our primary enforcement tool to respond to underpayment matters, with the exception of complex, deliberate or serious cases of non-compliance. Our increased use is consistent with the FWO's obligation to efficiently and effectively perform our statutory functions.

In 2019–20, we issued 952 compliance notices and recovered more than \$7.8 million in unpaid wages — more than 3 times the number of compliance notices (274) and nearly 8 times the amount of wages recovered compared with the 2018–19 financial year.

We take non-compliance of compliance notices seriously. If a person or business fails to comply with a compliance notice in accordance with the statutory requirements, we will take court action to enforce it. In 2019–20, we commenced a number of proceedings against parties who failed to comply with compliance notices. See Litigations for more information (p.23).

#### Enforceable undertakings

Enforceable undertakings (EU) are court-enforceable, legally binding arrangements, where employers admit liability, express contrition, and agree to fix any breaches and commit to ongoing compliance.

EUs can deliver outcomes that are not available via other enforcement tools. For example, our EUs often require the employer to, as a minimum:

- pay interest on outstanding wages and entitlements
- ensure payroll managers are properly trained
- commission independent payroll audits for the life of the EU, paid for by the business
- establish processes and procedures to achieve ongoing compliance, such as staff training and new payroll systems.

In 2019–20, we entered into 12 EUs, 9 of which related to self-reported non-compliance from large employers. We recovered a total of over \$56.8 million in back-payments from our EUs. For more information on our activities relating to self-reported non-compliance, see Large corporate underpayments (p.21).

We also commenced one litigation against an employer for failing to comply with the terms of an EU. See Litigations for more information (p.23).

Copies of the FWO's EUs are publicly available on our website, to ensure transparency and serve as a deterrent for non-compliance.

#### Litigation

We reserve litigation for serious cases of non-compliance and misconduct, and in cases where we believe it will have the most impact. For example, we may litigate in matters involving:

- a deliberate and/or repeated breach of workplace laws
- exploitation of vulnerable workers
- failure to cooperate with us and fix contraventions after being given the opportunity to do so
- parties who have a prior history of contraventions who have not taken adequate steps to ensure compliance despite being advised of consequences in the past.

In 2019–20, we initiated 54 litigations, a 135% increase from the previous year. We also achieved \$4,348,778 in court-ordered penalties (\$2,942,069 against companies, \$1,315,809 against individuals and \$90,900 against unions).

We achieved a number of significant litigation outcomes in matters where there was a high level of public interest.

#### New record for highest total penalties ordered

We achieved a new record for the highest total combined penalties in 2019–20, with total penalties of \$891,000 ordered in the matter Fair Work Ombudsman v HSCC Pty Ltd & Ors. The case involved 3 sushi outlets, as well as their owners and payroll officers, who underpaid 94 employees over \$700,000 between 2015 and 2016. The Federal Court found that the employees, many of whom were young overseas workers, were paid flat rates as low as \$12 an hour to its casual employees, inadequate fortnightly wages to its full-time employees, and no additional amounts for penalties, overtime or leave.

The operators also provided Fair Work Inspectors with hundreds of pages of false or misleading records on a number of occasions throughout our investigation, illustrating the deliberateness of their breaches.

# First penalty judgment under Protecting Vulnerable Worker provisions

We achieved our first penalty decision in a matter filed under the provisions provided for under the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 in the matter of FWO v A&K Property Services Pty Ltd and Ors. This was the first case where we relied on the reverse onus of proof provision that was introduced as part of the amendments.

The company, A&K, trading as Sushi 79, operated 2 sushi stores, and had failed to make or keep employee records and issue payslips, without providing a reasonable excuse for doing so. They also underpaid 9 employees (all visa holders) a total of nearly \$20,000 in wages and \$7,416 in superannuation.

The company and its directors were penalised a total of \$125,700 for their underpayments and record-keeping and payslip breaches.

#### **Discrimination cases**

We also secured penalties against businesses in 2 separate cases involving discrimination.

In the first case, \$104,000 in penalties were ordered against the operators of a Crust Gourmet Pizza franchise outlet, after it discriminated against 4 migrant workers by paying them much less than Australian employees. The migrant workers were paid a flat hourly rate of \$12 for all hours worked, and were not paid any penalty rates. In contrast, the Australian employees were paid more than \$18 an hour and received penalty rates of up to \$46.31 an hour.

In the second case, a restaurant and its director were penalised \$44,800 by the Federal Court for taking adverse action against a pregnant employee. The company and director admitted to reducing and cancelling the employee's shifts, for reasons that included her pregnancy. The director further admitted to directing a supervisor to send the employee home during a shift because 'she looks disgusting'. The penalties included \$7,000 compensation ordered to the employee.

#### Recidivist employers

We will continue to litigate against employers who repeatedly and consistently breach workplace laws. This includes employers who continue to breach the law after entering into a court-enforceable undertaking with us.

In 2019–20, we secured \$398,520 in penalties against a travel agency, Abella Travel, and one of its directors for underpaying 2 migrant workers in an illegal cash-back scheme, despite having previously entered into a court-enforceable undertaking with the FWO in 2014 to rectify unrelated workplace breaches.

In another case, we secured penalties of \$151,200 against a plumber and his company for deliberately underpaying a young worker and falsifying records. The FWO had previously litigated against the employer and company for similar underpayment breaches. This brought the total penalties for both cases to over \$270,000. In addition to the penalties, the company must also notify the FWO if they employ any worker on an apprenticeship over the next 2 years.

#### Priority sectors and cohorts

We achieved significant litigation outcomes in our priority sectors, including the fast food, restaurants and cafes sector, and for vulnerable workers.

We secured \$307,802 in penalties against 3 PappaRich franchise restaurants in Sydney, for underpaying 154 employees (including visa and migrant workers) a total of \$74,000. The companies and manager-operator were also found to have breached laws relating to annual and personal leave entitlements, record-keeping and payslip requirements.

In another case, we secured penalties of \$209,000 against a restaurant owner, his 2 companies and his in-house accountant, who had underpaid their mostly migrant and young workers over \$30,000 in total.

We also successfully litigated against a construction company and its director, for underpaying 2 young apprentices over \$30,000. The apprentices, aged 17 to 20 during the course of their employment, worked 6 days a week between 2013 and 2015, and were not paid their minimum entitlements under the relevant award. The director also refused to pay one apprentice for 11 weeks of work after the employee took 2 days of personal leave. The company and director were penalised \$177,174 for their breaches of the Fair Work Act.

#### Non-compliance with a compliance notice

While the vast majority of employers comply with our compliance notices, in instances where they don't, we will take court action to enforce it.

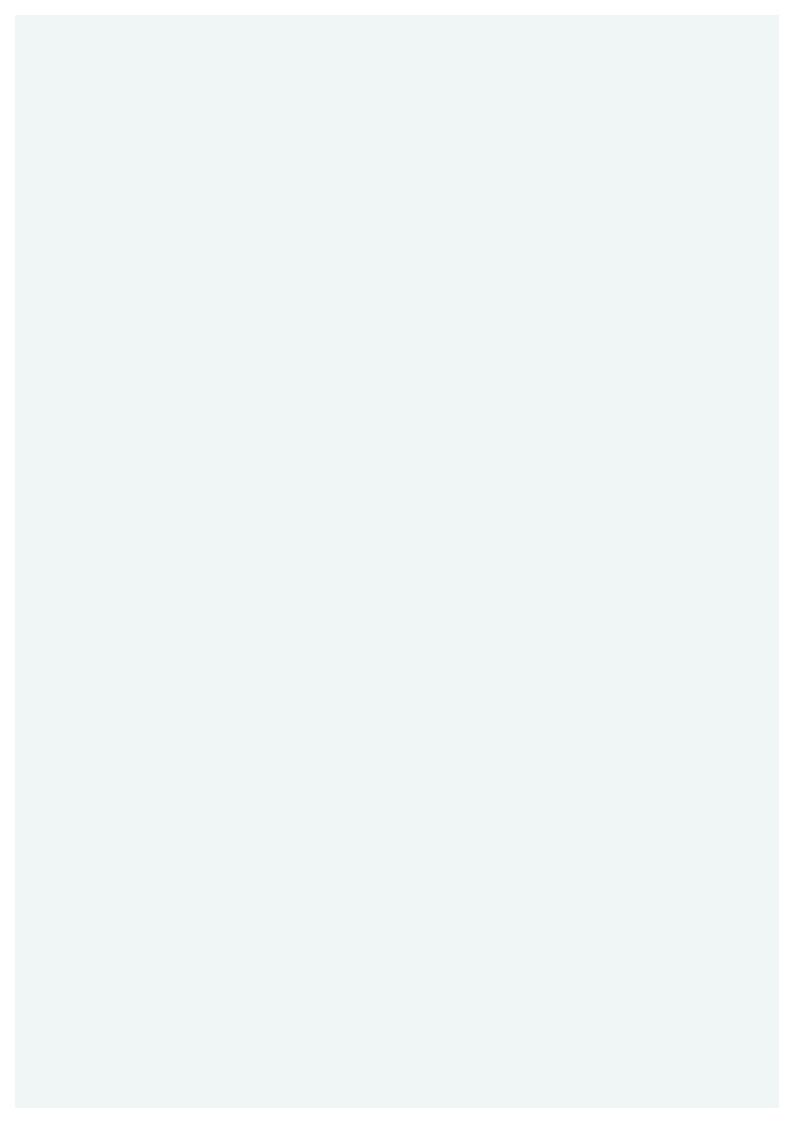
In one example, we issued a compliance notice to an employer in July 2019<sup>15</sup>, in respect of suspected underpayments to an employee. When they failed to rectify these underpayments within the timeframe given, we initiated legal proceedings against them. Shortly after, the respondents admitted to the contraventions and took the action required by the initial compliance notice. In addition to rectifying the underpayments as required by the notice, they were issued court-ordered penalties of over \$8,000, for failing to comply with a compliance notice.

In another case, we issued a compliance notice against a company for underpaying a former employee over \$15,000. After the company failed to comply with the notice, we commenced legal proceedings against them.

The Federal Circuit Court ordered the company to pay back the underpayment, plus superannuation and ordered penalties of over \$26,000 against the company and an accessory for failing to comply with the notice.

#### Gender equity in briefings

In 2019–20, we remained committed to the Law Council of Australia's Equitable Briefing Policy, which aims to improve gender equality in the number of briefs issued to barristers across the country. In 2019–20, the FWO briefed female counsel 41 times (63%) and male counsel 24 times (37%).



# 03: ROC performance report

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## Review by the Commissioner



Pictured: Mark Bielecki, Registered Organisations Commissioner

The Registered Organisations Commission (ROC) is the independent regulator of federally registered employer and employee organisations. Our functions include promoting the efficient management of organisations, and high standards of accountability of organisations and their office holders to their members, as set out in the Fair Work (Registered Organisations) Act 2009 (RO Act).

As at 30 June 2020, there were 103 federally registered organisations made up of 59 employer associations, 43 unions and one enterprise association which, including those entities, were comprised of 344 individual reporting units across Australia. Registered organisations have reported to the ROC that in the 2019–2020 financial year, cumulatively they have more than two million members, control more than \$3.2 billion in assets and collected annual revenue in excess of \$1.6 billion.

Our key objective is to encourage behaviours in registered organisations that see them consistently focused on acting in the best interests of their members, ensuring members' money is spent in a way that is transparent, properly authorised and which complies with their obligations under the RO Act, and their rules.

The RO Act outlines the standards of conduct and obligations that organisations and their officers must meet. The ROC is focused on driving voluntary compliance through guidance, assistance and cooperative remediation. Based on stakeholder feedback and our understanding of the regulatory environment, we provide education and assistance through an extensive and diverse range of products, services and materials, including tailored one-on-one advice. We also provide tailored courtesy reminders to help individual organisations identify and meet their statutory compliance requirements and we engage early to provide representatives, staff and officers of organisations with opportunities to correct errors or re-lodge information.

As at 30 June 2020, the ROC had 32 staff members working across three streams: education and reporting, financial analysis and compliance and enforcement. Each of these streams is equally important in helping to effectively regulate registered organisations. As a small and specialised regulator, we are uniquely positioned, both generally and when asked, to offer to our stakeholders subject matter expertise and personalised service through tailored advice.

We also offer 'house calls' where ROC employees meet on-site with registered organisations 'one-on-one' to discuss issues they may need assistance with. This service has been suspended during the pandemic.

More generally, in the 2019–20 year, the COVID-19 pandemic has presented significant challenges for registered organisations, their branches and their members. The ROC during this time has nonetheless worked pragmatically and proactively with the organisations we regulate, mindful they may encounter difficulties in complying with their regulatory obligations due to the impact of COVID-19.

As an agile regulator, during the pandemic we have continued to reach out to stakeholders to identify the issues affecting them, and in response to their feedback, we have developed, and will continue to develop, a further range of resources to assist organisations with compliance during these unprecedented times. Based on the feedback received, these resources have focused on topics including the efficacy of holding virtual meetings, conducting elections, approved financial training and good governance and record-keeping. The ROC's agility allows it to be responsive to the shifting landscape, and to tailor its approach to the changing environment that registered organisations are operating within.

In response to the pandemic, the ROC adapted quickly to a remote working model for most of our workforce and our teams have worked tirelessly to ensure that we have maintained services to our stakeholders while we also plan for a future beyond COVID-19 restrictions. In 2020, five of our staff were temporarily redeployed to assist the Fair Work Ombudsman respond to its changing role and vastly increased volume of requests for assistance as a result of COVID-19. Access to our offices has been closed to the public since late March and site visits and face-to-face meetings have been suspended, replaced by other forms of communication with our stakeholders.

Exciting new education initiatives were also introduced in 2019–20, including the production of 11 episodes of a monthly podcast, 'ROCpod: talking with the Registered Organisations Commission', the development of an interactive e-learning module, and the launch of plain-English summaries of recent Federal Court decisions. These have been added to our suite of face-to-face workshops, which were held in Adelaide, Canberra and Hobart in 2019 and saw us achieve the milestone of having, since 2017, held a workshop for registered organisations in every Australian capital city.

Consistent with all of our previous face-to-face interactive workshops, feedback from those we delivered in 2019 continued to demonstrate very high levels of stakeholder satisfaction, with 99% of attendees indicating they would attend future ROC workshops and on a scale of 1–10 (1 being very negative, 10 being very positive) when asked how they would describe their experience with the ROC as a regulator, the average response from representatives from unions, employer associations, auditors and others from our broad stakeholder cohort, was 8.3 out of 10. Our scheduled March and May 2020 workshops were postponed because of COVID-19 restrictions although in response, we hosted the first of our live, online panel discussions in May 2020, which allowed registered organisations to engage with ROC subject matter experts and ask questions across a range of compliance-related topics.

In 2019–20 the ROC also successfully finalised the implementation of its new case management system to equip us to better and more quickly meet the extensive and ongoing needs of registered organisations. We also made improvements to our website to make information easier to find, incorporating feedback from a consultative session held in January 2020 with representatives of registered organisations and their peak bodies.

We have sought to promote high standards of accountability, including good governance, culture and ethics in registered organisations. Members of organisations rely on their office holders to provide stewardship and oversight of their organisations and need to have confidence that decisions are made and money is spent in the best interests of members. A statutory imperative for us is to foster compliance with the RO Act and a respected, trusted, informed and capable officer community is pivotal to achieving this. One of the capability indicators is the extent to which office holders with financial responsibilities undertake financial training.

In 2018, we saw evidence of a significant level of non-compliance with a statutory obligation, which had been introduced in 2012, requiring office holders with financial duties to undertake approved financial training within six months of taking office. In response, we commenced a major audit of office holder training in 2019. Sixty-nine per cent of all federally registered organisations voluntarily participated in the audit during 2019, while a number of organisations either requested to defer participation because of resource implications or declined to participate.

The now on-going audit has confirmed significant levels of noncompliance related, in part, to both a lack of awareness and understanding of this statutory requirement. Nonetheless, there has been a general willingness among affected organisations to remediate their approach to ensure office holders receive approved training. We continue to work closely with registered organisations during this ongoing audit process, which has positively and significantly raised awareness and understanding of the statutory requirement and resulted in increased levels of compliance.

In addition, throughout this period we have continued to work with registered organisations as part of our expansive whistleblower regime. We also offer to equip them to achieve, if they decide to, an internal 'speak up' culture.

Despite the resource and other significant implications of the COVID-19 pandemic, the ROC has successfully met all of its key performance indicators (KPIs) during the 2019–20 financial year. This is both through the efforts of organisations which we acknowledge and through the efforts of our dedicated team — a testament to their strength, resilience and commitment to providing support and assistance to registered organisations to enhance voluntary compliance.

We've also seen increased compliance with the obligation for organisations and their branches to lodge officer and related party disclosure statements. In 2019–20, more than 96% of officer and related party disclosure statements were lodged within the statutory timeframe — compared with 92% in 2018–19. As this financial year was only the second time these statements were required to be lodged with the ROC, this is an extremely pleasing result.

Our regulatory environment is complex, and for diverse reasons can be difficult to navigate. As a consequence, we see many contraventions which we aim to have rectified through voluntary remediation. We do this by providing guidance, self-help tools and educational materials to assist registered organisations to better understand their compliance obligations, particularly where an error was inadvertent or there was a genuine attempt to comply. I'm pleased to say that by taking this facilitative approach, we continue to observe increasing levels of voluntary compliance. In December 2019, we published our updated and simplified Compliance and Enforcement Policy setting out our approach to compliance. We assume that most people will comply, or try to comply, with their obligations. In the event of suspected noncompliance, we first consult with organisations and take a forensic, evidence-based approach to gathering and analysing the relevant facts.

In the limited but serious cases involving systemic, repeated, opportunistic or deliberate non-compliance, we take appropriate enforcement action by using other regulatory tools available to us, including court proceedings, to promote compliance with the financial reporting and accountability requirements of the RO Act. In 2019–20 we conducted a range of civil penalty proceedings in the Federal Court.

In October and November 2019, the Federal Court handed down decisions in a matter brought against the ROC by the Australian Workers' Union (see Federal Court file no. [VID1151/2017]), which quashed an investigation into potential contraventions of civil penalty provisions in the RO Act. On a matter of statutory interpretation, the Court found that the ROC could not investigate potential contraventions by officers of civil penalty provisions, where those contraventions involved acts in breach of rules, occurring more than four years earlier, which acts may subsequently have been validated by operation of the RO Act. However, the Court rejected all allegations made by the AWU that the investigation had been commenced for any improper or political purpose. The ROC appealed against the statutory interpretation findings and the quashing of the investigation (see Federal Court file no. [VID1358/2019]) and the appeal was heard by the Full Court of the Federal Court in June 2020. We are currently awaiting the outcome of that appeal.

Our statutory mandate means the ROC will remain independent and a champion of good governance and statutory compliance in registered organisations. In 2020-21, we will be focused on consistently promoting compliance with the RO Act in registered organisations as well as fostering their good governance and financial accountability.

As the COVID-19 situation remains uncertain in the medium-to-long term, the ROC will remain innovative in responding to stakeholder needs and will continue to consult with registered organisations and their peak bodies to provide required assistance and appropriate regulation.



Mark Bielecki Registered Organisations Commissioner

# Registered Organisations Commission annual performance statement

I, Sandra Parker, as the entity's accountable authority, present the 2019–20 annual performance statement, as required under paragraph 39 (1) (a) of the Public Governance, Performance and Accountability Act 2013 (PGPA Act). The statement is based on properly maintained records, accurately reflects the entity's performance, and complies with subsection 39(2) of the PGPA Act.

