

FWO Notices

The Fair Work Ombudsman (FWO) can give a person a written notice called a FWO Notice compelling them to provide information to the FWO.

This fact sheet provides helpful information about FWO Notices.

You must comply with a FWO Notice. Failure to comply with a FWO Notice can result in maximum court ordered penalties of up to \$126,000 for individuals and \$630,000 for companies.

A person who intentionally hinders or obstructs the FWO, including officials, when exercising their powers or functions in relation to a FWO Notice can face maximum penalties of \$12,600 for individuals and \$63,000 for companies.

What is a FWO Notice?

A FWO Notice is a written notice issued under the Fair Work Act 2009 during certain investigations and can specify a requirement for a person to:

- give information to the FWO
- produce documents to the FWO
- attend before the FWO at a specific time and place to answer questions relevant to an investigation.

A FWO Notice is not the same as a Notice to Produce documents or records, which can be issued by a Fair Work Inspector under section 712 of the Act. See our [Powers of Fair Work Inspectors fact sheet](#) for more information about Notices to Produce issued by a Fair Work Inspector.

For further information about FWO notices see our [FWO Notices guide](#).

Who can issue a FWO Notice?

The Administrative Appeals Tribunal (AAT) issues a FWO Notice on application by the FWO.

For a FWO Notice to be issued, the AAT must agree with the FWO that there are reasonable grounds to believe that the person receiving the FWO notice can assist the FWO's investigation because they:

- have information or documents
- are capable of giving relevant evidence.

If the AAT issues the FWO Notice, the FWO will give it to the person named in the FWO Notice.

Who can be given a FWO Notice?

A FWO Notice can be given to a person.

A person includes an individual or a company.

Only individuals can attend to answer questions.

What information will a FWO Notice contain?

The FWO Notice will include:

- the time and manner in which information or documents must be provided
- where the FWO Notice requires a person attend to answer questions, the time and place this will occur and who the person will attend before
- information about the investigation the FWO Notice relates to, such as the nature of the suspected contraventions being investigated
- information about rights and obligations under a FWO Notice.

The FWO Notice will be given at least 14 days before the date by which a person must comply with it. If appropriate, this time can be extended by the FWO.

Attending to answer questions

A person required to attend before the FWO:

- may be required to answer questions under oath or affirmation
- can choose to be represented by a lawyer
- will be provided with a transcript of the evidence they give
- can be reimbursed reasonable expenses of attendance (if they apply to the FWO within 3 months and provide satisfactory evidence).

The attendance is not a public hearing and is conducted in private. It is recorded on video and transcribed.

A copy of the recording and transcript is given to the Commonwealth Ombudsman with a report and other

information (including the FWO Notice). The Commonwealth Ombudsman has a review function of how the FWO Notice power is used.

Information provided in response to a FWO Notice

A person is not excused from providing information or documents or answering questions on the grounds that to do so could incriminate the person or expose them to a penalty or other liability. A person who complies with a FWO Notice has additional protections including:

- they can't be subject to any proceedings for breaching another law because they complied with a FWO Notice in good faith
- civil proceedings can't be brought by another person claiming loss, damage or injury due to the person complying with a FWO Notice in good faith
- information provided by a person under a FWO Notice can't be used against that person in any proceedings, except for proceedings relating to the person not complying with the FWO Notice, giving false or misleading information or obstructing a Commonwealth official.

Legal professional privilege continues to apply, meaning a person can claim this privilege over information and documents required by a FWO Notice.

Contact us

Online enquiries: www.fairwork.gov.au/login

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: **13 36 77**. Ask for the Fair Work Infoline **13 13 94**

Speak & Listen: **1300 555 727**. Ask for the Fair Work Infoline **13 13 94**