



ASIC
Australian Securities &
Investments Commission

Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament
Question No.	006
Topic	s19 ASIC Act
Reference	Spoken, 11 February 2022, Hansard page 21
Committee member	Mr Julian Hill MP

Question

Mr HILL: I have some questions on section 19 of the ASIC Act, which allows you to compel people to attend interviews. There's a further provision in the act, section 22, which allows ASIC to direct an interviewee not to discuss the questions asked or the answers given with anyone other than their lawyer. Is that a fair summation of those two provisions?

Mr Longo: That sounds fine for now.

Mr HILL: Okay. Could you advise how many section 19 interviews you've conducted each year for the last few years? Is this a regular tool in ASIC's enforcement toolkit?

Mr Longo: I'll hand over to Deputy Chair Court. I don't know whether she has the statistics at her fingertips, but section 19 is certainly a very significant part of ASIC's investigation toolkit.

Ms Court: I can certainly confirm it's a tool that is used very regularly. Warren Day, who's our chief operating officer, has the precise statistics to hand, so I will hand over to him.

Mr Day: Thanks for the question, Mr Hill. In terms of the number of section 19 notices that have been issued each year, for each of the last three years those notices vary between about 22 and 25 per cent of all notices issued. I don't have the exact breakdown, but I can tell you that, in the 2019-20 year, we issued just over 5,000 notices in total, and in the 2020-21 year we issued approximately the same number of notices, so you can see that probably just under 1,000 notices a year might be for attending section 19 examinations.

Mr HILL: So that, in your view, has remained reasonably steady? If you could just take that on notice and give us the breakdown in an answer, that would be great.

Mr Day: Certainly.

Mr HILL: Again, you might need to take some of this on notice: what proportion of those section 19 interviews have wound up in a prosecution, what proportion have wound up in no action and what proportion are still under investigation?

Mr Day: I certainly have confidence in saying I will have to take that on notice.

Mr HILL: Yes, I thought so. Fair enough. Is there any colour and movement in that, Chair, from any of the commissioners?

Mr Longo: We will have to take that on notice. For that kind of data, we'll need to put some work into extracting it from our systems. But there was an aspect of the question which I wouldn't mind clarifying now, with the help of the deputy chair.

Mr HILL: Thanks.

Answer

In the period 2019-20 to 2021-22 (to 31 December 2021), ASIC issued a total of 2,309 notices under s19 ASIC Act, in relation to 294 matters.

As of 22 February 2022, of the 294 matters involving s19 ASIC Act notices:

- 96 (33%) are currently under investigation,
- 16 (5%) have been referred to the CDPP,
- 64 (21%) have commenced civil and/or criminal proceedings,
- 25 (8%) have been completed with an administrative or court outcome, and
- 93 (32%) have ended with no further action.

Table 1: Number of s19 ASIC Act notices issued, by year

	2019-20	2020-21	2021-22 (31 Dec 2021)	Total
Notices issued under s19 ASIC Act	857	974	477	2,309

Table 2: Current status of matters involving s19 notices, by year

	2019-20	2020-21	2021-22 (31 Dec 2021)	Total	% of total
Matters on foot, by status					
Investigation	6	21	69	96	33%
Brief referred to the CDPP	4	9	3	16	5%
Litigation	23	28	13	64	21%
Matters completed, by outcome					
Administrative outcome	6	4	-	10	3%
Court outcome	12	3	-	15	5%
No further action	35	43	15	93	32%
Total matters	86	108	100	294	100%