#### Agency purpose

The ROC is responsible for improving the governance and financial accountability of registered employer and employee organisations through education, guidance (incorporating assistance and advice), regulation, monitoring, inquiries, investigation and appropriate enforcement.

#### Results

Performance criteria	Indicator	Target	Achieved	Further information on results
The ROC improves the governance and financial accountability of organisations by regulating compliance with the RO Act	Financial reports required to be lodged are assessed for compliance within 40 working days	95%	100%	Financial reports, p.37
	Annual returns required to be lodged are assessed for compliance within 40 working days	95%	97%	Annual returns, p.37
	Lodgements of prescribed information for an election are dealt with within 40 working days	95%	99%	Elections, p.38
	Applications for registration by auditors are dealt with within 40 working days	95%	100%	Registration of auditors, p.38
	Information to educate employee and employer registered organisations and their members is made available	Multiple items	36 major education activities	Education activities, p.30

#### Analysis of performance against ROC purpose

As at 30 June 2020, there were 103 federally registered organisations comprised of approximately 344 reporting units. In general, a reporting unit is a branch or national office of a registered organisation. Under the RO Act each reporting unit is required to lodge audited financial reports with the ROC. Since 2 May 2017, it has been a legislative requirement that auditors of the financial reports of reporting units are registered with the Commissioner.

Each registered organisation is also required to lodge an annual return of information (annual returns), and organisations and their branches are required to lodge prescribed information for elections (unless exempt). The accurate and timely assessment of these documents by the ROC is an important aspect of monitoring compliance with the RO Act by organisations. Publication of these documents by the ROC enables accountability to organisations' members and the wider community.

The ROC is pleased to report that 100% of financial reports have been assessed and 100% of applications for registration by auditors dealt with within the KPI of 40 working days. The ROC has also met timeliness measures for processing annual returns with 97% processed within 40 working days and for lodgement of prescribed information for elections with 99% dealt with within 40 working days.

We helped to promote improved compliance by fostering the governance and financial accountability of organisations through education and the provision of advice and assistance. In 2019–20 we engaged with registered organisations and their peak bodies in the development and delivery of a diverse and comprehensive range of education activities and resources. This includes feedback gathered through our day-to-day activities, annual education survey, a focus group regarding redevelopment of our website, feedback solicited at the conclusion of face-to-face workshops and webinars as well as via our website and email.

# ROC priorities and activities: driving and influencing compliance

#### Our purpose, functions and priorities

The ROC's purpose is to monitor acts and practices to ensure they comply with the provisions of the RO Act, encouraging high standards of accountability of federally registered organisations (and their office holders) to their members and providing for the democratic functioning and control of organisations.

We aim to be valued by the community for the way we regulate and foster the efficient management and accountability of registered organisations. We do this by:

- educating, assisting and regulating federally registered organisations
- promoting effective governance and financial transparency;
- investigating and taking appropriate enforcement action.

#### How we influence organisations

#### **Education activities**

The provision of compliance and governance education to registered organisations, supported by practical resources, is a priority for the ROC. Our education activities have been developed in consultation with organisations and their peak bodies, and are continuously refined in response to feedback. Every financial year we publish a national education strategy that outlines the education activities we propose to undertake in the following financial year. The strategy enables organisations to plan ahead on an annual horizon to meet their educational requirements.

In 2019–20, the ROC developed and released new education tools to assist organisations with compliance. This has included a new monthly podcast series called 'ROCpod: Talking with the Registered Organisations Commission' which was launched in August 2019. The podcast series has featured a range of topics, as well as guests from external organisations. During the 2019-20 financial year, there were 11 podcast episodes recorded and made available online, with a total of 1300 downloads of ROCpod episodes.

Another tool launched during the 2019–20 year was our first e-learning module featuring an interactive quiz, designed to help participants understand how the operation of the RO Act and rules could mitigate the effects of the COVID-19 restrictions on elections and minimise their impact on the governance of registered organisations. Work also began on other e-learning modules for the 2020-21 year.

The ROC also released case summaries, written in plain English, on matters decided by the Federal Court involving both unions and employer associations. The aim of these summaries is to provide a simple overview of the court's decision so that registered organisations can learn from them. It is anticipated these will be released on an ongoing basis.

We also published a compliance update outlining emerging issues relating to the disposal of motor vehicles, and recommend that organisations review their practices, policies and procedures in accordance with this to ensure high standards of governance and accountability.

The ROC website (www.roc.gov.au) continues to provide information and tools to assist organisations with compliance. In 2019-20 we received 221,040 visits to the website and 52,050 documents were downloaded (a 21% and 152% increase respectively on 2018–19). In January 2020, we held a consultation session with stakeholders in Melbourne to gather feedback about the website and other resources. As a result, we made improvements to the website to make it easier for visitors to find information.

Since the ROC's inception in 2017, we have held face-to-face information workshops in every capital city. In 2019–20 this included Adelaide, Hobart and Canberra. Workshops scheduled for Sydney (March 2020) and Melbourne (May 2020) were postponed because of COVID-19 restrictions. Since 2017 we have had 645 total attendances comprising 515 different attendees at these sessions, representing 81 registered organisations, other interested bodies and audit and accounting firms. This included 176 attendances in 2019–20 from 49 registered organisations. Feedback from participants has been overwhelmingly positive with 99% of workshop participants responding to ROC surveys indicating they would attend and benefit from future ROC workshops.

When COVID-19 caused the postponement of our last face-to-face workshop in Melbourne, we rapidly developed an online platform that enabled us to deliver a live, online Q&A panel of ROC subject matter experts and invited organisations and their representatives to 'ask us anything'. This new tool proved so successful with organisations that it will be employed to deliver further specialist content in the 2020-21 year.

There are 736 subscribers who receive email communications from the ROC, including our quarterly newsletters, educational material and event information.

We also conducted 18 one-to-one meetings with organisations and peak bodies regarding compliance, allowing us to take a tailored, personalised approach to assist those organisations.

In 2019–20, we delivered 36 major education activities targeted at organisations and their members. These campaigns covered topics including officer and related party disclosure statements, financial reporting, whistleblower resources, the importance of good governance, and elections. We also responded quickly to the needs of registered organisations when the COVID-19 pandemic began and developed appropriate tools and resources to assist them with compliance during this time.

Table 5: ROC education activities provided to employer and employee

Type of activity	Provided to
Workshop: Adelaide	Employer and employee organisations (and peak bodies and registered auditors and other stakeholders)
Information about the new risk- based assessment for officer and related party disclosure statements	Employee and employer organisations (and peak bodies, registered auditors)
Two factsheets about amendments to the Australian Accounting Standards	Employee and employer organisations (and peak bodies and registered auditors)
Ninth edition of ROC quarterly newsletter with information about whistleblower resources, increased compliance with financial reports, officer and related party disclosure statements, the ROC's new case management system and tips on financial reporting meetings	Employee and employer organisations (and peak bodies and registered auditors)

Type of activity	Provided to
Podcast first episode: What to expect from your auditor	Employee and employer organisations (and peak bodies and registered auditors)
Fact sheet on protection for whistleblowers: what disclosers need to know	Employee and employer organisations and their members (and peak bodies, registered auditors and other stakeholders)
Workshop: Canberra	Employer and employee organisations (and peak bodies and registered auditors and other stakeholders)
Podcast second episode: Good governance in registered organisations	Employee and employer organisations (and peak bodies and registered auditors)
Release of financial training exemption form	Employee and employer organisations (and peak bodies)
Interim report on ROC's audit of financial training	Employee and employer organisations (and peak bodies)
Podcast third episode: Interview with the Registered Organisations Commissioner	Employee and employer organisations (and peak bodies and registered auditors)
Tenth edition of the ROC quarterly newsletter with information about exemption from officer financial training, a recent Federal Court decision, outcomes and learnings from the financial training audit, and the difference between state and federal obligations for registered organisations	Employee and employer organisations (and employers)
Workshop: Hobart	Employer and employee organisations (and peak bodies and registered auditors and other stakeholders)
Podcast fourth episode: Who is an officer?	Members of registered organi- sations, employee and employer organisations (and peak bodies)
Re-release of previously recorded webinars to a dedicated YouTube channel	Employee and employer organisations (and peak bodies and registered auditors)
Podcast fifth episode: Dual registration	Employee and employer organisations (and peak bodies and registered auditors)
Information on new risk-based assessment of annual returns	Employee and employer organisations (and peak bodies)
Annual education survey	Employee and employer organisations (and peak bodies, registered auditors and other stakeholders)
Review and restructure of ROC website	Employee and employer organisations (and peak bodies)
Compliance update: below-value disposal of vehicles — a potential emerging issue	Employee and employer organisations (and peak bodies, registered auditors and other stakeholders)
Podcast sixth episode: Spotlight on whistleblower disclosures	Employee and employer organisations (and peak bodies, registered auditors and other stakeholders)
Eleventh edition of the ROC quarterly newsletter with information about officer and related party disclosure statement compliance, below-value disposal of motor vehicles, spotlight on a recent Federal Court decision, risk-based assessment of annual returns of information	Employee and employer organisations (and peak bodies, registered auditors and other stakeholders)
Podcast seventh episode: Common enquiries about ORP statements	Employee and employer organisations (and peak bodies)
Launch of case summaries	Employee and employer organisations (and peak bodies)

Type of activity	Provided to
Education campaign hot topic: Guidance note on meetings during COVID-19 restrictions	Employee and employer organisations (and peak bodies)
Podcast eighth episode: Discussion with the Registered Organisations Commissioner and the Executive Director of the ROC	Employee and employer organisations (and peak bodies)
Podcast ninth episode: Election tips and hints for organisations during COVID-19 restrictions	Employee and employer organisations (and peak bodies)
E-learning module: Elections	Employee and employer organisations (and peak bodies)
Twelfth edition of ROC quarterly newsletter with a COVID-19 focus including information on accessing financial governance training, holding meetings using appropriate technology, conducting elections, importance of record-keeping, how audits could be affected	Employee and employer organisations (and peak bodies, registered auditors and other stakeholders)
Podcast tenth episode: Behind the scenes with the ROC	Employee and employer organisations (and peak bodies)
Guidance note on conduct of elections in organisations and their branches during COVID-19 restrictions	Employee and employer organisations (and peak bodies)
Online panel discussion with subject matter experts from the ROC on a range of issues including compliance during the COVID-19 pandemic, financial reporting, officer financial training and other governance matters	Employee and employer organisations (and peak bodies)
Release of new financial reporting resources including model financial statements and checklists	Employee and employer organisations (and peak bodies, and registered auditors)
Launch of the 2020–21 National Education Strategy	Employee and employer organisations (and peak bodies, registered auditors and other stakeholders)
Hot topic: record-keeping — re-released package of information to assist registered organisations to keep proper records	Employee and employer organisations (and peak bodies)
Podcast eleventh episode: Good governance in practice, record-keeping	Employee and employer organisations (and peak bodies)

# Assisting registered organisations during the COVID-19 pandemic

The COVID-19 pandemic is an extraordinary global event. Registered organisations, their branches and their members, like almost everyone in the community, have faced significant challenges as a result. The ROC is committed to working constructively and pragmatically with the organisations we regulate, mindful that they may encounter difficulties with compliance due to the impacts of COVID-19. While the ROC's offices have been closed to the public, the ROC itself has remained open and available to assist organisations that require advice, guidance or assistance with their compliance obligations.

During the pandemic we have been communicating regularly with our stakeholders via our subscriber list, as well as informally engaging with senior officers in a range of employee and employer associations to determine if the ROC could provide any additional assistance as a regulator. This has also helped us to understand if there are any barriers, constraints or problematic regulatory issues being experienced by our stakeholders at this time. We are also working closely with the Australian Electoral Commission (AEC) on managing the scheduling of elections during this time.

The ROC has been responsive to stakeholder needs and has provided a range of resources to assist with common issues arising from COVID-19 restrictions. This has included:

- a dedicated COVID-19 page on the ROC website
- provision of information on newly approved online financial training courses for officers with financial responsibilities
- a guidance note on holding meetings using appropriate technology during the pandemic
- a guidance note on conducting elections in organisations and branches during COVID-19
- a new e-learning module on conducting elections that are due during the COVID-19 pandemic
- an online panel discussion answering questions from organisations about COVID-19 related issues
- a newsletter dedicated to COVID-19 issues and guidance; and
- a podcast episode dedicated to helping organisations during the COVID-19 pandemic.

Our website analytics reveal that these resources have been among the most accessed items on the site from 25 March to 30 June 2020. These resources were accessed more than 850 times during that period. Our online panel discussion attracted 81 attendees with a further 48 people accessing the recording of the session.

# Promoting effective governance and financial accountability

In 2019–20, we promoted effective governance and financial accountability within organisations by:

- sending tailored reminders about upcoming statutory obligations
- · assessing financial reports
- seeking to ensure all registered organisations' auditors are registered; and
- · approving financial management training for office holders.

#### Reminders and alerts

As a discretionary service to registered organisations, the ROC actively emails specifically tailored reminders to them and their reporting units prior to their obligations arising. This is designed to assist them with timely compliance. In 2019–20, we issued 1424 such reminders and alerts comprising:

- 568 reminders about the requirement to lodge an officer and related party disclosure statement
- 167 reminders about the requirement to lodge an annual return of information
- 459 reminders about the requirement to lodge a financial report
- 188 reminders about lodging statements of loans, grants and donations
- 42 reminders about the requirement to lodge information for an election: and
- 516 alerts about training for office holders.

#### Officer and related party disclosure statements

The requirement for organisations and branches to lodge a copy of their officer and related party (ORP) disclosure statement came into effect in 2018–19. ORP statements provide information about remuneration received by the top five-ranked officers of organisations and branches, including remuneration received by officers from a board or a related party of the organisation. Certain payments made by organisations and branches to related parties and declared persons or bodies are also required to be disclosed.

During the 2019–20 year, the ROC provided educational information on ORPs to registered organisations and their branches. We also engaged directly with organisations on 32 occasions about how the provisions are applicable to their circumstances.

More than 96% of organisations and branches lodged their statements with the ROC within the statutory timeframes in 2019–20 compared with 92% the previous year. This is considered to be an excellent result, as the requirement is quite new, and organisations are still becoming familiar with the statements.

In 2019–20, the ROC implemented a new risk-based approach to the future assessment of ORP statements. This will enable us to effectively manage disclosure obligation requirements and use our resources more effectively to help organisations to comply. Over a five-year period, every organisation and branch will undergo at least one advanced ORP statement assessment. This will be a more comprehensive review and will thoroughly evaluate compliance with the requirements of the RO Act. Identified patterns of noncompliance may trigger more than one advanced assessment in the five-year period.

This risk-based approach allows the ROC to focus regulatory and public resources more effectively and ensures each organisation and branch is subject to review based on the level of associated risk.

#### Annual returns of information

Annual returns provide information about office holders, election requirements, branches and an organisation's membership numbers. It is important for the democratic control of organisations for these returns to be accurate, lodged and published in a timely manner, so members can easily determine who their officers are and when elections are due.

In 2019–20, 96% of organisations lodged their annual returns by the statutory deadline of 31 March. While the ROC continues to intervene in the period immediately prior to 31 March by directly engaging with organisations who may not be preparing to lodge on time, it is anticipated that our intervention will not be required in future years and that voluntary compliance will be achieved.

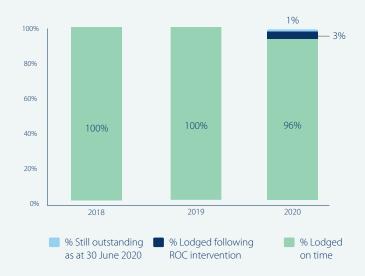


Figure 1: Percentage of annual returns of information lodged within statutory timelines

### Financial returns

Financial returns include lodgements by organisations and their branches of financial reports, applications for exemptions from financial reporting and applications for reduced reporting requirements. Timely lodgement of accurate returns and publication of these documents promotes financial accountability and transparency.

Compliance rates for the lodgement of financial returns within the statutory timeframe have incrementally improved over four years. As a result of our proactive intervention, encouragement and the deployment of our model financial statements, we are pleased to report that 99% of reporting units lodged financial returns on time in 2019–20.



Figure 2: Percentage of financial returns lodged within statutory timelines

### Assessment for compliance and publication for transparency

When assessing documents against compliance requirements (including annual returns of information, financial reports, election information, and officer and related party disclosure statements), the ROC takes a risk-based approach, which is designed to direct resources to areas where the risk of non-compliance is highest. In 2019–20, 2309 regulatory matters were subject to risk-based assessment and closed. This was a 41% increase over the previous financial year. Most documents lodged by organisations are published on our website.

### Improving financial reporting compliance

Consistent with our risk-based approach to regulation, all financial reports lodged with the ROC are assessed against key compliance requirements (primary review). Around 20–25% of all financial reports are assessed against all of the financial reporting requirements and timelines under the RO Act, including the mandatory disclosure requirements under the reporting guidelines, along with the disclosure requirements under the relevant Australian accounting standards (advanced review). During an advanced review a reporting unit may be required to amend their financial report to ensure any non-compliance issues are remedied. Over a five-year period, each reporting unit has been subjected to an advanced review at least once (and more often if circumstances warrant).

To be considered compliant, a financial report must meet the key compliance requirements in the primary review. This includes whether:

- significant disclosure requirements under the reporting guidelines are met
- · statutory timeframes are met
- appropriate notes regarding preparation of accounts are made

- related-party disclosures are made
- concise reports contain all disclosure requirements within the reporting guidelines (if applicable)
- key components of the auditor's report are met, including whether the General Purpose Financial Report (the GPFR) is 'unqualified'; and
- the report is audited by a registered auditor.

Applications for exemptions from financial reporting (s. 271 of the RO Act) and applications for reduced financial reporting (s. 269 of the RO Act) are reviewed against all legislative criteria that must be satisfied.

As at 30 June 2020, not all financial returns with a 2019 year end had been lodged. Of those that had been lodged and assessed for compliance, 81% met the key compliance measures listed above, compared to 84% in 2019, 73% in 2017 and 70% in 2016. A range of factors can influence the extent to which lodged financial reports comply with relevant financial reporting guidelines, and the ROC continues to work productively with organisations and auditors, seeking to ensure continuous improvements in compliance.

Table 6: Initial compliance of financial reports with financial year end 2016, 2017, 2018 and 2019

	2019	2018	2017	2016
Primary review	80%	83%	70%	68%
Advanced review	58%	70%	57%	45%
Applications for reduced reporting requirements and applications for exemptions	96%	99%	99%	98%
Total	81%	84%	73%	70%

Note: Prior to 1 May 2017 financial returns were lodged with the FWC. On and from 1 May 2017 they were lodged with the ROC.

### Registration of auditors

All auditors of organisations' financial reports are required to meet criteria specified in the RO Act and be registered with the Commissioner. As at 30 June 2020 there were 309 registered auditors. This was a 7% increase in registrations over the number at 30 June 2019. In 2019–20, 100% of financial reports were audited by a registered auditor demonstrating a high level of compliance — in the previous year all but one financial report, lodged with the ROC had been audited by a registered auditor.

### Approved financial training for office holders

Every officer of a registered organisation with financial duties must complete approved training within six months of taking office, under s.293K of the RO Act, unless they hold an exemption.

The Registered Organisations Commissioner may grant an exemption from the requirement for officers with financial management duties to undertake financial training in certain circumstances, under s.293M of the RO Act. The Commissioner may grant the exemption if satisfied the officer has a proper understanding of their financial duties because of either their experience as a company director, their experience as an officer of a registered organisation or other professional qualifications and experience. In 2019–20 the Commissioner granted 230 exemptions.

