


Senate Select Committee on COVID-19

Fair Work Ombudsman Submission

June 2020



About the FWO

1. The Fair Work Ombudsman (**FWO**) is an independent statutory agency, responsible for providing education, assistance and advice about Australian workplace laws as set out in the *Fair Work Act 2009* (Cth) (**Fair Work Act**).
2. The FWO works with employees, employers, registered organisations and the community to fulfil its statutory functions, which include:
 - promoting harmonious, productive and cooperative workplace relations;
 - promoting compliance with the Fair Work Act and fair work instruments; and
 - providing education, assistance and advice to employees, employers and other workplace participants.¹
3. This submission is a brief summary of how the FWO is assisting people whose workplaces and businesses have been disrupted by COVID-19.

FWO response to COVID-19

4. The COVID-19 pandemic has impacted workplaces significantly, causing a surge in demand for the FWO's advice about workplace rights and entitlements.
5. Over a two-month period from early March 2020, the average number of calls for assistance to the FWO per day increased by nearly 80%, website sessions increased by 64% and social media enquiries increased by 80%.²
6. In response, the FWO has prioritised the provision of education and advice services to ensure those affected can access information about their workplace entitlements and comply with their obligations.
7. The FWO also has a regulatory function in respect of Part 6-4C of the Fair Work Act which was enacted on 9 April 2020. Part 6-4C has the purpose of assisting employers who qualify for the JobKeeper scheme to deal with the economic impact of COVID-19.
8. The FWO has been working closely with other Commonwealth agencies that have a role in supporting workplaces during the pandemic.

Online services

9. On 4 February 2020, the FWO first published online content relating to coronavirus and Australian workplace laws via a dedicated page on the FWO's fairwork.gov.au website. This information was updated regularly as the situation rapidly developed, and by 25 March 2020 it had been viewed more than three-quarter of a million times.

¹ The functions of the FWO are described in section 682 (1) of the Fair Work Act.

² Period from 10 March to 15 May 2020 compared to the rest of the 2019-20 financial year.

10. On 25 March 2020, the FWO launched a dedicated coronavirus website with information provided in an easy-to-navigate and mobile-friendly format. As at 29 May 2020, the FWO's coronavirus online content has had more than 3.5 million page views.
11. The FWO's coronavirus website, which is continually updated and reviewed, provides the community with the most up-to-date information and advice about their workplace rights and responsibilities. The website includes case studies and practical examples to help users identify and understand the information that is most relevant to their personal circumstances.
12. The online advice covers a range of topics for businesses and employees, including:
 - a. arranging flexible work and alternative work arrangements during coronavirus;
 - b. using paid and unpaid leave;
 - c. standing down employees;
 - d. temporary JobKeeper scheme changes to the Fair Work Act; and
 - e. general health and safety information, with information about how to seek more tailored information.
13. A dedicated webpage includes comprehensive information on Fair Work Commission (FWC) decisions to vary a range of awards, including the FWC determination to vary 99 modern awards to temporarily provide access to two weeks unpaid 'pandemic leave' and enable annual leave to be taken at half pay.

Coronavirus Hotline

14. Although the FWO's coronavirus website continues to be expanded with a range of practical examples and clear, easy to navigate information, the FWO acknowledges that many employees and employers will have questions that require a more tailored response. That may be because they are seeking information about the provisions of a particular industrial instrument specific to their circumstances, or because they would benefit from some extra assistance understanding their rights and obligations during what is a very challenging period.
15. Accordingly, on 10 March 2020, the FWO established a coronavirus call centre hotline to provide priority assistance to callers with a COVID-19 related enquiry. The establishment of this dedicated service coincided with an unprecedented increase in demand for information.
16. Minimal waiting times for hotline callers have been facilitated by redeploying existing FWO staff with previous experience as Fair Work call centre advisors to assist with meeting demand. Additional staff have been temporarily engaged, including staff who have transferred from the Australian Building and Construction Commission to assist the FWO to manage caller volumes.
17. As of 29 May 2020, the FWO has received more than 57,000 enquiries related to COVID-19 or the JobKeeper scheme, including via the coronavirus hotline.

