

FAIR WORK OMBUDSMAN

STATEMENT OF EXPECTATIONS — 2023

Ministerial Statements of Expectations provide greater clarity about government policies and objectives relevant to the regulator in carrying out its statutory functions. As the Australian Government Minister responsible for Employment and Workplace Relations, my responsibilities include administration of the *Fair Work Act 2009* (the Act). This statement sets out my expectations of the Fair Work Ombudsman and her office, the Office of the Fair Work Ombudsman.

Overview

The Fair Work Ombudsman is an independent statutory office holder established by the Act. Under the Act, the Fair Work Ombudsman's functions are to:

1. promote harmonious, productive and cooperative workplace relations, and compliance with the Act and fair work instruments, including by providing education, assistance and advice to employees, employers and outworkers and producing best practice guides to workplace relations or workplace practices, and have regard to the need for community outreach and guidelines and for other materials to be available in multiple languages
2. monitor compliance with the Act and fair work instruments
3. inquire into, and investigate, any act or practice that may be contrary to the Act, a fair work instrument or a safety net contractual entitlement
4. commence proceedings in a court, or make applications to the Fair Work Commission, to enforce the Act, fair work instruments and safety net contractual entitlements
5. refer matters to relevant authorities
6. represent employees or outworkers who are, or may become, a party to court proceedings or to a Fair Work Commission matter under the Act or a fair work instrument, if it considers that the representation will promote compliance with the Act or the fair work instrument
7. perform any other functions conferred by any Act.

The Government recognises and respects the independence of the Fair Work Ombudsman and her responsibility for regulation of the national workplace relations system. I expect the Fair Work Ombudsman and her office to exercise their functions and powers in good faith and to the best of their ability.

Noting the progress of the Government's workplace reform agenda, I expect the Office of the Fair Work Ombudsman to be agile and to adapt to legislative change, working with stakeholders to implement these reforms and to support tripartism in Australian workplace relations.

Principles of regulator best practice

I expect the Office of the Fair Work Ombudsman to embed and act in accordance with the Government's principles of regulator best practice when conducting its operations, contained in the Department of Finance's *Regulator Performance Resource Management Guide 128*, as well as to strive for continuous improvement against these principles.

In exercising its functions and powers in accordance with these principles, I further expect the Office of the Fair Work Ombudsman to reflect the following priorities:

1. Continuous improvement and building trust

- support trust and tripartism through constructive dialogue, and ongoing support for stakeholders including industry, government and workers and their representatives, to ensure continuous improvement and best practice
- be transparent and accountable in performing its statutory functions, including through the publication of key compliance outcomes, a Corporate Plan, Compliance and Enforcement Policy, annual Regulatory Priorities and other guidelines
- foster a culture of continuous improvement and innovation, including by regularly reviewing its compliance and enforcement approach, operating procedures and Corporate Plan to ensure it best supports the needs of the Australian community, and investing in staff, including by actively building staff capability and knowledge
- provide clear, concise, relevant and accessible information, resources and advice on workplace obligations and rights, including to encourage voluntary compliance
- share insights through the regulator cohort, including reflecting on best practice and lessons learned, including failures
- provide support to stakeholders so they can promote and foster a culture of compliance in Australian workplaces
- consider and carefully adopt to the extent possible, recommendations accepted by Government relating to the Agency's operation and remit.

2. Risk-based and data-driven

- take a risk-based and data-driven approach to compliance and enforcement activities, centred on the establishment and maintenance of well-defined and clearly communicated Regulatory Priorities, and a clearly articulated approach to risk and how this informs decision making.

3. Collaboration and engagement

- open, transparent and consistent engagement with stakeholders, including industry, government and the broader community is crucial to build tripartism, and to maintain competent and innovative regulatory practices. Consequently, I expect the Office of the Fair Work Ombudsman to:
 - seek opportunities to engage and consult genuinely with stakeholders
 - be receptive to feedback and diverse stakeholder views
 - provide support to stakeholders so that you can promote and foster a culture of compliance in Australian workplaces
 - seek to increase transparency in decision-making processes
 - provide up-to-date, clear and accessible guidance and information to assist regulated entities with compliance
 - work together with the Fair Work Commission to deliver a more integrated service to users in areas of joint responsibility and in public outreach
 - work collaboratively with other Australian Government agencies to share information where appropriate, ideas and deliver initiatives and programs
 - work with stakeholders to promote harmonious, productive and cooperative workplace relations and compliance with the Fair Work Act and fair work instruments
 - identify opportunities for further collaboration with international counterparts, including through the Trans-Tasman Employment Regulators Forum.

Innovation and regulatory change

As a modern regulator, I expect the Office of the Fair Work Ombudsman to continually monitor the environment it operates in to ensure that regulatory approaches keep pace with changes in technology, industry practices and community expectations. I also expect it to regularly review and, where necessary, adjust policies, protocols and operating procedures, to ensure it can respond to the changing social, technological and commercial context in which it operates. I expect the Agency to make appropriate use of the full range of its enforcement powers and tools, while also seeking to resolve workplace issues using voluntary means where it is appropriate to do so.

The Government's policy priorities and objectives

The Government has worked to close the gender pay gap, deal with job insecurity and close loopholes to strengthen the workplace relations framework. The Office of the Fair Work Ombudsman, as the national workplace relations regulator, has an integral role in achieving these goals through both education and advice, and compliance and enforcement functions. Recognising recent reforms to the Fair Work Act 2009, I expect the Agency to:

- support workplace participants to understand and comply with changes to workplace rights and obligations
- work to build tripartism with industry, government and workers, in order to foster social and economic progress, and
- continue to educate and assist vulnerable workers, including workers with disability, noting relevant recommendations of the *Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*.

I expect the Office of the Fair Work Ombudsman to contribute to the Government's workplace relations objectives by:

- working with the Department of Employment and Workplace Relations (the department) to participate in a tripartite approach to developing workplace relations policy, upholding the Government's commitment to relevant International Labour Organization Conventions, including the Tripartite Consultation (International Labour Standards) Convention (No. 144)
- applying the *Regulator Performance Resource Management Guide 128* to her regulatory functions to assess performance and engagement with stakeholders
- incorporating regulator performance reporting into the entity's reporting processes as required under the *Public Governance, Performance and Accountability Act 2013* and *Public Governance, Performance and Accountability Rule 2014*, in order to support greater transparency and accountability of regulator performance.

Relationship with Minister and portfolio

The Office of the Fair Work Ombudsman plays an essential role in ensuring that the Government and I, as the Minister for Employment and Workplace Relations, are well placed to respond promptly to issues related to the national workplace relations system. The department also supports and advises me by providing advice on policy development and the performance of the portfolio's regulatory systems. The department takes into account the knowledge and expertise of the Office of the Fair Work Ombudsman when considering changes to policy and legislation that impact on the national workplace relations system.

Accordingly, I expect the Office of the Fair Work Ombudsman to work collaboratively with the department on significant issues relating to strengthening compliance with national workplace relations law.

As the responsible Minister, I will provide an enabling environment for the Office of the Fair Work Ombudsman to consistently implement best practice by ensuring you are well informed of the Government's policy direction, as specific initiatives and strategies are being considered.

October 2023