The ROC has approved 17 financial training courses that can be undertaken by the relevant officers, the details of which we have published on our website. The COVID-19 pandemic presented challenges in 2020 for some officers to attend approved face-to-face financial training within six months of taking office.

The ROC worked closely with the Australian Council of Trade Unions (ACTU) to develop an online governance training package, to be delivered by the ACTU and its affiliates, to assist organisations who could no longer access face-to-face training. The ROC also approved two other online training courses.

During 2019–20, the ROC has undertaken an audit of compliance with s. 293K of the RO Act. The voluntary audit process was designed to educate people in registered organisations about the requirements of the legislation and to benchmark and increase compliance. Where non-compliance has been identified, the ROC has worked with registered organisations to achieve appropriate remediation, and we have found that the voluntary audit has raised greater awareness around this training requirement.

Notwithstanding the voluntary nature of the audit, a significant number of registered organisations have chosen to engage with the ROC and participate in consultations for the audit. Audits of 69% of federally registered organisations have been completed to date. The audit process found that 43% of organisations had been compliant and had either completed the training or were still to complete the training in the six month period, a further 24% were found to be non-compliant but had planned remediation, while the remaining 2% were non-compliant with no planned remediation. A final report will be released by the ROC later in 2020, and more work will continue in this space to increase awareness and seek to elevate compliance levels.

### The ROC's regulatory role

### Driving compliance through regulation

Helping organisations to develop a culture of good governance and voluntary compliance with the RO Act is a priority for the ROC. To do this, we provide education, assistance and advice to organisations, their officers and members, to promote self-regulation and appropriate internal management systems by organisations.

In December 2019, the ROC published its updated and simplified Compliance and Enforcement Policy outlining its approach to compliance. In the event of accidental or trivial non-compliance by organisations and individuals who try to comply, the ROC's primary approach will be to provide guidance and assistance, including to work with organisations on the adequacy of their systems to help ensure future compliance. However, in more serious cases involving systemic, repeated, opportunistic or deliberate non-compliance, a limited number of other regulatory tools are available to us. Enforcement action is the primary additional tool available to the ROC.

The degree of co-operation by an organisation and actions taken to remedy contravening conduct inform how we progress potential non-compliance. Where a suspected non-compliance issue exists, we take a forensic, evidence-based approach to gathering and analysing the relevant facts to identify the cause, decide the likelihood a contravention has, or contraventions have, occurred (or may occur or reoccur), the degree of seriousness and the likely consequences. We then take a risk-based approach to determine the appropriate regulatory response to non-compliance. The vast majority of the matters we assess, or inquire into, or investigate do not result in litigation. However, we will commence court proceedings if, after consideration of all the circumstances, it is warranted and in the public interest.

### **Inquiries**

The Commissioner has the power to make inquiries into whether financial obligations or civil penalty provisions in the RO Act have been contravened by registered organisations. We seek to take a collaborative approach to inquiries and aim to work with registered organisations to ensure compliance is achieved and any harms, so far as is possible, are remedied.

Table 7: Inquiries initiated and closed under chapter 11, part 4 of the RO Act in 2019–20

	No. open as at	No. commenced during	No. concluded during	No. open as at
	30 June 2019	2019-20	2019-20	30 June 2020
Inquiries	0	4	1	3

Table 8 details the inquiries undertaken during the reporting period.

Table 8: Inquiries under chapter 11, part 4 of the RO Act 1 July 2019 to 30 June 2020

Name	Type*	Commencement date	Issue	Completion date or estimated completion date	Outcome
Master Builders Association of Victoria	s. 330	31 July 2019	Inquiry considering alleged failure to keep records that are required to be retained by organisations	22 May 2020	Inquiry completed
The Australian Workers' Union, WA Branch	s. 330	31 July 2019	Inquiry considering alleged reprisals relating to a whistleblower disclosure	Estimated completion: by 31 July 2020	Inquiry continuing
Queensland Real Estate Industrial Organisation of Employers	s. 330	14 January 2020	Inquiry considering alleged non-compliance of financial reporting and record-keeping obligations and a number of potential breaches of officer's duties	Estimated completion: by 31 October 2020	Inquiry continuing
Restaurant and Catering Industrial	s. 330	25 February 2020	Inquiry considering alleged non-compliance with record-keeping obligations, requirement to retain records and to lodge records with ROC	Estimated completion: by 31 July 2020	Inquiry continuing

<sup>\*</sup> Types: s. 330: inquiry as to whether contravention of financial obligations and/or civil penalty provisions

### Investigations

If satisfied there are reasonable grounds for doing so, the Commissioner is empowered to conduct investigations into compliance by registered organisations with their financial obligations, or to ascertain whether there has been a breach of a civil penalty provision. Table 9 provides an overview of investigations that either commenced, concluded or were continuing during 2019–20.

Table 9: Investigations initiated and closed under chapter 11, part 4 of the RO Act in 2019–20

	No. open as at 30 June 2019	No. commenced during 2019-20	No. concluded during 2019-20	No. open as at 30 June 2020
Investigations	7	0	5	2

As at 1 July 2019, the Commissioner was conducting seven investigations (under ss. 331 and 332 of the RO Act) into organisations regarding the alleged contravention of financial and/or civil penalty provisions. During 2019–20, no new investigations were commenced and five were concluded under s. 331. See Table 10 for details of investigations.

Year in review Entity overview FWO performance report ROC performance report Management and accountability Financial statements Reference materials

### Table 10: Investigations under chapter 11, part 4 of the RO Act in 2019–20

Name	Type*	Commencement date	Issue	Completion date or estimated completion date	Outcome
Construction, Forestry, Maritime, Mining and Energy Union, Mining and Energy Division, Queensland District Branch	s. 331 & 332	14 March 2018	Whether there has been inappropriate credit card usage and loans to officers and employees	Estimate: September 2020	Still under investigation
The Australian Workers' Union, National Office and Victorian Branch	s. 331	20 October 2017	Alleged unapproved donations	Quashed by order of Court on 26 November 2019	Decision subject to Full Court appeal heard on 29 and 30 June 2020
National Union of Workers, New South Wales Branch	s. 331	13 July 2018	Referral from the TURC. Alleged misappropriation of branch funds and governance failures	Concluded 7 November 2019	Completed with no further action
Australian Property Services Association	s. 331	9 August 2018	Compliance with financial reporting obligations and officers' duties	Concluded 16 January 2020	Application for deregistration in process
Clubs Victoria Inc.	s. 331	1 November 2018	Appointment of unregistered auditor	Concluded 11 July 2019	Organisation deregistered
Motor Traders' Association of NSW	s. 331	5 November 2018	Compliance with financial reporting obligations and officers' duties	Estimate: November 2020	Still under investigation
Health Services Union Victoria, No. 1 Branch	s. 331	16 January 2019	Whether current or former office holders complied with obligations to act with due care and diligence	Concluded 4 June 2020	Completed with no further action

### Investigations: whistleblowers

The Commissioner is required to investigate qualifying protected disclosures made by whistleblowers (s. 337CA). The whistleblower scheme, introduced in May 2017, expanded the categories of people protected when whistle-blowing about potentially unlawful conduct by officers and employees of registered organisations. criminal penalties for taking a reprisal against a whistleblower.

The ROC co-ordinates the regulatory approach under this scheme across Commonwealth agencies and law enforcement bodies receiving, allocating or investigating whistleblower disclosures under the RO Act. We meet regularly with those agencies to ensure a consistent approach to each aspect of the scheme.

Table 11: Protected disclosures under chapter 11, part 4A of the RO Act from 2019–20

No. open at 30 June 2019	No. opened 1 July 2019– 30 June 2020	No. closed 1 July 2019– 30 June 2020 because ineligible disclosure	No. closed– ROC did not consent to allocation	No. allocated to authorised official external to the ROC	No. allocated to the RO Commissioner	No. closed with no investigation conducted	No. closed with investigation completed	No. closed with investigation discontinued	No. open as at 30 June 2020
11	32	10	0	0	24	5	22	1	5

### Royal Commission into Trade Union Governance and Corruption

The Final Report of the Royal Commission into Trade Union Governance and Corruption (TURC) was tabled in Parliament in December 2015. It made 30 referrals to the Fair Work Commission (FWC), of which 24 were transferred to the ROC in May 2017. All of these are in progress, or have been completed, save for one, which is in abeyance pending criminal proceedings.

Table 12: Status summary of referrals from the Royal Commission into Trade Union Governance and Corruption

De	termined by the Federal Court	Before the Federal Court	Subject to formal investigation by the ROC/FWC under s. 331 of the RO Act	Closed by the ROC with no further action	In abeyance, pending criminal proceedings
	6	7*	0	16	1

<sup>\*</sup> Note: The remaining referrals before the Federal Court relate to a single proceeding against the AWU and Mr Melhem, which were the subject of penalty hearings in 2019. The judgment on penalty against the AWU is currently reserved. The judgment against Mr Melhem was delivered in November 2019.

### Enforcing provisions of the RO Act

At the end of an inquiry or investigation, the Commissioner will make a decision on what, if any, enforcement action is considered appropriate. We can pursue a variety of enforcement remedies, depending upon the seriousness and consequences of the misconduct. We will pursue the enforcement remedies best suited to the circumstances of the case and what is sought, or able, to be achieved. We will only commence legal proceedings if there is sufficient evidence or appropriate grounds to do so and it would be in the public interest.

In 2019–20, three penalties were imposed as the result of the ROC's court actions. This included \$445,000 on the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) for 86 contraventions of the RO Act between March 2015 and May 2017, including on four occasions failing to keep accurate lists of offices and office holders and on 82 occasions failing to lodge notifications of changes about officers and office holders within the prescribed time. The CEPU has subsequently filed a notice of appeal against the amount of the penalty imposed by the Federal Court, which is listed for hearing in August 2020.

The Federal Court also imposed civil penalties totalling \$157,250 on the Australian Hotels Association. This comprised of \$106,500 in respect of the Queensland Branch's failure on 16 occasions between 2003 and 2016 to lodge prescribed information to enable the conduct of elections and \$50,750 in respect of the Queensland Branch's failure on 17 occasions between 2005 and 2017 to keep accurate records of its list of officers, and on 17 occasions to lodge timely notifications of changes to its list of officers.

As a result of a TURC referral, proceedings against the Australian Workers' Union (AWU) and the former Victorian Branch Secretary Mr Cesar Melhem were heard in the Federal Court, relating to the AWU's failure to keep an accurate register of members during the period from 2008 to 2013 — which covered most of the time Mr Melhem was the Victorian Branch Secretary — and involved 851 people who were not members of the union being entered on the register of members, and the failure to remove 2534 unfinancial members from their register. Mr Melhem was ordered to pay \$20,590 in November 2019 for failing to exercise his powers and discharge his duties in good faith and in what he believed to be in the best interests of the organisation, and for failing to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were in Mr Melhem's position. A separate penalty hearing against the Australian Workers' Union was heard in December 2019, and the judgment is currently reserved.

The allegations, orders sought and outcomes (if finalised) of legal action are detailed in Table 13.

Table 13: Alleged contraventions and orders sought under s. 310(1)(a) of the RO Act (completed 2019-20 and still ongoing)

Name	Date	Alleged contraventions	Orders applied for	Date of completion	Outcome
Registered Organisations Commissioner v Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia [NSD802/2018]	10 May 2018	Failure to keep an accurate record of office holders Failure to notify changes to records	Declarations, civil penalties and any other order the Court deems appropriate	Ongoing	Judgment ordering a penalty of \$445,000 delivered on 27 February 2020. Notice of appeal against amount of penalty imposed by the Court filed by the CEPU listed for hearing in August 2020
Registered Organisations Commissioner v The Australian Workers' Union & Melhem [VID583/2018]	16 May 2018	Entering on the register of members, without their knowledge, 851 people who were not members and failing to remove 2534 unfinancial members from their register.	Declarations, civil penalties and any other order the Court deems appropriate	Ongoing	Penalty hearing for first respondent heard on 12 December, judgment reserved. Second defendant ordered to pay civil penalty of \$20,590 by judgment delivered 12 November 2019
Registered Organisations Commissioner v Australian Hotels Association [VID 1442/2018]	13 November 2018	Failing over an extended period of time to lodge prescribed information to commence elections and failing to notify changes to the office holders relating to Queensland Branch	Declarations, civil penalties and any other order the Court deems appropriate	17 September 2019	Penalty imposed on Australian Hotels Association totaling \$157,250

### Action taken against the ROC

On 20 October 2017, the ROC commenced an investigation into allegations concerning donations made by The Australian Workers' Union. By order made on 26 November 2019, the Court quashed the investigation. The decision is under appeal, which was heard by the Full Court of the Federal Court on 29 and 30 June 2020, with judgment reserved.

### Service standards

The ROC works to ensure that annual returns, financial reports, elections and auditor registrations are assessed in a timely manner. In 2019–20, all timeliness targets were met or exceeded.

### Financial reports

Our service standard for financial reports is that, of those lodged under the RO Act, 95% are assessed for compliance within 40 working days. Assessing a financial report for compliance means that the financial report has been reviewed against a primary review checklist or an advanced review checklist. For the assistance of organisations and their auditors, primary and advanced review checklists are published at <a href="https://www.roc.gov.au">www.roc.gov.au</a>.

Table 14: Performance of financial reports function against timeliness target

Year and agency	Number assessed	Number within KPI	Result
2019–20	363	363	100%
2018-19	370	370	100%
2017-18	369	369	100%

### **Annual returns**

The service standard for annual returns of information required to be lodged under the RO Act is that 95% of those lodged are assessed for compliance within 40 working days. Assessing an annual return for compliance means that it is assessed against the ROC checklist for compliance with the RO Act. For the assistance of organisations, the annual return checklist is published at <a href="https://www.roc.gov.au">www.roc.gov.au</a>.

Table 15: Performance of annual returns function against timeliness target

Year	Number assessed	Number within KPI	Result
2019–20	102	99	97%
2018-19	106	105	99%
2017-18	109	109	100%

### **Elections**

The service standard for the ROC to deal with prescribed information for elections lodged by registered organisations or their branches is that 95% are dealt with within 40 working days. Dealing with prescribed information for elections means that the Commissioner (or Delegate) made arrangements for the conduct of an election, or decided not to make arrangements, or the prescribed information was withdrawn.

Table 16: Performance of election function against timeliness target

Year	Number dealt with	Number within KPI	Result
2019–20	177	176	99%
2018-19	235	223	95%
2017-18	211	210	99%

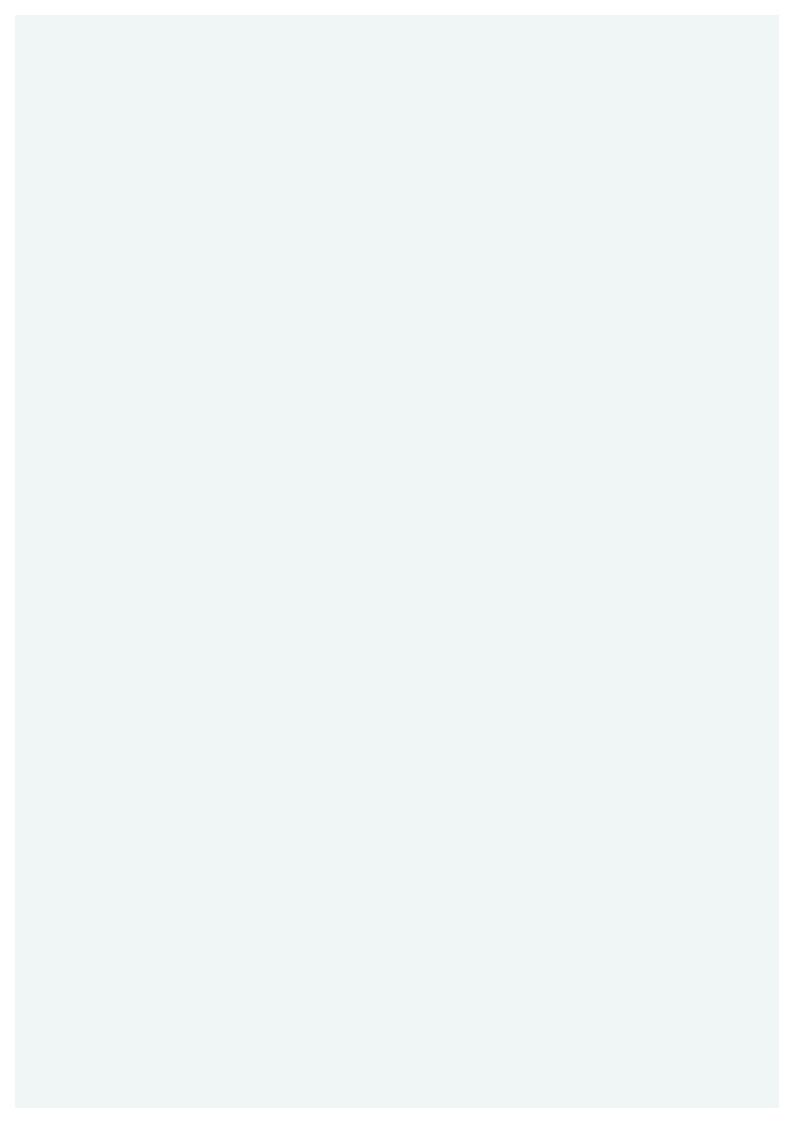
### Registration of auditors

The service standard for applications for registration by auditors is that 95% are dealt with within 40 working days. Dealing with applications for registration means that the Commissioner (or delegate) registered an auditor, or decided not to register an auditor, or the application was withdrawn.

Table 17: Performance of the registration of auditors function against timeliness target

Year	Number dealt with	Number within KPI	Result
2019-20	19	19	100%
2018-19	24	24	100%
2017-18	81	80	99%

In addition to meeting all of our timing targets in 2019–20, comparison with previous years shows constant achievement of 100% timeliness for the assessment of financial reports. Dealing with applications for registration of auditors within 40 working days has also remained at 100%. Our ability to meet or improve upon our timing targets means that documents lodged by organisations are promptly assessed and published, ensuring 'real-time' transparency of lodged information.



# 04: Management and accountability

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# Workforce demographics

At 30 June 2020, the Entity employed 802 ongoing, 95 non-ongoing and zero casual employees under the Public Service Act 1999.

In 2019–20, we had a total of 38 ongoing engagements, 108 non-ongoing engagements and 129 internal promotions.

The size, location and makeup of our workforce are detailed below.