Social media channels

18. The FWO is using its social media channels (Facebook, LinkedIn and Twitter) to promote and provide easy access to COVID-19 information and resources available via the FWO's coronavirus website and hotline. As well as promoting information and resources, the FWO social media accounts also provide a customer-service channel for people to engage with the FWO.
19. Engagement through enquiries via the agency's social media channel has increased substantially during the COVID-19 period, peaking in April 2020 with an increase of 92% compared to April the previous year. Over the three-month period from February to April 2020, the FWO has responded to more than 1100 social media enquiries.

Requests for assistance

20. Recognising that one of the primary objectives of the JobKeeper scheme is to maintain employment relationships, the FWO has been encouraging employees and employers to work together wherever possible to find the most beneficial and workable solutions that suit their individual workplaces and circumstances.
21. In most circumstances, this approach has been successful, with the overwhelming majority of enquiries to the FWO resolved through the provision of information and advice.
22. Nevertheless, the FWO is vigilant for signs of deliberately unlawful or exploitative behaviour, and will take assertive steps to address any such behaviour where it is detected, in accordance with the FWO's publicly available Compliance and Enforcement Policy and utilising its expanded regulatory powers under Part 6-4C of the Fair Work Act.
23. As at 29 May 2020, the FWO has received 278 requests for assistance relating to JobKeeper that have been, or are being investigated since commencement of the JobKeeper scheme. Of those, 97 have been resolved.
24. The FWO welcomes the introduction of the *Treasury Laws Amendment (2020 Measures No. 2) Bill 2020*, which would enhance the ability of the Australian Taxation Office (ATO) to share information with the FWO where it relates to the JobKeeper scheme and will assist the FWO with compliance efforts.

Additional funding to respond to COVID-19

25. The FWO has been allocated an additional \$46.3 million over 3 years to enable the FWO to meet the high levels of demand for guidance and information in the context of COVID-19 by:
 - enhancing the FWO's existing advice services through new call centre staff;
 - delivering a public communications advertising campaign;
 - engaging a panel of law firms to provide tailored legal advice to workplace parties affected by COVID-19 on workplace laws, via a referral from the FWO;
 - funding peak employee and employer groups to supplement existing industrial relations advice services provided by these peak groups to meet the increased demand for advice; and

- engaging additional staff to manage the above activities.

Engagement with community and government

26. The FWO is using its social media and email update subscription service channels to publicise resources and updates. In late April 2020, the FWO wrote to key stakeholders, intermediaries and contacts to promote these channels and the assistance available through the coronavirus website and hotline, including in relation to the JobKeeper scheme.
27. The FWO has also been working closely with key government and community stakeholders. To further understand the impacts on the community and seek feedback on our tools and resources, the FWO has met with a number of peak organisations including the Council of Small Businesses of Australia, the Australian Council of Trade Unions, the Australian Industry Group, the Business Council of Australia and the Australian Chamber of Commerce and Industry.
28. The FWO is working closely with the Attorney-General's Department, the Treasury, the FWC and the ATO on key aspects of the program including ensuring that consistent information is provided to employers, employees and the community on rights and obligations under the JobKeeper scheme and that respective roles of each agency are clear.

Staff Support

29. Throughout the COVID-19 outbreak, the safety and wellbeing of FWO staff has been of the utmost importance. In addition to providing regular updates about the impact of COVID-19 and support available to staff, IT system capacity has been significantly increased in order to enable as many staff as possible to work from home. Social distancing measures are in place for those staff continuing to work in offices, which have been closed to the public since 18 March 2020.

Ongoing response

30. The FWO expects that the relatively high demand for its services will continue, especially as businesses are now adapting to relaxed social restrictions and distancing rules. The FWO is committed to helping businesses and workers through this transition and beyond.
31. As the situation continues to evolve, the FWO will provide ongoing advice, support and assistance to meet the needs of workplace participants and the Australian community more broadly.