Table 18: Employees by classification, at 30 June 2020 and 30 June 2019

Table 16. Employees by classificati	ion, at 30 june	. 2020 and 30
Classification	2020	2019
APS1 ongoing	0	0
APS1 non-ongoing	0	0
APS1 total	0	0
APS2 ongoing	1	2
APS2 non-ongoing	1	3
APS2 total	2	5
APS3 ongoing	59	62
APS3 non-ongoing	67	44
APS3 total	126	106
APS4 ongoing	109	110
APS4 non-ongoing	4	8
APS4 total	113	118
APS5 ongoing	289	288
APS5 non-ongoing	14	7
APS5 total	303	295
APS6 ongoing	178	168
APS6 non-ongoing	7	1
APS6 total	185	169
EL1 ongoing	109	102
EL1 non-ongoing	2	2
EL1 total	111	104
EL2 ongoing	43	34
EL2 non-ongoing	0	1
EL2 total	43	35
SES Band 1 ongoing	10	10
SES Band 1 non-ongoing	0	0
SES Band 1 total	10	10
SES Band 2 ongoing	4	4
SES Band 2 non-ongoing	0	0
SES Band 2 total	4	4
Total	897	846

Table 19: Employees by employment status, at 30 June 2020 and 30 June 2019  $\,$ 

Employment status	2020	2019
Ongoing full-time	591	571
Non-ongoing full-time	89	55
Total full-time	680	626
Ongoing part-time	211	209
Non-ongoing part-time	6	11
Total part-time	217	220

Table 20: Employees by gender, at 30 June 2020 and 30 June 2019

Gender	2020	2019
Female ongoing	505	490
Female non-ongoing	64	43
Total female	569	533
Male ongoing	295	290
Male non-ongoing	28	23

Gender	2020	2019
Total male	323	313
X (Indeterminate/Intersex/ Unspecified) ongoing	2	0
X (Indeterminate/Intersex/ Unspecified) non-ongoing	3	0
Total X (Indeterminate/Intersex/ Unspecified)	5	0

Table 21: Employees by location, at 30 June 2020 and 30 June 2019

Location	2020	2019
Ongoing ACT	52	48
Non-ongoing ACT	3	4
Total ACT	55	52
Ongoing NSW	226	222
Non-ongoing NSW	31	13
Total NSW	257	235
Ongoing VIC	280	272
Non-ongoing VIC	39	36
Total VIC	319	308
Ongoing QLD	102	100
Non-ongoing QLD	14	5
Total QLD	116	105
Ongoing SA	69	70
Non-ongoing SA	1	0
Total SA	70	70
Ongoing WA	39	37
Non-ongoing WA	7	5
Total WA	46	42
Ongoing NT	3	3
Non-ongoing NT	0	0
Total NT	3	3
Ongoing TAS	31	28
Non-ongoing TAS	0	3
Total TAS	31	31

Table 22: Workplace diversity profile, at 30 June 2020 and 30 June 2019

Self-disclosure category	2020	2019
People with disability	32	26
People from culturally and linguistically diverse backgrounds-ongoing	231	246
People from culturally and linguistically diverse backgrounds- non-ongoing	28	24
People from culturally and linguistically diverse backgroundstotal	259	270
People from Aboriginal and Torres Strait Islander backgrounds–ongoing	6	8
People from Aboriginal and Torres Strait Islander backgrounds–non- ongoing	0	0
People from Aboriginal and Torres Strait Islander backgrounds-total	6	8

Table 23: Senior executive and executive level employees by classification and gender, at 30 June 2020 and 30 June 2019

Classification	2020 female	2019 female	2020 male	2019 male	2020 total	2019 total
EL 1	72	72	39	32	111	104
EL 2	23	16	20	19	43	35
SES Band 1	5	5	5	5	10	10
SES Band 2	1	1	3	3	4	4
Total	101	94	67	59	168	153

Note: Tables 18 to 23 exclude the Fair Work Ombudsman and the Registered Organisations Commissioner

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# Workforce management

### Capability development

In 2019–20, the FWO maintained its commitment to enhancing workforce capability and supporting people to perform to their full potential.

Our continued investment in the Manager Academy program, including a 360 degree feedback program, ensures current and future managers have the skills to respond effectively to changing business needs. We've identified new ways to deliver Fair Work Act legislative training to frontline staff, which ensures we can continue to upskill staff in a timely, effective and flexible manner. Manager capability and technical expertise were critical factors in our successful transition to wide-scale temporary working from home arrangements while responding to increased service demand during the COVID-19 pandemic.

Other 2019–20 capability development initiatives included:

- providing e-learning and face-to-face training in areas such as unconscious bias, mental health first aid and fraud awareness
- piloting a learning solutions partnership, which gives our staff access to services such as virtual and face-to-face training, coaching and diagnostics
- supporting staff to undertake formal accredited courses through our study assistance scheme
- providing a continuing professional development program to maintain the technical knowledge and professional development of frontline and corporate FWO staff
- enhancing the development pathway for new starters through an improved induction experience
- offering all employees access to an online learning platform containing self-paced courses that have enabled employees to upskill while working from home.

### Employee engagement

FWO has high engagement levels between staff, supervisors and the agency, and generally performs well in the Australian Public Service (APS) Employee Census. The Employee Census 2020 has been delayed until late 2020, due to the workforce impacts of COVID-19.

FWO has launched an Employee Pulse Survey to provide an opportunity for staff to share feedback, ideas and opinions to help the agency navigate current challenges and better support employees during the COVID-19 period.

Each year the APS Employee Census measures employee engagement through the employee engagement index score. When agencies with the highest and lowest engagement scores were compared, the most significant differentiating characteristic was the extent to which employees felt valued for the contribution they make (the 2018–19 State of the Service Report). With this in mind, FWO implemented a best practice approach to agency-level employee recognition in 2020, following extensive consultation with staff and the executive. The new approach is simpler, encourages more frequent recognition and recognises a broader cross section of staff.

### Ethics and values

The APS Values, Code of Conduct and Employment Principles promote responsible public administration. They underpin our positive workplace culture—one that encourages and recognises high performance, strong leadership and inclusion.

Information on the APS Values, Code of Conduct and Employment Principles is available on our intranet, included in induction training for new staff, mandatory training for existing staff and incorporated in employee performance plans.

### Diversity and inclusion

We value diversity and inclusion and we recognise the positive contribution employees from diverse backgrounds make at the FWO.

In 2019–20, our commitment to an inclusive and flexible workplace continued through:

- implementation of our Diversity and Inclusion Strategy and Diversity and Inclusion Action Plan 2018–21
- implementation of our Gender Equality Action Plan 2018–21
- providing online training to increase diversity awareness for the following diversity groups: Gay, Lesbian, Bisexual, Transgender and Intersex; Aboriginal and Torres Strait Islander Peoples; Multi-Cultural and Disability
- continued promotion of flexible work arrangements and support for the implementation of wide-scale temporary working from home arrangements, due to the COVID-19 pandemic
- enhancing the awareness of and support for employees experiencing domestic and family violence including:
  - enhanced leave provisions
  - additional training for our Domestic and Family Violence Contact Officers
  - a dedicated intranet page outlining a range of support services
  - promotion of Domestic Violence Prevention month
- maintaining and promoting a register of multilingual staff willing to assist customers from diverse backgrounds
- sponsorship of employee networks including our Gay, Lesbian, Bisexual, Transgender and Intersex Network; Gender Equality Network; Aboriginal and Torres Strait Islander Peoples Network; and Disability Network
- sustained gender equality at executive levels, with 51% of EL2-SES level positions held by female staff at 30 June 2020
- our continued commitment to the Law Council of Australia's Equitable Briefing Policy practice. This financial year, we briefed female counsel 41 times and we briefed male counsel 24 times
- accreditation by the Australian Breastfeeding Association as a Breastfeeding Friendly Workplace
- two university students completed a placement at the agency in The Australian Network on Disability (AND) Stepping Into Internship program, which facilitates paid internships for university students with disability
- placement of two Red Cross interns as part of the In Work Australia Program. This program is a social cohesion initiative that aims to help recently-arrived migrants find and enjoy work
- participation of a FWO employee in the 2019 Jawun Secondment Program. (Jawun is a not-for-profit organisation that provides opportunities for skilled employees in corporate and government organisations to share their expertise and support in Indigenous organisations)
- publication of various profiles featuring our staff and their experiences with disability including two videos and various intranet articles
- hosted our first '5 plus 5' event, where five people with disability spoke to five of our senior executive listeners about their experiences of living with disability
- implementation of a new Gender Affirmation Guide to provide information about gender identity and affirmation in the workplace, including practical ways in which all employees can support an inclusive and respectful workplace.

### Disability reporting

Since 1994, non-corporate Commonwealth entities have reported on their performance as a policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the APSC's State of the Service reports and the APS Statistical Bulletin. These reports are available on the APSC's website. From 2010–11, entities have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by the National Disability Strategy 2010–20, which sets out a 10-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. Progress reports track outcomes against the strategy and present a picture of how people with disability are faring. The first of these progress reports can be found on the Department of Social Services website.

### Graduate program

In February 2020, three employees commenced as graduates at the FWO. These graduates have degrees in politics, commerce and finance. The program is run in conjunction with the Australian Public Service Commission (APSC) Graduate Development Program and helps us build capability in specialist roles and capacity in critical areas.

### Remuneration and employment conditions

The FWO Enterprise Agreement 2019–2022 (the agreement) came into effect on 19 December 2019. Under the agreement, there was a 2% salary increase on commencement.

The agreement covers APS1–EL2 employees and provides access to a range of leave, flexible working arrangements, allowances and other benefits. It also provides for an Agency Consultative Forum, which facilitates staff consultation on workplace matters.

Information on rights and obligations under the agreement and associated policies is available on the FWO intranet.

Table 24: Employee workplace agreements, common law contracts, and individual flexibility agreements by classification, at 30 June 2020 and 30 June 2019

Classification	2020 enterprise agreement	2019 enterprise agreement	2020 common law contract	2019 common law contract	2020 individual flexibility agreement	2019 individual flexibility agreement	2020 total	2019 total
APS1	0	0	0	0	0	0	0	0
APS2	2	5	0	0	0	0	2	5
APS3	126	106	0	0	0	0	126	106
APS4	113	118	0	0	0	0	113	118
APS5	303	295	0	0	0	0	303	295
APS6	184	167	0	0	1	2	185	169
EL1	111	104	0	0	0	0	111	104
EL2	39	32	0	0	4	3	43	35
SES Band 1	0	0	10	10	0	0	10	10
SES Band 2	0	0	4	4	0	0	4	4
Total	878	827	14	14	5	5	897	846

Our remuneration policy operates in accordance with parameters that apply across the APS. No performance bonuses were paid to FWO staff in 2019–20.

Table 25: Salary ranges by classification, at 30 June 2020

Classification	Salary ranges
APS1	\$50 810 - \$52 801
APS2	\$57 572 - \$63 007
APS3	\$64 730 - \$69 770
APS4	\$72 022 - \$78 121
APS5	\$80 241 - \$85 014
APS6	\$86 869 - \$99 863
EL1	\$110 468 - \$119 219
EL2	\$127 305 - \$180 000
SES Band 1	\$212 026 - \$249 111
SES Band 2	\$264 446 - \$283 635

Non-salary staff benefits can include:

- professional membership fees
- parking allocation at work
- a mobile phone, iPad and laptop
- airline lounge membership.

### Executive remuneration reporting

During the reporting period ended 30 June 2020, the Entity had six executives who meet the definition of key management personnel (KMP). Their names and the length of term as KMP are summarised below.

Table 26: Name, position and length of term of Key Management Personnel

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Name	Position	Term as KMP
Sandra Parker	Fair Work Ombudsman	Full year
Mark Bielecki	Registered Organisations Commissioner	Full year
Jeremy O'Sullivan	Chief Counsel	Full year
Michael Campbell	Deputy FWO, Corporate	Full year
Kristen Hannah	Deputy FWO, Policy and Communication	Full year
Mark Scully	Deputy FWO, Compliance and Enforcement	Full year

The remuneration and other benefits for the positions of Fair Work Ombudsman and the Registered Organisations Commissioner are set by the Remuneration Tribunal. All other KMP are remunerated through common law contracts that reference elements of the entity's Enterprise Agreement and the policies of the entity.

In the notes to the financial statements for the period ending 30 June 2020, the Entity disclosed the following KMP remuneration expenses.

Table 27: KMP remuneration expenses

	2020 \$'000
Short-term employee benefits	2,023
Post-employment benefits	310
Other long-term employee benefits	68
Total key management personnel remuneration expenses	2,401

In accordance with the PGPA Rule, this information is further disaggregated as shown in the table below:

Table 28: Disaggregated KMP remuneration expenses

		Short-te	erm benefits	Post-employment benefits	Other long-term benefits	Total Remuneration
Name	Position	Base salary	Other benefits and allowances	Superannuation contributions	Long service leave	
Sandra Parker	Fair Work Ombudsman	388,345	-	69,852	13,340	471,537
Mark Bielecki	Registered Organisations Commissioner	348,215	57,553	34,046	12,412	452,226
Jeremy O'Sullivan	Chief Counsel	282,185	33,148	57,234	10,925	383,492
Michael Campbell	Deputy FWO, Corporate	283,763	30,134	53,286	10,783	377,966
Kristen Hannah	Deputy FWO, Policy and Communication	265,629	33,268	49,543	10,267	358,707
Mark Scully	Deputy FWO, Compliance and Enforcement	267,842	33,268	46,371	10,343	357,824
Total		1,835,979	187,371	310,332	68,070	2,401,752

During the reporting period ended 30 June 2020, the Entity had 13 other senior executives who did not meet the definition of a KMP. The remuneration of these senior executives is disclosed in remuneration bands in Table 29 and remuneration within each band is calculated as an average.

The average amounts for the relevant category are based on the number of senior executives within the relevant band, not the full-time equivalent.

Table 29: Remuneration of senior executives

		Sho	rt-term benefi	ts	Post- employment benefits	Other long	g-term benefits	Termination benefits	Total remuneration
Total remuneration bands	Number of senior executives	Average base salary	Average bonuses	Average other benefits and allowances	Average superannuation contributions	Average long service leave	Average other long-term benefits	Average termination benefits	Average total remuneration
0- \$225,000	3	50,214	0	8,842	9,088	2,331	0	0	70,475
\$275,001- \$300,000	3	216,389	0	29,062	38,359	8,394	0	0	292,204
\$300,001-\$325,000	4	229,663	0	28,909	42,772	8,893	0	0	310,237
\$325,001- \$350,000	3	244,715	0	30,215	46,098	9,434	0	0	330,462

### Work health and safety

The FWO Health and Wellbeing Framework 2018-2020 is focused on providing support, developing and embracing employee psychological and physical wellbeing with a strategic focus on prevention, early intervention, and rehabilitation and injury management. Key initiatives aim to raise awareness, increase capability, and provide appropriate support.

### Initiatives included:

- hazard and risk identification, assessment, removal or mitigation, management and evaluation
- regular review of health and safety related policies, guides and fact sheets
- ongoing commitment of the Health and Safety Committee, including Health and Safety Representatives, who advise and consult with the broader agency on workplace health and safety policy related matters, review trends in claim and incident data, and contribute to broader workplace health and safety initiatives
- provision of work health and safety training and information, including targeted communications such as the quarterly WHS Executive Update to assist managers to meet their WHS obligations
- provision of training, webinars and information to promote wellbeing initiatives and encourage employees to actively look after their health
- programs in support of staff health and wellbeing included the 10,000 Steps Challenge to encourage physical activity, Wear it Purple Day, and RUOK? Day activities to support mental health in the workplace
- an influenza vaccination program
- workstation assessments (office and home) to promote good ergonomic practices and prevent body stressing injuries
- flexible working arrangements (part-time and flexible hours, job sharing, working from home)
- access to services through our employee assistance provider.
   Specialist and confidential support can be provided for a range of personal issues for individuals and work issues for people leaders
- early intervention and rehabilitation case management services.

A range of work health and safety initiatives have been launched in response to the COVID-19 pandemic, including:

- enacting large-scale working from home arrangements
- implementing physical distancing in the workplace
- additional cleaning and disinfecting of our offices
- education and information for staff on reducing the risks associated with COVID-19, as well as health and wellbeing while working from home.

During 2019–20, one new workers' compensation claim was accepted. The agency's initiatives and commitment to early intervention, rehabilitation, return to work principles and ongoing education continues to provide a safe and rewarding workplace for our employees.

### Work health and safety incident reporting

Under section 38 of the Work Health and Safety Act 2011, we are required to notify Comcare of any deaths, serious injury or illness, or dangerous incidents arising out of our work. There was one notifiable incident reported to Comcare in 2019–20.

Under Schedule 2, Part 3 of the Work Health and Safety Act 2011, we are required to report on any investigations undertaken by Comcare or any notices we received under Part 10 of the Work Health and Safety Act 2011. There were no investigations conducted or notices received during 2019–20.

### Property and environmental management

In 2019–20, our initiatives to reduce waste, energy and water consumption, and greenhouse emissions included:

- encouraging and promoting ways the Entity and its staff can reduce their environmental impact via the employee Green Team
- fitting our offices with timer mechanism sensor lighting to switch lighting off when rooms are not occupied
- participating in Earth Hour 2020, which involved turning off all non-essential lighting in our 23 tenancies on 28 March 2020
- using video conferencing and technology as a sustainable alternative to travel
- print-on-demand and setting default printing properties to duplex and black and white
- using recycled copy paper and engaging scheduled document destruction and recycling of cardboard/paper to reduce our environmental footprint
- continuing to replace paper-based processes with digital solutions
- participating in programs to recycle toner cartridges and mobile phones
- providing organic matter and recycling bins in addition to general waste kitchen bins in our office accommodation
- participating in disposable coffee cup and coffee pod recycling in selected offices.

# Governance

The Fair Work Ombudsman is committed to good governance, recognising that we must actively engage with risk, particularly in times of uncertainty to achieve our Purpose.

We have established a series of boards and committees that lead and support us in this endeavour.

### Corporate Board

The Corporate Board makes key strategic and operational decisions on financial and corporate matters, and ensures compliance with the Public Governance, Performance and Accountability Act 2013, Public Service Act 1999 and other Commonwealth legislation and government policies.

The Corporate Board is chaired by the Fair Work Ombudsman and consists of the SES Band 2 Officers from each Group.

Changes in the Entity's environment that result in heightened risk, such as the impact of COVID-19, are monitored and managed through activity-specific working groups that report to the Corporate Board.

The Corporate Board is also supported by a series of Committees:

- The Accountability Committee has oversight of security incidents, compliance with the Protective Security Policy Framework and decisions with respect to risks arising from the FWO's customer commitment, data analytics methodologies and information management.
- The Information Technology Committee has oversight and makes recommendations for approval of information and communications technology related matters and projects.

### **Enforcement Board**

Risks arising from the application of our statutory powers and functions under the Fair Work Act are overseen by the Enforcement Board, which ensures a risk-based and proportionate approach is taken in respect to our compliance and enforcement functions. The Enforcement Board also leverages opportunities to enhance our impact by identifying our strategic priorities and determining that our research, educational and other activities align with these.

The Enforcement Board is chaired by the Deputy Fair Work Ombudsman — Compliance and Enforcement (or their nominee) and its membership comprises the Fair Work Ombudsman and Deputy Fair Work Ombudsman from the Compliance and Enforcement, Policy and Communication and Corporate Groups. The Chief Counsel and other senior officials regularly attend to advise and assist the Enforcement Board.

### Senior Executive Staff Forum

Senior executives meet on a quarterly basis to discuss key strategic issues such as agency planning, professional development and other Entitywide initiatives. Senior representatives from the FWO also meet regularly with representatives from the ROC pursuant to a Memorandum of Understanding.

### Audit and Risk Committee

The Audit and Risk Committee provides independent assurance to the Fair Work Ombudsman, as the accountable authority, on the FWO's and ROC's financial and performance reporting, risk management framework, internal control systems, and legislation and policy compliance. The Audit and Risk Committee's Charter can be found on our website<sup>16</sup>.

In 2019–20, the Audit and Risk Committee comprised three independent members (including the Chair) and one senior officer from the FWO. During the period, the committee considered the following internal review topics:

- Performance Measurement and Monitoring (KPIs)
- · Maintenance of Knowledge Library
- ICT Strategy, Implementation and Management Phase 2.

Two further reviews were commenced, however due to the onset of the COVID-19 pandemic these reviews were not completed during the financial year:

- Implementation of New Compliance Strategy Phase 1
- · Risk Management.

Table 30: Membership details of Audit and Risk Committee

Member's name	Qualifications, knowledge, skills or experience (include formal and informal as relevant)	Number of meetings attended / total number of meetings	Total annual remuneration
Jeff Lamond PSM Independent Member and Chair	Formal economics and accounting qualifications, graduate qualification in legal studies. Substantial experience (seven years) as CEO of small company. 34 years public service employment (13 years at SES including B1 and B2, and 6.5 as a Statutory Office Holder — APS Merit Protection Commissioner). Managed own consultancy since 2008 covering employment, values and ethics and personnel policy. For 10 years served as Internal Ombudsman in two agencies addressing personnel, entitlements and management issues. Substantial experience with audit — chaired or sat as independent member on 7 Audit and Risk Committees for a range of Australian Government Agencies.	4/4	\$14,400 excl GST
Jennifer Taylor PSM Independent Member	Formal management qualifications. Substantial experience as CEO of the Statutory Agency Comcare and various Deputy Secretary positions. Experience in public sector operating environment including sound understanding of all legislative and policy requirements and financial statements review. Member Australian Institute of Company Directors.	4/4	\$10,000 excl GST
Craig Storen PSM Independent Member General Manager, Customer Compliance Division, Services Australia	Formal accounting and finance qualifications. Substantial experience (ten years) as a Chief Financial Officer in the Australian Government. Working experience in financial statements production and review, budget, project and risk management.	3/4	\$0 (Nil)
Janine Dennis, Internal Member Executive Director Legal	Formal legal qualifications and over 15 years' of legal experience as a practising lawyer. Over nine years' experience working in a regulatory environment and strong operational knowledge of the Fair Work Ombudsman and Registered Organisations Commission Entity. Broad experience across risk management activities, budget management, project delivery, legislative requirements and governance arrangements.	4/4	\$0 (Nil)

### Health and Safety Committee

The Health and Safety Committee reviews and provides recommendations for matters involving work health and safety, including implementing preventative initiatives and reporting on the implementation of relevant legislation and practices.

### **Business planning**

Organisational goals are set out in our Corporate Plan and the FWO Purpose. These form the basis for the development of business plans that contain internal performance measures. Business plans provide a link between the Corporate Plan, strategic goals and individual performance plans.

Plans are updated to reflect changes in priorities, and performance against the plans is monitored by the Corporate Board and senior management. Our Corporate Plan and Purpose are made available to external stakeholders via our website and the Corporate Plan is submitted to the Department of Finance and Portfolio Minister annually.

### **Business continuity**

We are actively implementing our newly revised Business Continuity Management Framework to ensure we manage the continuity of, not only our business, but that of the broader Australian Public Service. This involves the active consideration and management of COVID-19 risks and the implementation of controls and treatments designed to ensure the ongoing business continuity of our operations and the safety of our people.

As a result of the pandemic, the FWO activated its Crisis Action Team in mid-March. The team was made up of representatives across all parts of the organisation to manage the early response to the pandemic, and to ensure business continuity plans were enabled.

We seek to manage shared risks by collaborating with other government entities, particularly in supporting the whole-of-government response to the COVID-19 pandemic.

### Risk and fraud management

A risk management framework facilitates the identification, management and monitoring of risks across operational and corporate areas and informs the internal audit plan. Owners are assigned to risks, and controls and treatments are identified through a strategic risk register.

Following consultation, an internal audit plan was developed for 2019–20 that targets identified risk areas. The Audit and Risk Committee monitors the plan and risk reporting.

### Fraud controls and investigations

Our 2018–20 Fraud Control Plan and risk assessment enables us to manage and monitor identified fraud risks through prevention, detection and response initiatives.

All reasonable measures were taken to minimise fraud risk and to investigate possible fraud against the FWO and the ROC. Particular attention was given to this risk in the COVID-19 environment.

# External scrutiny

The FWO Customer Service Charter outlines our services, what customers can expect from us and what they should do if dissatisfied. The charter is available at <a href="https://www.fairwork.gov.au">www.fairwork.gov.au</a>.

We welcome feedback from customers about their experience with us. Our Feedback and Complaints Management Policy is available on our website and enables customers to:

- give feedback comment about our services
- submit a service complaint express dissatisfaction with an aspect of our service
- request a review ask for a decision to be reassessed.

Of the 405 matters reported in 2019–20, 128 matters related to technical issues experienced by users of fairwork.gov.au, following active solicitation of feedback.

Table 31: FWO service complaints and requests for reviews received and finalised

Action	2019–20	2018–19
Received	405	324
Finalised	398	316

The ROC actively seeks feedback about its services and practices. Users of its website are provided with the opportunity to provide feedback on all web pages. The ROC encourages participants in the ROC's education activities to complete evaluation forms and feedback surveys.

The ROC provides a formal complaint handling process for complaints about its staff and administrative processes, which is published on the ROC website.

The ROC did not receive any formal complaints about its staff or administrative processes during the reporting period.

### Reports to the Commonwealth Ombudsman

If a customer is not satisfied with the way we respond to their feedback or complaint, they can contact the Commonwealth Ombudsman.

The Commonwealth Ombudsman investigates complaints about our actions and identifies and conducts its own motion investigations on administration matters. In 2019–20, two investigations were conducted in relation to the FWO's operations, with no adverse findings.

In 2019–20, no formal reviews were conducted in relation to the ROC's operations.

Table 32: Commonwealth Ombudsman investigations and findings

	2019–20	2018–19
Commonwealth Ombudsman investigations	2	0
Adverse findings	0	0

In 2019–20, there were no reports by the Auditor-General, the Australian National Audit Office, a parliamentary committee or the Commonwealth Ombudsman in relation to the FWO's or ROC's operations.

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### Freedom of information

### FOI requests to FWO

The FWO received 57 requests for information under the Freedom of Information Act 1982 (FOI Act) in 2019–20. This compared with 50 requests received in 2018–19. The FWO's disclosure log is available at <a href="https://www.fairwork.gov.au">www.fairwork.gov.au</a>. We continue to facilitate document access through our Information Access Policy, also available on our website, which reduces the need to make formal FOI requests. The FWO received 131 informal information access requests in 2019–20, compared with 126 requests in 2018–19.

### **FOI requests to ROC**

The ROC received 2 requests for information under the Freedom of Information Act 1982 (FOI Act) in 2019–20. The ROC's disclosure log, which is published on the ROC website, reports what information has been provided and how to access it.

Formal FOI requests are not required for most documents held by the ROC. Most documents lodged by registered organisations are publicly available on the ROC website.

### Information Publication Scheme

We are required to publish information to the community as part of the FOI Act Information Publication Scheme (IPS). This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in annual reports. Each agency must display a plan on its website showing what information it publishes in accordance with IPS requirements. The FWO's plan can be found on <a href="https://www.fairwork.gov.au">www.fairwork.gov.au</a> and the ROC's plan can be found on <a href="https://www.roc.gov.au">www.roc.gov.au</a>. The plans set out what information is published under the IPS, how and to whom it is published, and how we otherwise comply with IPS requirements.

### **Privacy**

We are committed to protecting the privacy of individuals who provide us with their personal information and ensuring staff know what to do in the event of a suspected privacy breach. We have continued to undertake privacy impact assessments for new projects and processes.

The FWO did not report any privacy breaches to the Office of the Australian Information Commissioner (OAIC) in 2019–20. Two privacy complaints about the FWO were reported to OAIC in 2018–19. The OAIC made no adverse findings in one matter and the other is still awaiting determination.

The ROC reported no privacy breaches to the OAIC during the financial year.  $\label{eq:control} % \begin{subarray}{ll} \end{subarray} \b$ 

### Judicial decisions or administrative reviews

There were no judicial decisions, or decisions of administrative tribunals or the Australian Information Commissioner, that have had a significant effect on the operations of the FWO or ROC in 2019–20.

# Financial management

We continue to maintain a strong focus on financial management, ensuring resources are utilised in the most efficient and effective manner to deliver the greatest benefit and impact for the Australian community.

Our financial results for 2019–20 are outlined in 05: Financial management (p.52). The operating loss for 2019–20 was \$4.691 million and includes depreciation expense of \$15.505 million, which is not funded by government appropriations.

We maintained sufficient cash through the year to fund our operations. There are adequate funds held in the Official Public Account as undrawn appropriations, which will be used to pay employee entitlements and other liabilities as and when they fall due.

In 2019–20, we reported no significant non-compliance with finance law.

### Purchaser-provider arrangements

During 2019–20, we purchased IT services and a number of other administrative functions on a fee-for-service basis through a longstanding arrangement with the Technology Services Division within the Department of Education, Skills and Employment under a Memorandum of Understanding. The management of enterprise resource planning services was provided to the Entity on a fee-for-service basis under a Memorandum of Understanding with the Service Delivery Office within the Department of Finance.

# Procurement initiatives to support small and medium enterprises

We support small business participation in the Commonwealth Government procurement market by:

- reducing tendering burden through use of the Commonwealth Contracting Suite for low-risk procurements under \$200,000
- adhering to the Commonwealth's 30-day payment policy
- engaging with small business organisations to increase understanding of each other's offerings and needs
- using credit cards to facilitate on-time payments.

Small and medium enterprises (SME) and small enterprise participation statistics are available on the Department of Finance website (<a href="www.finance.gov.au">www.finance.gov.au</a>).

We recognise the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury website.

### Procurement to support Indigenous enterprises

The Commonwealth Indigenous Procurement Policy (IPP) commenced on 1 July 2015. We amended our procurement policy and practices to meet the new requirements.

A total of 20 contracts were awarded to Indigenous suppliers during the year, totalling \$302,431.34 (GST inclusive).

### Consultants

We engage consultants if we need specialist expertise or independent research, reviews or assessments to support our decision-making. Providers are selected through open tender, pre-qualified tenders, limited tender or an established panel arrangement.

The decision to engage a consultant is made in accordance with the PGPA Act and related regulations, including the Commonwealth Procurement Rules and internal policies.

During 2019–20, 10 new consultancy contracts were entered into involving total expenditure of \$607,908 (including GST). In addition, five ongoing consultancy contracts were active during the period, involving a total expenditure of \$570,120.

Table 33: Consultancy contract spending

	2019–20	2018–19	2017–18
Number of new consultancy contracts	10	15	17
Value	\$607,908	\$1,161,328	\$509,168

Information on the value of contracts and consultancies is available on the AusTender website.

There were no requests for exemption or exemptions given from publishing a contract on AusTender. All our contracts allow for the Auditor-General to access the contractor's premises.

### Grants

During 2019–20, the Entity continued to administer the Community Engagement Grants Program (CEGP). Grants under that program run for four years to 31 December 2020.

Information on grants awarded under the CEGP is available at <a href="https://www.fairwork.gov.au">www.fairwork.gov.au</a>.

Grants were also directed to key employer and employee groups as part of the Government's response to the COVID-19 pandemic. These funds are to enable the groups to boost their member services and offer support and advice to employers and employees on their obligations and entitlements during the COVID-19 crisis.

### Advertising and market research

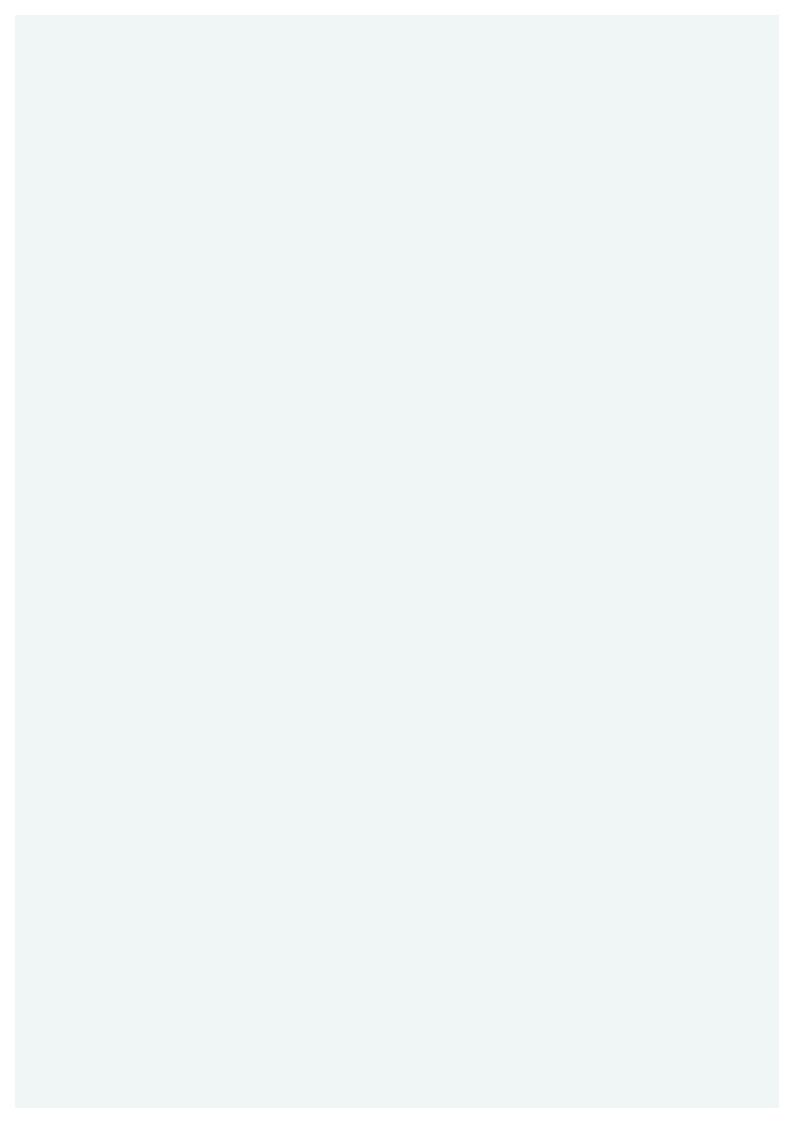
Payments made to market research and media advertising organisations in 2019–20 are detailed in the table below.

Where the total amount paid to an organisation is less than \$14,000, details have not been included, consistent with the Commonwealth Electoral Act 1918.

No advertising campaigns for which expenditure was greater than \$250,000 were undertaken in 2019–20.

Table 34: Market research, direct mail and media advertising contracts over  $$14,000\ in\ 2019-20$ 

	Organisation	Service provided	Total paid in 2019–20 (GST inclusive)
Media advertising organisations	Universal McCann	Communication campaigns	\$254,949
	Universal McCann	Media advertising	\$169,959
Market research	You1 Group		\$52,479
	Qualtrics		\$37,579



# 05: Financial Statements

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# Agency Resource Statement

Table 35: Agency Resource Statement 2019–2020

Actual Available		
Appropriation for 2019–20 \$'000	Payments Made 2019–20 \$'000	Balance Remaining 2019-20 \$'000
(a)	(b)	(a-b)
194,242	131,669	62,573
194,242	131,669	62,573
550	515	35
550	515	35
194,792	132,184	62,608
2,905	-	2,905
1,329	-	1,329
-	515	(515)
4,234	515	3,719
3,231	-	3,231
5,278	-	5,278
-	7,169	(7,169)
8,509	7,169	1,340
207,535	139,868	67,667
	\$*000 (a)  194,242  194,242  194,242  550  550  194,792  2,905  1,329  - 4,234  3,231  5,278  - 8,509	\$000 (a) (b)  194,242 131,669  194,242 131,669  550 515 550 515 194,792 132,184  2,905 - 1,329 - 515 4,234 515  3,231 - 5,278 - 7,169 8,509 7,169

<sup>1</sup> Appropriation Act (No. 1) 2019–20. This may also include prior-year departmental appropriation and section 74 retained revenue receipts.
2 Includes an amount of \$6.987m in 2019–20 for the departmental capital budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

### Table 36: Expenses and Resources for Outcome 1

Outcome 1: Compliance with workplace relations legislation by employees and employers through advice, education and where necessary enforcement.	Budget 2019-20 \$'000	Actual Expenses 2019–20 \$'000	Variation \$'000
	(a)	(b)	(a-b)
Program 1: Education Services and Compliance Activities			
Departmental Expenses			
Departmental appropriation	129,000	116,635	12,365
S74 Retained revenue receipts	680	1,448	(768)
Expenses not requiring appropriation in the budget year	7,230	15,505	(8,275)
Total for Program 1	136,910	133,588	3,322
Total Expenses for Outcome 1	136,910	133,588	3,322
		2019–20	
Average staffing level (number)		741	

### Table 37: Expenses and Resources for Outcome 2

Outcome 2: Effective governance and financial transparency of registered employee and employer organisations, through regulation, investigation, and appropriate enforcement activities.	Budget 2019–20 \$'000	Actual Expenses 2019–20 \$'000	Variation \$'000
	(a)	(b)	(a-b)
Program 1: Registered Organisations Commission			
Departmental Expenses			
Departmental appropriation	5,278	6,829	(1,551)
Total for Program 1	5,278	6,829	(1,551)
Total Expenses for Outcome 2	5,278	6,829	(1,551)
		2019-20	
Average staffing level (number)		28	



### **OFFICIAL**



### INDEPENDENT AUDITOR'S REPORT

### To the Minister for Industrial Relations

### **Opinion**

In my opinion, the financial statements of the Fair Work Ombudsman and Registered Organisations Commission Entity (the Entity) for the year ended 30 June 2020:

- (a) comply with Australian Accounting Standards Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2020 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2020 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- · Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to and forming part of the financial statements, comprising a summary of significant accounting policies and other explanatory information.

### **Basis for opinion**

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (including Independence Standards) (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Fair Work Ombudsman is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under the Act. The Fair Work Ombudsman is also responsible for such internal control as the Fair Work Ombudsman determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

GPO Box 707 CANBERRA ACT 2601 38 Sydney Avenue FORREST ACT 2603 Phone (02) 6203 7300 Fax (02) 6203 7777

### **OFFICIAL**

In preparing the financial statements, the Fair Work Ombudsman is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Fair Work Ombudsman is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

### Auditor's responsibilities for the audit of the financial statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or
  error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is
  sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material
  misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion,
  forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are
  appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of
  the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the
  disclosures, and whether the financial statements represent the underlying transactions and events in a
  manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office

Peter Kerr

**Executive Director** 

Delegate of the Auditor-General

Canberra

14 September 2020

### STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2020 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Fair Work Ombudsman and Registered Organisations Commission Entity will be able to pay its debts as and when they fall due.

Sandra Parker Accountable Authority

Sandu Parker

14 September 2020

Russell Thackeray Chief Financial Officer

14 September 2020

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# STATEMENT OF COMPREHENSIVE INCOME for the period ended 30 June 2020

·	<b>,</b> -			
	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Employee benefits	1.1A	90,482	82,908	84,869
Suppliers	1.1B	29,986	36,227	41,005
Grants		3,915	1,667	1,702
Depreciation and amortisation	3.2A	15,505	7,203	7,230
Finance costs		528	-	-
Losses from asset sales		1	-	-
Total expenses		140,417	128,005	134,806
Own-Source Income				
Own-source revenue				
Rental income		527	582	80
Other income	1.2A	921	986	600
Total own-source revenue		1,448	1,568	680
Gains				
Other gains		-	-	-
Total gains		-	-	-
Total own-source income		1,448	1,568	680
Net cost of services		(138,969)	(126,437)	(134,126)
Revenue from Government	1.2B	134,278	119,692	126,896
Deficit on continuing operations		(4,691)	(6,745)	(7,230)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		-	-	-
Total other comprehensive income		-	-	_
Total comprehensive loss attributable to the Australian Government		(4,691)	(6,745)	(7,230)

The above statement should be read in conjunction with the accompanying notes.

Original budget reflects the figures presented in the 2019–20 Portfolio Budget Statements (PBS).

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### **Budget variance commentary**

Statement of Comprehensive Income for the Fair Work Ombudsman and Registered Organisations Commission Entity (FWOROCE)

### Employee benefits

Additional staff engaged to accommodate increased demand for FWOROCE services during the COVID-19 response.

Increased cost of leave entitlements from the impact of lower interest rates on the discounting calculation.

Lower than estimated amount of leave taken in the second half of the financial year due to COVID-19 travel restrictions also contributed to the higher employee benefits cost.

### Suppliers

The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds. Lower than planned level of engagement of contractors over the course of the financial year.

Additional grants were approved by Government as part of its response to the COVID-19 crisis. Grants were provided to employee and employer organisations to support the provision of information to their members.

### **Depreciation and Finance costs**

The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds.

Higher than forecast revenue following the extension of sub-leases at the end of their initial term. Provision was not made for the extensions in the 2019–20 Budget round.

### Other income

Higher than estimated revenue was received from services provided to other Government agencies and court costs awarded to the FWOROCE arising from litigations.

Revenue from Government
Additional funding provided in measures to support the Government's response to the COVID-19 response.

STATEMENT OF FINANCIAL POSITION as at 30	June 2020			
	Notes	2020 \$'000	2019 \$'000	Original Budget \$′000
ASSETS				
Financial assets				
Cash and cash equivalents	3.1A	708	1,611	1,892
Trade and other receivables	3.1B	65,534	56,154	49,243
Total financial assets		66,242	57,765	51,135
Non-financial assets				
Right-of-use assets	3.2	42,818	-	-
Land and buildings (leasehold improvements)	3.2	15,195	17,886	22,477
Property, plant and equipment	3.2	1,028	900	1,961
Intangibles	3.2	10,887	10,124	7,477
Prepayments		1,050	1,894	1,424
Total non-financial assets		70,978	30,804	33,339
Total assets		137,220	88,569	84,474
LIABILITIES				
Payables				
Suppliers	3.3A	3,285	6,729	14,049
Other payables	3.3B	1,389	8,345	600
Total payables		4,674	15,074	14,649
Interest Bearing Liabilities				
Leases	3.4	43,935	-	-
Total interest bearing liabilities		43,935	-	-
Provisions				
Employee provisions	6.1A	27,438	24,087	21,584
Other provisions	3.5	-	1,086	1,466
Total provisions		27,438	25,173	23,050
Total liabilities		76,047	40,247	37,699
Net assets		61,173	48,322	46,775
EQUITY				
Contributed equity		117,551	110,564	117,587
Reserves		5,981	5,981	5,981
Retained earnings (accumulated deficit)		(62,359)	(68,223)	(76,793)
Total equity		61,173	48,322	46,775

The above statement should be read in conjunction with the accompanying notes.

Original Budget reflects the figures presented in the 2019–20 PBS.

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### **Budget variance commentary**

### Statement of Financial Position for FWOROCE

Trade and other receivables

Lower than budgeted capital expenditure payments made during the financial year combined with higher revenue from rental and other income and below budget expenditure on contractors reduced the amount of appropriation required to be drawn to fund the payments.

Right-of-use assets, Prepayments, Suppliers, Leases and Other provisions
The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds.

Land and buildings (leasehold improvements) and Intangibles
Additional fit out expenditure provided for in the budget was not required and was utilised on the replacement and enhancement of internal systems.

### Other payables

The higher value reflects the greater number of days used to calculate the salaries and wages accrual at year end.

### Employee provisions

Increased balance of leave entitlements is due to the impact of lower interest rates on the discounting calculation. Lower than estimated amount of leave taken in the second half of the financial year due to COVID-19 travel restrictions also contributed to the higher employee entitlements balance.

# STATEMENT OF CHANGES IN EQUITY for the period ended 30 June 2020

	Natara	2020	2019	Original Budget
CONTRIBUTED EQUITY	Notes	\$'000	\$'000	\$'000
Opening Balance				
Balance carried forward from previous period		110,564	103,667	110,564
Opening balance		110,564	103,667	110,564
Comprehensive Income				
Contributions by owners				
Departmental capital budget	5.1A	6,987	6,897	7,023
Total transactions with owners		6,987	6,897	7,023
Closing balance as at 30 June		117,551	110,564	117,587
ASSET REVALUATION RESERVE				
Opening Balance				
Balance carried forward from previous period		5,981	5,981	5,981
Opening balance		5,981	5,981	5,981
Closing balance as at 30 June		5,981	5,981	5,981
RETAINED EARNINGS				
Opening Balance				
Balance carried forward from previous period		(68,223)	(61,478)	(69,563)
Adjustment on initial application of AASB 16		10,555	-	-
Adjusted opening balance		(57,668)	(61,478)	(69,563)
Comprehensive Income				
Surplus/(Deficit) for the period		(4,691)	(6,745)	(7,230)
Total comprehensive income		(4,691)	(6,745)	(7,230)
Closing balance as at 30 June		(62,359)	(68,223)	(76,793)
TOTAL EQUITY				
Opening Balance				
Balance carried forward from previous period		48,322	48,170	46,982
Adjustment on initial application of AASB 16		10,555	-	-
Opening balance		58,877	48,170	46,982
Comprehensive Income				
Surplus/(Deficit) for the period		(4,691)	(6,745)	(7,230)
Total comprehensive income		(4,691)	(6,745)	(7,230)
Transactions with owners				
Contributions by owners				
Departmental capital budget		6,987	6,897	7,023
Total transactions with owners		6,987	6,897	7,023
Closing balance as at 30 June		61,173	48,322	46,775

The above statement should be read in conjunction with the accompanying notes.

Original Budget reflects the figures presented in the 2019–20 PBS.

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### Accounting policy

### **Equity injections**

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

### Restructuring of administrative arrangements

Net assets received from or relinquished to another government entity under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

### **Budget variance commentary**

### Statement of Changes in Equity for FWOROCE

### Retained earnings

The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds.

### Surplus/(Deficit) for the period

The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds. Higher than budgeted revenues from rental and other income and additional appropriation from the COVID-19 response measure contributed to the lower deficit for the year.

# CASH FLOW STATEMENT for the period ended 30 June 2020

		2020	2010	Original
	Notes	\$'000	2019 \$'000	Budget \$'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		125,219	117,305	124,802
Sales of goods and rendering of services		1,408	1,842	1,620
Net goods and services tax (GST) received		2,983	2,794	3,547
Other		1,845	-	1,893
Total cash received		131,455	121,941	131,862
Cash used				
Employees		86,884	80,581	84,869
Suppliers		32,395	37,709	46,731
Interest payments on lease liabilities		528	-	-
Section 74 receipts transferred to Official Public Account (OPA)		4,489	4,075	-
Total cash used		124,296	122,365	131,600
Net cash from/(used by) operating activities		7,159	(424)	262
INVESTING ACTIVITIES				
Cash used				
Purchase of non-financial assets		5,033	4,803	7,023
Total cash used		5,033	4,803	7,023
Net cash used by investing activities		(5,033)	(4,803)	(7,023)
FINANCING ACTIVITIES				
Cash received				
Contributed equity		4,996	4,946	7,023
Total cash received		4,996	4,946	7,023
Cash used				
Principal payments of lease liabilities		8,025	-	_
Total cash used		8,025	_	_
Net cash from/(used by) financing activities		(3,029)	4,946	7,023
Net increase/(decrease) in cash held		(903)	(281)	262
Cash and cash equivalents at the beginning of the reporting period		1,611	1,892	1,630
Cash and cash equivalents at the end of the reporting period	3.1A	708	1,611	1,892
The above statement should be read in conjunction with the accompanying notes.				

The above statement should be read in conjunction with the accompanying notes.

Original Budget reflects the figures presented in the 2019–20 PBS.  $\,$ 

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### **Budget variance commentary**

### Cash Flow Statement for FWOROCE

### Operating activities

### Suppliers

The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds. Lower than planned level of engagement of contractors over the course of the financial year.

Interest payments on lease liabilities
The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds.

Variation from the budgeted section 74 receipts was due to receipts for reimbursements of expenditure, such as paid parental leave and leave balances of staff transferred. These are not able to be estimated accurately at the time of producing the PBS.

### Investing activities

Purchase of non-financial assets
Lower than planned expenditure on non-financial assets was due to savings made against a number of software projects and fewer than estimated projects being undertaken.

### Financing activities

### Contributed equity

A lower amount of funds were required to be drawn from cash reserves to fund the lower than expected non-financial asset purchases.

### Principal repayment of lease liabilities

The variance primarily relates to the transition to AASB 16 Leases, effective 1 January 2019. The budget estimates were updated to reflect this standard in subsequent budget rounds.

ADMINISTERED SCHEDULE OF COMPREHENSIN	/E INCOME for the	e period ended 30 Ju	ne 2020	
	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Write-down and impairment of assets	2.1	3,513	988	-
Total expenses		3,513	988	-
Income				
Non-taxation revenue				
Sale of goods and rendering of services		-	-	2,357
Fees and fines	2.2A	7,631	4,890	2,600
Total income		7,631	4,890	4,957
Net contribution by services		4,118	3,902	4,957
Surplus		4,118	3,902	4,957
OTHER COMPREHENSIVE INCOME				
Total Other Comprehensive Income		-	-	-
Total Comprehensive Income		4,118	3,902	4,957

The above schedule should be read in conjunction with the accompanying notes.

Original Budget reflects the figures presented in the 2019–20 PBS.

**Budget variance commentary** 

Administered Schedule of Comprehensive Income for FWOROCE

Write down and impairment of assets

The assessment of recoverability of the penalties awarded by the courts against employers and directors of employing entities has resulted in the impairment of the administered debtors established to recognise the court penalties. The amount of unrecoverable court penalties are unable to be accurately estimated when budgets are developed.

Sale of goods and rendering of services
The budget provided for receipts from services related to the establishment of a National Labour Hire Registration Scheme (Scheme). Delays in the passing of legislation to enable to establishment of the Scheme has meant those services were not able to be provided and fees were unable to be charged.

Fees and fines
The quantum of penalties handed down by the courts where FWOROCE has brought forward successful litigations are unable to be accurately estimated at the time of establishing budgets.

Year in review Entity overview FWO performance report ROC performance report Management and accountability Financial statements Reference materials

### ADMINISTERED SCHEDULE OF ASSETS AND LIABILITIES as at 30 June 2020 Original Budget \$'000 2020 2019 Notes \$'000 \$ '000 **ASSETS** Financial assets Trade and other receivables 4.1A 5,159 6,284 4,237 Other financial assets 4.1B 1,713 944 797 **Total financial assets** 6,872 7,228 5,034 Total assets administered on behalf of Government 6,872 7,228 5,034 LIABILITIES Payables Other payables **Total payables** Total liabilities administered on behalf of Government

The above schedule should be read in conjunction with the accompanying notes.

Original Budget reflects the figures presented in the 2019–20 PBS.

### **Budget variance commentary**

Net assets

### Administered Schedule of Assets and Laibilities for FWOROCE

### Trade and other receivables

The quantum of penalties handed down by the courts where FWOROCE has brought forward successful litigations are unable to be accurately estimated at the time of establishing budgets. FWOROCE has been successful in achieving higher penalties than expected during the financial year.

6,872

7,228

### Other financial assets

Penalties handed down by the courts post the end of the financial year are required to be accrued into the financial statements up to the signing date. The quantum of these penalties are unable to be accurately estimated at the time of establishing budgets. Higher penalties than anticipated have been handed down.

5,033

ADMINISTERED RECONCILIATION SCHEDULE as at 30 June 2020		
	2020 \$ '000	2019 \$'000
Opening assets less liabilities as at 1 July	7,228	5,822
Net (cost of)/contribution by services		
Income	7,631	4,890
Expenses	(3,513)	(988)
Transfers to/from Australian Government:		
Transfers to OPA	(4,457)	(2,604)
Transfers to OPA by other agencies	(17)	108
Closing assets less liabilities as at 30 June	6,872	7,228

The above schedule should be read in conjunction with the accompanying notes.

#### Accounting policy

Administered cash transfers to and from the OPA
Revenue collected by the agency for use by the Government rather than the agency is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the agency on behalf of the Government and reported as such in the schedule of administered cash flows and in the administered reconciliation schedule.

## ADMINISTERED CASH FLOW STATEMENT for the period ended 30 June 2020 2020 \$'000 2019 \$'000 Notes **OPERATING ACTIVITIES** Cash received Fees and fines 4,457 2,604 Total cash received 4,457 2,604 Net cash from operating activities 4,457 2,604 Net increase in cash held 4,457 2,604 Cash and cash equivalents at the beginning of the reporting period Cash from the OPA Administered accounts (4,457) (2,604) Cash and cash equivalents at the end of the reporting period The above statement should be read in conjunction with the accompanying notes.

# NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS for the period ending 30 June 2020

#### Overview

#### The Basis of Preparation

The financial statements are general purpose financial statements and are required by section 42 of the PGPA Act.

The financial statements have been prepared in accordance with:

- Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR)
- Australian Accounting Standards and Interpretations Reduced Disclosure Requirements issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets which are reported at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars.

#### **New Australian Accounting Standards**

#### Adoption of new Australian Accounting Standard Requirements

AASB 15, AASB 16, AASB 2016-8 and AASB 1058 became effective 1 July 2019.

Standard/ Interpretation	Nature of change in accounting policy, transitional provisions, and adjustment to financial statements
AASB 15 Revenue from Contracts with Customers / AASB 2016-8 Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities and	AASB 15 establishes a comprehensive framework for determining whether, how much and when revenue is recognised. It replaces existing revenue recognition guidance, including AASB 118 Revenue, AASB 111 Construction Contracts and Interpretation 13 Customer Loyalty Programmes. The core principle of AASB 15 is that an agency recognises revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the agency expects to be entitled in exchange for those goods or services.
AASB 1058 Income of Not-For-Profit Entities	AASB 1058 is relevant in circumstances where AASB 15 does not apply. AASB 1058 replaces most of the not-for-profit (NFP) provisions of AASB 1004 Contributions and applies to transactions where the consideration to acquire an asset is significantly less than fair value principally to enable the agency to further its objectives, and where volunteer services are received.  AASB 15 and AASB 1058 did not have a material effect, and are not expected to have a future material effect, on the agency's financial statements.
AASB 16 Leases	This new standard has replaced AASB 117 Leases, Interpretation 4 Determining whether an Arrangement contains a Lease, Interpretation 127 Evaluating the Substance of Transactions Involving the Legal Form of a Lease.
	AASB 16 provides a single lessee accounting model, requiring the recognition of assets and liabilities for all leases, together with options to exclude leases where the lease term is 12 months or less, or where the underlying asset is of low value. AASB 16 substantially carries forward the lessor accounting in AASB 117, with the distinction between operating leases and finance leases being retained. The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.

#### Application of AASB 16 Leases

The agency adopted AASB 16 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under AASB 117 and related interpretations.

The agency elected to apply the practical expedient to not reassess whether a contract is, or contains a lease at the date of initial application. Contracts entered into before the transition date that were not identified as leases under AASB 117 were not reassessed. The definition of a lease under AASB 16 was applied only to contracts entered into or changed on or after 1 July 2019.

AASB 16 provides for certain optional practical expedients, including those related to the initial adoption of the standard. The agency applied the following practical expedients when applying AASB 16 to leases previously classified as operating leases under AASB 117:

- · Apply a single discount rate to a portfolio of leases with reasonably similar characteristics;
- Exclude initial direct costs from the measurement of right-of-use assets at the date of initial application for leases where the right-of-use asset was determined as if AASB 16 had been applied since the commencement date;
- Reliance on previous assessments on whether leases are onerous as opposed to preparing an impairment review under AASB 136 Impairment of assets as at the date of initial application; and
- Applied the exemption not to recognise right-of-use assets and liabilities for leases with less than 12 months of lease term remaining as of the date of initial application.

As a lessee, the agency previously classified leases as operating or finance leases based on its assessment of whether the lease transferred substantially all of the risks and rewards of ownership. Under AASB 16, the agency recognises right-of-use assets and lease liabilities for most leases. However, the agency has elected not to recognise right-of-use assets and lease liabilities for some leases of low value assets based on the value of the underlying asset when new or for short-term leases with a lease term of 12 months or less.

On adoption of AASB 16, the agency recognised right-of-use assets and lease liabilities in relation to leases of office space, heavy equipment and automobiles, which had previously been classified as operating leases.

The lease liabilities were measured at the present value of the remaining lease payments, discounted using the agency's incremental borrowing rate as at 1 July 2019. The agency's incremental borrowing rate is the rate at which a similar borrowing could be obtained from an independent creditor under comparable terms and conditions.

The right-of-use assets were measured as follows:

- a) Office space: measured at an amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments
- b) All other leases: the carrying value that would have resulted from AASB 16 being applied from the commencement date of the leases, subject to the practical expedients noted above.

#### Impact on transition

On transition to AASB 16, the agency recognised additional right-of-use assets and additional lease liabilities, recognising the difference in retained earnings. The impact on transition is summarised below:

Departmental	1 July 2019
Right-of-use assets - property, plant and equipment	51,491
Lease liabilities	51,960
Retained earnings	10,555

The following table reconciles the Departmental minimum lease commitments disclosed in the agency's 30 June 2019 annual financial statements to the amount of lease liabilities recognised on 1 July 2019:

	1 July 2019
Minimum operating lease commitment at 30 June 2019	61,038
Less: short-term leases not recognised under AASB 16	831
Undiscounted lease payments	60,207
Less: effect of discounting using the incremental borrowing rate as at the date of initial application	8,247
Lease liabilities recognised at 1 July 2019	51,960

#### **Taxation**

The agency is exempt from all forms of taxation except fringe benefits tax (FBT) and GST.

#### Impact of COVID-19 Pandemic

The COVID-19 pandemic has resulted in a significant increase in demand for the agency's services, particularly with calls to the agency's Infoline, as the economic impact was felt across the country. The Government provided additional resources to the agency to increase its capacity to deal with the demand, including increasing the number of Infoline and Legal staff. The funds were also used to establish a panel of legal firms to which customers could be referred to obtain advice on workplace laws and to provide funds to employee and employer groups to supplement their existing advice services. In general, the agency's activities did not change in nature, but additional costs related to telecommunications and technology were incurred in ensuring staff were able to work remotely, while other costs, such as travel were reduced during the period.

#### **Reporting of Administered Activities**

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the administered schedules and related notes.

Except where otherwise stated, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

#### **Events After the Reporting Date**

#### **Departmental**

No significant events have occurred after the reporting date that are likely to affect either the ongoing structure or financial activities of the agency.

#### **Administered**

No significant events have occurred after the reporting date that are likely to affect either the ongoing structure or financial activities of the agency.

# 1. Departmental Financial Performance

This section analyses the financial performance of FWOROCE for the year ended 2020.

1.1 Expenses		
	2020 \$'000	2019 \$'000
1.1A: Employee Benefits		
Wages and salaries	63,603	57,835
Superannuation:		
Defined contribution plans	8,608	7,534
Defined benefit plans	3,822	4,027
Leave and other entitlements	13,099	12,010
Separation and redundancies	831	1,127
Other employee expenses	519	375
Total employee benefits	90,482	82,908
Accounting policy  Accounting policies for employee-related expenses are contained in the People and Relationships section (p. 85).		
1.1B: Suppliers		
Goods and services supplied or rendered		
Contractors	11,169	10,424
Legal fees	5,286	4,542
Property outgoings	2,589	2,683
Travel	1,819	2,248
Training	776	992
Telecommunications	1,584	1,520
Software licensing, support and maintenance	1,010	1,058
Consultants	556	925
Other	3,877	3,932
Total goods and services supplied or rendered	28,666	28,324
Goods supplied	1,734	1,556
Services rendered	26,932	26,768
Total goods and services supplied or rendered	28,666	28,324
Other suppliers		
Workers compensation expenses	640	562
Operating lease rentals <sup>1</sup>	680	7,341
Total other suppliers	1,320	7,903
Total suppliers	29,986	36,227

<sup>1.</sup> The FWOROCE has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117

The FWOROCE has short-term property lease commitments of \$140,698 and short-term motor vehicle lease commitments of \$306,475 as at 30 June 2020.

The above lease disclosures should be read in conjunction with the accompanying notes 3.2 and 3.4A.

1.1 Expenses (continued)		
	2020 \$'000	2019 \$'000
Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as fol	llows:	
Within 1 year	337	9,833
Between 1 to 5 years	110	39,029
More than 5 years	-	12,176
Total operating lease commitments	447	61,038

#### Accounting policy

Short-term leases and leases of low-value assets
The FWOROCE has elected not to recognise right-of-use assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000). The entity recognises the lease payments associated with these leases as an expense on a straight-line basis over the lease term.

#### 1.2 Own-Source Revenue and Gains

Own-Source Revenue	2020 \$'000	2019 \$'000
1.2A: Other Income  Resources received free of charge-audit fees	75	75
Other income	846	911
Total other income	921	986

#### Accounting policy

Resources received free of charge
Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of these resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

#### 1.2B: Revenue from Government

Appropriations		
Departmental appropriations	134,278	119,692
Total revenue from Government	134,278	119,692

#### Accounting policy

#### Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the agency gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

Funding received or receivable from non-corporate Commonwealth entities (appropriated to the non-corporate Commonwealth entity as a corporate Commonwealth entity payment item for payment to this entity) is recognised as Revenue from Government by the corporate Commonwealth entity unless the funding is in the nature of an equity injection or a loan

# 2. Income and Expenses Administered on Behalf of Government

This section analyses the activities that FWOROCE does not control but administers on behalf of Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

2.1 Administered—Expenses		
	2020 \$'000	2019 \$'000
Write-Down and Impairment of Assets		
Impairment of financial instruments	3,513	988
Total write-down and impairment of assets	3,513	988

#### Accounting policy

Litigations undertaken by the agency may result in penalties being handed down by the courts against employers and directors of the employing entity. These penalties are held as administered debtors in the accounts of the agency. An assessment of the recoverability of the debt is carried out by the agency's Legal Branch and if a debt is deemed to not be recoverable, a provision is established against the debtor and that associated cost is expensed.

2.2 Administered—Income		
Revenue	2020 \$'000	2019 \$'000

#### Accounting policy

All administered revenues are revenues relating to ordinary activities performed by the agency on behalf of the Australian Government. As such, administered appropriations are not revenues of the individual agency that oversees distribution of the funds as directed.

2.2A: Fees and Fines		
Court-awarded penalties	4,990	3,848
Infringement notices	1,046	589
Other fees from regulatory services	1,595	453
Total fees and fines	7,631	4,890

#### Accounting policy

Revenue comprises court-awarded penalties and infringement notices relating to breaches of either the Workplace Relations Act 1996 or the Fair Work Act and contrition payments made to FWOROCE under the terms of Enforceable Undertakings. The court-awarded penalty and Enforceable Undertaking revenues are recognised at the nominal amount due less any impairment allowance. The collectability of debts is reviewed at each reporting date by the agency's Legal Branch. Impairment allowances are made when some doubt exists as to the collectability of the debt. Revenue from infringement notices is recognised on receipt of payment.

# 3. Departmental Financial Position

This section analyses the FWOROCE assets used to conduct its operations and the operating liabilities incurred as a result.

Employee-related information is disclosed in the People and Relationships section (p.85)

#### 3.1 Financial Assets 2020 2019 \$'000 \$'000 3.1A: Cash and Cash Equivalents Cash on hand or on deposit 603 1,505 Cash held by contracted agents 105 106 Total cash and cash equivalents 708 1,611

#### **Accounting Policy**

Cash is recognised at its nominal amount. Cash and cash equivalents includes: a) cash on hand; and

- b) demand deposits in bank accounts with an original maturity of three months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in

3.1B: Trade and Other Receivables		
Goods and services receivable		
Goods and services	290	2,212
Total goods and services receivables	290	2,212
Appropriations receivables		
Appropriation receivable	63,205	52,155
Total appropriations receivables	63,205	52,155
Other receivables		
GST receivable from the ATO	501	217
Other	1,538	1,570
Total other receivables	2,039	1,787
Total trade and other receivables	65,534	56,154
No provision for impairment is provided for as at balance date.		
Credit terms for goods and services were within 30 days (2019: 30 days).		

#### Accounting policy

Trade receivables, loans and other receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest, that are not provided at below-market interest rates, are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance.

#### Impairment of financial assets

Financial assets are assessed for credit risk on initial recognition and subsequently assessed for impairment at the end of each reporting period.

#### 3.2 Non-Financial Assets

3.2: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles

Reconciliation of the opening and closing balances of property, plant and equipment and intangibles for 2020

	Right-of-use Assets \$'000	Land and buildings (leasehold improvements) \$'000	Property, plant and equipment \$'000	Intangibles (computer software) <sup>1</sup> \$'000	Total \$'000
As at 1 July 2019					
Gross book value	-	31,025	5,313	40,518	76,856
Accumulated depreciation and amortisation	-	(13,139)	(4,413)	(30,394)	(47,946)
Total as at 1 July 2019	-	17,886	900	10,124	28,910
Recognition of Right-of-use asset on initial application of AASB 16	51,491	-	-	-	51,491
Adjusted total as at 1 July 2019	51,491	17,886	900	10,124	80,401
Additions					
Purchase	-	183	816	4,034	5,033
Depreciation and amortisation	-	(2,874)	(687)	(3,271)	(6,832)
Depreciation on right-of-use assets	(8,673)	-	-	-	(8,673)
Disposals					
Other	-	-	(1)	-	(1)
Total as at 30 June 2020	42,818	15,195	1,028	10,887	69,928
Total as at 30 June 2020 represented by					
Gross book value	51,491	31,208	5,902	44,552	133,153
Accumulated depreciation, amortisation and impairment	(8,673)	(16,013)	(4,874)	(33,665)	(63,225)
Total as at 30 June 2020	42,818	15,195	1,028	10,887	69,928
Carrying amount of right-of-use assets	42,818	-	-	-	42,818

<sup>1.</sup> The carrying amount of computer software comprises internally generated software.

No indicators of impairment were found for land and buildings (leasehold improvements). The agency will continue to review its land and buildings (leasehold improvements) holdings to ensure suitable levels of office space are leased and any opportunities for rationalisation are taken. This may result in some leases not being renewed when they expire. However, the agency has no plans to reduce its presence in capital cities or regional locations.

The FWOROCE has no properties that have leasehold improvements where the lease is due for renewal or cessation within the next 12 months.

No indicators of impairment were found for property, plant and equipment and intangibles.

FWOROCE has planned to replaced its current desktops and laptops in the second half of 2020 as part of its regular upgrade program. Existing desktop and laptops will be disposed of through a third party.

#### Accounting policy

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Non-financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of the restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

#### Asset recognition threshold

Purchases of land and buildings (leasehold improvements), property, plant and equipment are recognised initially at cost in the statement of financial position, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the agency where there exists an obligation to restore the property to its original condition at the end of the lease term. These costs are included in the value of the agency's land and buildings (leasehold improvements) assets with a corresponding provision for the 'make good' recognised.

#### Lease Right-of-use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 the FWOROCE has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, GGS and Whole of Government financial statements.

#### Revaluations

Following initial recognition at cost, land and buildings (leasehold improvements, excludes ROU assets), property, plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets did not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

#### Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the agency using, in all cases, the straight-line method of depreciation. Land and buildings (leasehold improvements) are depreciated on a straight-line basis over the lesser of the estimated useful life of the improvements and the unexpired period of the lease.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable assets are based on the following useful lives:

	2020	2019
Leasehold improvements	Lesser of term and useful life	Lesser of term and useful life
Plant and equipment	5 years	5 years
Computer equipment	3-8 years	3-8 years

The depreciation rates for ROU assets are based on the commencement date to the earlier of the end of the useful life of the ROU asset or the end of the lease term.

#### Impairment

All assets were assessed for impairment at 30 June 2020. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the agency were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

#### Derecognition

An item of land and buildings (leasehold improvements), property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

#### Intangibles

The agency's intangible assets comprise internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the agency's software are three years (2019: three years).

All software assets were assessed for indications of impairment as at 30 June 2020.

## 3.3 Payables

2020 \$'000	2019 \$'000
3,285	3,863
-	2,866
3,285	6,729
1,389	624
-	7,721
	\$'000 3,285 - 3,285

<sup>1.</sup> The Entity has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

#### Accounting policy

Total other payables

Suppliers and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods and services have been received and irrespective of having been invoiced.

1,389

## 3.4 Interest Bearing Liabilities

	2020 \$'000	2019 \$'000
3.4A: Leases		
Lease liabilities	43,935	-
Total leases	43,935	-

Total cash outflow for leases for the year ended 30 June 2020 was \$8.025 million.

#### Accounting policy

Refer Overview section for accounting policy on leases.

8,345

## 3.5 Other Provisions

#### 3.5: Other Provisions

	Provision for Onerous leases \$'000	Total \$'000
As at 1 July 2019	1,086	1,086
Releases of provisions	(1,086)	(1,086)
Total as at 30 June 2020	-	-

The agency has a number of agreements for the leasing of office accommodation which are surplus to its requirements. The agency has made a provision to reflect the present value of the expected costs to be incurred that are in excess of the economic benefit expected to be derived from these leases.

# 4. Assets and Liabilities Administered on Behalf of Government

This section analyses the assets and liabilities that FWOROCE does not control but administers on behalf of Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

4.1 Administered—Financial Assets		
4.1A: Trade and Other Receivables		
	2020 \$ '000	2019 \$ '000
Other receivables		
Court-awarded penalties	9,542	10,110
Total trade and others receivables (gross)	9,542	10,110
Less Impairment loss allowance		
Other receivables—Court-awarded penalties	(4,383)	(3,826)
Total trade and others receivables (net)	5,159	6,284
All receivables are expected to be settled within 12 months.		
Accounting policy		
<b>Receivables</b> Where receivables are not subject to concessional treatment, they are carried at amortised cost using the effective is amortisation are recognised through profit or loss. Administered receivables represents debts owed to the agency be penalties.	nterest method. Gains and losses due to impairment by employers, workers and organisations as a result o	, derecognition and of court-awarded
4.1B: Other Financial Assets		
Accrued revenue	1,713	944
Total other financial assets	1,713	944
All other financial assets are expected to be settled within 12 months		

# 5. Funding

This section identifies the FWOROCE funding structure.

#### 5.1 Appropriations

#### 5.1A: Annual Appropriations ('Recoverable GST exclusive')

Annual Appropriation for 2020

	Annual Appropriation \$'000	Adjustments to Appropriation¹ \$'000	Total appropriation \$'000	Appropriation Applied in 2020 (current and prior Years) \$*000	Variance² \$'000
Departmental					
Ordinary annual services	134,278	4,489	138,767	129,708	9,059
Capital Budget <sup>3</sup>	6,987	-	6,987	4,996	1,991
Total departmental	141,265	4,489	145,754	134,704	11,050

- tes

  1. Adjustments to Appropriation in 2019–20 comprised PGPA Act Section 74 receipts of \$4.489 million.

  2. The variance between total appropriation and appropriation applied in 2020 relates to payments funded from unspent prior year appropriation items.

  3. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3, 5). They form part of ordinary annual services, and are not separately identified in the appropriation acts. The 2019-20 DCB was reduced in value from that initially reported in the 2019-20 PBS by \$0.036 million following the imposition of an increase to the Efficiency Dividend in June 2019.

#### Annual Appropriation for 2019

	Annual Appropriation \$'000	Adjustments to Appropriation <sup>1</sup> \$'000	Total appropriation \$'000	Appropriation Applied in 2019 (current and prior Years) \$'000	Variance² \$'000
Departmental					
Ordinary annual services	119,692	4,075	123,767	120,303	3,464
Capital Budget <sup>3</sup>	7,215	(318)	6,897	4,946	1,951
Total departmental	126,907	3,757	130,664	125,249	5,415

- **Notes**1. Adjustments to Appropriation in 2018–19 comprised PGPA Act Section 74 receipts of \$4.075 million. In the 2018–19 financial year, the Department of Finance transferred \$318,000 of Departmental Capital

  - Budget to the Service Delivery Office as FWOROCE's contribution to the upgrading of the SAP system.

    2. The variance between total appropriation and appropriation applied in 2019 relates to payments funded from unspent prior year appropriation items.

    3. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3, 5). They form part of ordinary annual services, and are not separately identified in the appropriation acts.

5.1B: Unspent Annual Appropriations ('Recoverable GST exclusive')		
Departmental		
	2020 \$′000	2019 \$'000
Appropriation Act (No. 1) 2018–19	-	51,802
Appropriation Act (No. 1) - Capital Budget (DCB) 2018–19	-	1,964
Appropriation Act (No. 1) 2019–2020	56,565	-
Appropriation Act (No. 1) - Capital Budget (DCB) 2019–20	3,942	-
Appropriation Act (No. 3) 2019–2020	1,039	-
Appropriation Act (No. 5) 2019–2020	2,367	-
Total	63,913	53,766
Unspent appropriation includes cash and cash equivalents on hand at 30 June. Represented by:		
Appropriations receivable	63,205	52,155
Cash	708	1,611
	63,913	53,766

#### 5.1C: Special Appropriations ('Recoverable GST exclusive')

Authority	Туре	Purpose	Appropriation Applied 2020 \$'000	Appropriation Applied 2019 \$'000
Fair Work Act 2009 s559(4) Administered	Unlimited	To provide an appropriation where an Act or other law requires or permits the repayment of an amount received by the Commonwealth and apart from this section there is no specific appropriation for the repayment.	515	417
Total special appropriations applied			515	417

## 5.2 Special Accounts

	ROC Sp	ecial Account <sup>1</sup>
	2020 \$'000	2019 \$'000
Balance brought forward from previous period	3,231	2,208
Increases	5,278	8,750
Total increases	5,278	8,750
Available for payments	8,509	10,958
Decreases	7,169	7,727
Total decreases	7,169	7,727
Total balance carried to the next period	1,340	3,231
Balance represented by:		
Cash held in the agency bank account	-	-
Cash held in the OPA	1,340	3,231
Total balance carried forward to next period	1,340	3,231
1 Appropriation DCDA Act coction 90		

## 5.3 Net Cash Appropriation Arrangements

	2020 \$'000	2019 \$'000
Total comprehensive income less depreciation/amortisation expenses previously funded through revenue appropriations	2,789	458
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(6,832)	(7,203)
Plus: depreciation right-of-use assets	(8,673)	-
Less: principal repayments - leased assets	8,025	-
Total comprehensive loss-as per the Statement of Comprehensive Income	(4,691)	(6,745)

From 2010–11, the Australian Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payments for capital expenditure is required.

The inclusion of depreciation/amortisation expenses related to ROU leased assets and the lease liability principle repayment amount reflects the cash impact on implementation of AASB 16 Leases, it does not directly reflect a change in appropriation arrangements.

<sup>1.</sup> Appropriation: PGPA Act, section 80.
Establishing Instrument: Fair Work (Registered Organisations) Amendment Act 2016, section 329EA.
Purpose: Paying or discharging the costs, expenses and other obligations incurred by the Commonwealth in the performance of the Commissioner's functions.

# 6. People and Relationships

This section describes a range of employment and post employment benefits provided to our people and our relationships with other key people.

6.1 Employee Provisions		
	2020 \$'000	2019 \$'000
6.1A: Employee Provisions		
Leave	27,411	23,656
Separations and redundancies	-	409
Other	27	22
Total employee provisions	27,438	24,087

#### Accounting policy

Liabilities for short-term employee benefits and termination benefits expected within twelve months of the end of reporting period are measured at their nominal amounts.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for personal leave as all personal leave is non-vesting and the average personal leave taken in future years by employees of the agency is estimated to be less than the annual entitlement for personal leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the agency's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination

The estimate of the present value of the long service leave liability takes into account attrition rates and pay increases through promotion and inflation using the shorthand method prescribed in the

#### Separation and redundancy

Provision is made for separation and redundancy benefit payments. The agency recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

The agency's staff are members of either the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS Accumulation Plan (PSSap) or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes

The agency makes employer contributions to the employee's defined benefit superannuation schemes at rates determined by an actuary to be sufficient to meet the current cost to the Government. The agency accounts for the contributions as if they were contributions to defined contribution plans.

The superannuation liability recognised at 30 June represents outstanding contributions.

Accounting judgments and estimates

In the process of applying the accounting policies listed in this note, the agency has made the following judgments that have significant impact on the amounts recorded in the financial statements:- the Australian Government shorthand method has been used to estimate the present value of long service leave liabilities. This involves the estimation of salary growth rates, discount rates, the probability of leave vesting and the amount of leave expected to be settled in service.

#### 6.2 Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity. The entity has determined the key management personnel to be the Attorney-General and Minister for Industrial Relations, the Chief Executive, members of the Corporate Board and the Registered Organisations Commissioner. Key management personnel remuneration is reported in the table below:

	2020 \$'000	2019 \$'000
Short-term employee benefits	2,023	1,719
Post-employment benefits	310	284
Other long-term employee benefits	68	60
Total key management personnel remuneration expenses <sup>1</sup>	2,401	2,063

Notes: The total number of senior management personnel that are included in the above table are 6 (2019: 7).

## 6.3 Related Party Disclosures

#### Related party relationships:

The entity is an Australian Government controlled entity. Related parties to this entity are Key Management Personnel including the Portfolio Minister, members of the Corporate Board and the Registered Organisations Commissioner.

#### Transactions with related parties:

Given the breadth of government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. These transactions have not been separately disclosed in this note.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

<sup>1.</sup> The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not poid by the entity.

## 7. Managing Uncertainties

This section analyses how the FWOROCE manages financial risks within its operating environment.

#### 7.1 Contingent Assets and Liabilities

#### 7.1A: Contingent Assets and Liabilities

#### Unquantifiable contingencies

The agency has provided an indemnity to the Reserve Bank of Australia (the Bank) against any loss or damage arising from any error, mistake, fraud or negligence resulting from the Bank acting in good faith on instructions given to it by the agency and/or due to any failure by the agency to observe any of its obligations in respect to its banking arrangements.

The likelihood of any payment being required under the indemnity is remote and unquantifiable.

#### Accounting policy

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when the likelihood of settlement is greater than remote.

#### 7.1B: Administered—Contingent Assets and Liabilities

#### **Quantifiable Administered Contingencies**

At 30 June 2020, the agency has no quantifiable administered contingent assets. (2019: nil)

At 30 June 2020, the agency has no quantifiable administered contingent liabilities. (2019: nil)

#### **Unquantifiable Administered Contingencies**

7.2 Financial Instruments

At 30 June 2020, the agency is currently involved in litigation against 76 entities and while the probability of success is high in these matters, it is not possible to accurately estimate the value of any penalties that may be imposed by the courts. (2019: 70)

At 30 June 2020, the agency has no unquantifiable administered contingent liabilities. (2019: nil)

	2020 \$'000	2019 \$'000
7.2A: Categories of Financial Instruments		
Loans and receivables		
Cash and cash equivalents	708	1,611
Goods and services receivables	290	2,212
Other receivables	1,538	1,570
Total loans and receivables	2,536	5,393
Total financial assets	2,536	5,393

Financial Liabilities		
Financial liabilities measured at amortised cost		
Suppliers	3,285	6,729
Total financial liabilities measured at amortised cost	3,285	6,729
Total financial liabilities	3,285	6,729

The agency has no net income or expenses from financial instruments.

#### Accounting policy

Financial Liabilities

With the implementation of AASB 9 Financial Instruments for the first time in 2019, the entity classifies its financial assets in the following categories: a) financial assets at fair value through profit or loss

b) financial assets at fair value through other comprehensive income; and

c) financial assets measured at amortised cost.

The classification depends on both the entity's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Comparatives have not been restated on initial application.

#### Financial Assets at Amortised Cost

Financial assets included in this category need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows; and 2. the cash flows are solely payments of principal and interest (SPPI) on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

#### Effective Interest Method

income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

#### Financial Assets at Fair Value Through Other Comprehensive Income (FVOCI)

Financial assets measured at fair value through other comprehensive income are held with the objective of both collecting contractual cash flows and selling the financial assets and the cash flows meet the SPPI test.

Any gains or losses as a result of fair value measurement or the recognition of an impairment loss allowance is recognised in other comprehensive income.

#### Financial Assets at Fair Value Through Profit or Loss (FVTPL)

Financial assets are classified as financial assets at fair value through profit or loss where the financial assets either doesn't meet the criteria of financial assets held at amortised cost or at FVOCI (i.e. mandatorily held at FVTPL) or may be designated.

Financial assets at FVTPL are stated at fair value, with any resultant gain or loss recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest earned on the financial asset.

#### Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period based on Expected Credit Losses, using the general approach which measures the loss allowance based on an amount equal to lifetime expected credit losses where risk has significantly increased, or an amount equal to 12-month expected credit losses if risk has not increased.

The simplified approach for trade, contract and lease receivables is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

#### Financial liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

#### Financial Liabilities at Fair Value Through Profit or Loss

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

#### Financial Liabilities at Amortised Cost

Financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective interest basis.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

#### 7.3 Fair Value Measurement

#### **Accounting policy**

The fair value of non-financial assets has been taken to be the market value of similar assets.

The agency's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of all controlled assets is considered their highest and best use.

The agency procured valuation services from AON Pty Ltd for the 2017–18 financial year and relied on valuation models provided by AON. AON provided written assurance to the agency that the valuation models developed are in accordance with AASB 13.

#### 7.3: Fair Value Measurement

	Fair value measurements at the end of the reporting period	
	2020 \$'000	2019 \$'000
Non-financial assets		
Land and buildings (leasehold improvements)	15,195	17,886
Property, plant and equipment	1,028	900
Total fair value measurements of assets in the Statement of Financial Position	16,223	18,786

There is no significant change in the valuation technique since the prior year.

# 8. Other information

8.1 Aggregate Assets and Liabilities		
8.1A: Aggregate Assets and Liabilities		
	2020 \$'000	2019 \$'000
Assets expected to be recovered in:		
No more than 12 months	67,292	59,659
More than 12 months	69,928	28,910
Total assets	137,220	88,569
Liabilities expected to be settled in:		
No more than 12 months	25,767	17,706
More than 12 months	50,280	22,541
Total liabilities	76,047	40,247
8.1B: Administered Aggregate Assets and Liabilities		
	2020 \$'000	2019 \$'000
Assets expected to be recovered in:		
No more than 12 months	6,872	7,228
More than 12 months	-	-
Total assets	6,872	7,228
Liabilities expected to be settled in:		
No more than 12 months	-	-
More than 12 months	-	-
Total liabilities	-	-

## 8.2 Assets Held in Trust

#### 8.2A: Assets Held in Trust

Monetary assets

For the receipt of monies temporarily held in trust or otherwise for the benefit of a person other than the Commonwealth and to repay amounts where an Act or other law requires or permits the repayment of an amount received.

	2020 \$'000	2019 \$'000
Monetary Assets		
As at 1 July	2,905	2,599
Receipts	1,329	723
Payments	(515)	(417)
Total monetary assets held in trust as at 30 June	3,719	2,905

The values above are at fair value.

# 06: Reference materials

Reporting on specific legislation	93
Glossary	94
Abbreviations and acronyms	96
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Contact	106

# Reporting on specific legislation

Legislation	Section
Section 311A Commonwealth Electoral Act 1918	Advertising and market research (page 49)
Section 516A Environment Protection and Biodiversity Conservation Act 1999	Property and environmental management (page 45)
Part II Freedom of Information Act 1982	Freedom of information (page 48)
Schedule 2, Part 4 Work Health and Safety Act 2011	Work health and safety (page 45)
Section 329FC of the Registered Organisations Act	ROC priorities and activities (page 30)

# Glossary

#### Annual performance statement

A requirement under the PGPA Act, the statement provides a line of sight between planned non-financial performance outlined in a corporate plan and actual performance over the reporting period.

#### Appropriation

An amount of public money that parliament authorises for spending on a particular purpose.

#### **APS Employee Census**

An online, confidential and voluntary survey that tracks the views of APS employees about leadership, their workplace and conditions of work. The results are a key source of information for the State of the Service report.

#### AusTender

The Australian Government's web-based procurement system, which provides centralised access to all publicly available approaches to market, multi-use lists, annual procurement plans and reported contracts.

#### Australian Public Service (APS) employee

A person engaged under section 22, or a person who is engaged as an APS employee under section 72, of the Public Service Act 1999.

#### Comcare

An insurer, regulator and scheme manager that supports healthy and safe workplaces, and reduces harm and injury.

#### Common law contract

An individual contract of employment between an employer and an employee that is not lodged or certified under federal or state legislation but is subject to award requirements and provisions.

#### Compliance notice

A notification that legally requires a person to do certain things to fix alleged entitlement-based Fair Work Act breaches. Non-compliance with these notices is actionable in a court and can result in penalties.

#### Compliance partnership

A collaborative relationship between the FWO and businesses that want to publicly demonstrate their commitment to creating compliant and productive workplaces. These are formalised through a Proactive Compliance Deed.

#### Corporate governance

The process by which agencies are directed and controlled. It is generally understood to encompass authority, accountability, stewardship, leadership, direction and control.

#### Corporate plan

A primary strategic planning document that sets out objectives, capabilities and intended results over a four-year period in accordance with stated purposes. The plan should provide a clear line of sight with the relevant annual performance statement, portfolio budget statement and annual report.

#### **Customer Service Charter**

A public statement about the services the FWO will provide, what customers can expect and what they should do if unsatisfied.

#### Early intervention

Tailored assistance that aims to preserve employment relationships by keeping the matter in the hands of the parties. Customers are coached through their options, referred to online resources and supported to have effective workplace conversations.

#### Enforceable undertakings (EUs)

Legally-binding documents that set out a company's written commitment to address workplace contraventions and prevent future breaches.

#### Enterprise agreement

A legally-enforceable agreement made under the Fair Work Act (on or after 1 July 2009) between one or more employers and a group of employees in relation to terms and conditions of employment for those employees.

#### Fair Work Act 2009

The principal Commonwealth law governing Australia's workplace relations system.

#### Fair Work (Registered Organisations) Act 2009

The legislation that covers the registration and accountability of federally registered unions and employer associations.

# Fair Work Amendment (Protecting Vulnerable Workers) Act 2017

This amendment to the Fair Work Act increased penalties for serious contraventions of workplace laws and breaches of record-keeping and pay slip obligations, and changed laws relating to certain franchisors and holding companies. For more information on the changes, visit <a href="https://www.fairwork.gov.au/PVWAct">www.fairwork.gov.au/PVWAct</a>.

#### Find my award tool

An online tool that helps customers determine their award coverage.

#### Freedom of Information Act 1982 (FOI Act)

This legislation gives people the right to request access to government-held information. This includes information they hold about individuals and government policies and decisions.

#### Grant

Commonwealth financial assistance covered by the Commonwealth Grants Rules and Guidelines.

#### Individual flexibility agreement

A written agreement used by an employer and employee to change the effect of certain clauses in their award or registered agreement — making alternative arrangements that better suit the needs of the employer and employee. Other known term: flexibility term.

#### Key performance indicators (KPIs)

Financial and non-financial measures used to help define and evaluate an organisation's success. An indicator is usually selected on the basis of relevance as a measure of some aspect of a specific project or operation.

#### Mediation

A dispute resolution process that focuses on assisting parties to reach a mutual agreement, and to resolve disagreements on their own terms.

#### Memorandum of Understanding

A written agreement between the FWO and another organisation outlining how the collaboration will create and maintain harmonious, productive and cooperative workplaces and promote a level playing field for businesses in specific industries. The formal agreements are publicly available at <a href="https://www.fairwork.gov.au/about-us/our-policies">www.fairwork.gov.au/about-us/our-policies</a>.

#### Migrant Workers' Taskforce

A cross-agency Taskforce that aims to identify further proposals for improvements in law, law enforcement and investigation, and other practical measures to more quickly identify and rectify any cases of migrant worker exploitation.

#### My account

Online self-service gateway where customers set up an account and save tailored information, such as pay rates, access previous searches and submit online enquiries.

#### Online Learning Centre

An online hub offering interactive courses for employers and employees to develop their workplace skills.

#### **Outcomes**

Desired results, impacts or consequences for the Australian public resulting from the Government's actions.

#### Pay and Conditions Tool (PACT)

An online tool that combines a pay, shift, leave and notice and redundancy calculator. It can be accessed on mobile devices and enables calculations to be saved for later reference.

#### Portfolio Budget Statements (PBS)

A budget-related paper detailing initiatives and budget appropriations in terms of planned government outcomes and programs.

#### Program/Programme

Government programmes deliver benefits, services or transfer payments to individuals, industry, business or the community and are the primary vehicles for government agencies to achieve the intended results of their outcome statements.

# Public Governance, Performance and Accountability (PGPA) Act 2013

The primary piece of Commonwealth resource management legislation; replaced the Financial Management and Accountability Act 1997 on 1 July 2014.

#### Public Service Act 1999

The principal Commonwealth law providing for the establishment and management of the APS.

#### Purchaser-provider arrangements

Arrangements under which the outputs of an agency are purchased by another agency to contribute to outcomes. Purchaser–provider arrangements can occur between Commonwealth agencies or between Commonwealth agencies and state/territory government or private sector bodies.

#### Purpose

The objectives, functions or role of the entity or company. In relation to performance management, purposes are the reasons or ideal state or outcomes, for which the entity or company undertakes its activities.

#### Record my hours

An application that is designed to assist employees record their hours of work.

#### Small business

A business that employs fewer than 20 employees.

# Abbreviations and acronyms

ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AEC	Australian Electoral Commission
APS	Australian Public Service
APSC	Australian Public Service Commission
ASIAL	Australian Security Industry Association Limited (ASIAL)
АТО	Australian Taxation Office
AWU	Australian Workers Union
CEGP	Community Engagement Grants Program
CN	Compliance Notice
EL1	Executive Level 1
EL2	Executive Level 2
EU	Enforceable undertaking
Fair Work Act	Fair Work Act 2009
FBT	Fringe benefits tax
FOI	Freedom of Information
FOI Act	Freedom of Information Act 1982
FRAC	Fast food, restaurant and cafe
FWIS	Fair Work Information Statement
FWO	Fair Work Ombudsman
FWOROCE	Fair Work Ombudsman and Registered Organisations Commission Entity
GST	Goods and services tax
IDC	Interdepartmental Committee
IPP	Indigenous Procurement Policy
IPS	Information Publication Scheme
IT	Information technology
KMP	Key Management Personnel
КРІ	Key performance indicator
NSW	New South Wales
NT	Northern Territory
OAIC	Office of the Australian Information Commissioner
ORPs	Officer and related party disclosures
PACT	Pay and Conditions Tool
PBS	Portfolio Budget Statements
PGPA Act	Public Governance, Performance and Accountability Act 2013

PSM	Public Service Medal
QLD	Queensland
ROC	Registered Organisations Commission
SA	South Australia
SES	Senior Executive Service
SME	Small and medium enterprises
Tas.	Tasmania
TURC	Royal Commission into Trade Union Governance and Corruption
UTC	United Trolley Collections
VIC	Victoria
WA	Western Australia

# List of requirements

PGPA Rule	Part of			
reference	report	Description	Requirement	Page/s
17AD(g)	Letter of	transmittal		
17Al		A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory	iii
17AD(h)	Aids to ac	cess		
17AJ(a)		Table of contents.	Mandatory	iv
17AJ(b)		Alphabetical index.	Mandatory	102–105
17AJ(c)		Glossary of abbreviations and acronyms.	Mandatory	94–97
17AJ(d)		List of requirements.	Mandatory	98–101
17AJ(e)		Details of contact officer.	Mandatory	106
17AJ(f)		Entity's website address.	Mandatory	106
17AJ(g)		Electronic address of report.	Mandatory	106
17AD(a)	Review by	accountable authority		
17AD(a)		A review by the accountable authority of the entity.	Mandatory	1
17AD(b)	Overview	of the entity		
17AE(1)(a)(i)		A description of the role and functions of the entity.	Mandatory	4
17AE(1)(a)(ii)		A description of the organisational structure of the entity.	Mandatory	5
17AE(1)(a)(iii)		A description of the outcomes and programmes administered by the entity.	Mandatory	4
17AE(1)(a)(iv)		A description of the purposes of the entity as included in corporate plan.	Mandatory	4
17AE(1)(aa)(i)		Name of the accountable authority or each member of the accountable authority	Mandatory	4
17AE(1)(aa)(ii)		Position title of the accountable authority or each member of the accountable authority	Mandatory	5
17AE(1)(aa)(iii)		Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	5
17AE(1)(b)		An outline of the structure of the portfolio of the entity.	Portfolio departments- mandatory	N/A
17AE(2)		Where the outcomes and programmes administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, mandatory	N/A
17AD(c)	Report on	the performance of the entity		
	Annual pe	erformance statements		
17AD(c)(i); 16F	-	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	11
17AD(c)(ii)	Report on	financial performance		
17AF(1)(a)		A discussion and analysis of the entity's financial performance.	Mandatory	48
17AF(1)(b)		A table summarising the total resources and total payments of the entity.	Mandatory	53
17AF(2)		If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, mandatory	48

PGPA Rule	Part of					
reference		Description	Requirement	Page/s		
17AD(d)	Management and accountability					
	Corporate governance					
17AG(2)(a)		Information on compliance with section 10 (fraud systems)	Mandatory	47		
17AG(2)(b)(i)		A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	iii		
17AG(2)(b)(ii)		A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory	iii		
17AG(2)(b)(iii)		A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	iii		
17AG(2)(c)		An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	45		
17AG(2)(d) – (e)		A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non compliance with Finance law and action taken to remedy non compliance.	If applicable, mandatory	N/A		
	Audit Co	ommittee				
17AG(2A)(a)		A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory	46		
17AG(2A)(b)		The name of each member of the entity's audit committee.	Mandatory	46		
17AG(2A)(c)		The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory	46		
17AG(2A)(d)		Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory	46		
17AG(2A)(e)		The remuneration of each member of the entity's audit committee.	Mandatory	46		
	External	scrutiny				
17AG(3)		Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	47		
17AG(3)(a)		Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, mandatory	48		
17AG(3)(b)		Information on any reports on operations of the entity by the Auditor General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, mandatory	47		
17AG(3)(c)		Information on any capability reviews on the entity that were released during the period.	If applicable, mandatory	N/A		
	Manage	ment of human resources				
17AG(4)(a)		An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	42		
17AG(4)(aa)		Statistics on the entity's employees on an ongoing and non ongoing basis, including the following:  (a) statistics on full time employees; (b) statistics on part time employees; (c) statistics on gender (d) statistics on staff location	Mandatory	41		
17AG(4)(b)		Statistics on the entity's APS employees on an ongoing and non ongoing basis; including the following:	Mandatory	41		
		<ul> <li>statistics on staffing classification level</li> <li>statistics on full time employees</li> <li>statistics on part time employees</li> <li>statistics on gender</li> <li>statistics on staff location</li> <li>statistics on employees who identify as Indigenous.</li> </ul>				
17AG(4)(c)		Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory	43		
17AG(4)(c)(i)		Information on the number of SES and non SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	43		
17AG(4)(c)(ii)		The salary ranges available for APS employees by classification level.	Mandatory	43		
17AG(4)(c)(iii)		A description of non salary benefits provided to employees.	Mandatory	43		

	Part				
PGPA Rule reference	of report	Description	Paguirament	Page/s	
17AG(4)(d)(i)	терит	Information on the number of employees at each classification level who received performance pay.	Requirement  If applicable, mandatory	N/A	
17AG(4)(d)(ii)		Information on aggregate amounts of performance pay at each classification level.	If applicable, mandatory	N/A	
17AG(4)(d)(iii)		Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, mandatory	N/A	
17AG(4)(d)(iv)		Information on aggregate amount of performance payments.	If applicable, mandatory	N/A	
	Assets management				
17AG(5)		An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, mandatory	N/A	
	Purchasi	ng			
17AG(6)		An assessment of entity performance against the Commonwealth Procurement Rules.	Mandatory	48	
	Consulta	ints			
17AG(7)(a)		A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	49	
17AG(7)(b)		A statement that "During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]".	Mandatory	49	
17AG(7)(c)		A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory	49	
17AG(7)(d)		A statement that "Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website."	Mandatory	49	
	Australia	n National Audit Office access clauses			
17AG(8)		If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor General with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, mandatory	N/A	
	Exempt o	contracts			
17AG(9)		If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory	N/A	
	Small bu	siness			
17AG(10)(a)		A statement that "[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website."	Mandatory	48	
17AG(10)(b)		An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	48	
17AG(10)(c)		If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that "[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website."	If applicable, mandatory	48	
	Financia	l statements			
17AD(e)		Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	52	
	Executiv	e Remuneration			
17AD(da)		Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2 3 of the Rule.	Mandatory	44	

PGPA Rule	Part of			
reference	report	Description	Requirement	Page/s
17AD(f)	Other mandatory information			
17AH(1)(a)(i)		If the entity conducted advertising campaigns, a statement that "During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website."	If applicable, mandatory	N/A
17AH(1)(a)(ii)		If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, mandatory	49
17AH(1)(b)		A statement that "Information on grants awarded to [name of entity] during [reporting period] is available at [address of entity's website]."	If applicable, mandatory	49
17AH(1)(c)		Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	43
17AH(1)(d)		Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	48
17AH(1)(e)		Correction of material errors in previous annual report.	If applicable, mandatory	N/A
17AH(2)		Information required by other legislation:	Mandatory	93

- Work health and safety (Schedule 2, Part 4 of the Work Health and Safety Act 2011)
  Advertising and Market Research (section 311A of the Commonwealth Electoral
- Act 1918)

  Ecologically sustainable development and environmental performance (section 516A of the Environment Protection and Biodiversity Conservation Act 1999).

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Special thanks to all FWO and ROC contributors.

**Design** Will Partington

**Photography** Swagger Photography

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