

## Fair Work Ombudsman Statement of Intent

As Fair Work Ombudsman, this statement sets out my intentions regarding how the Office of the Fair Work Ombudsman (my **Office**) will meet the expectations outlined in the *Fair Work Act 2009* (Cth) (the **Act**) and the Ministerial Statement of Expectations dated 24 October 2023, issued to me by the Hon Tony Burke MP, as the Minister responsible for Employment and Workplace Relations. The approaches set out in this Statement of Intent will underpin the activities that will be embedded in the performance and planning processes of my Office, to meet its objectives.

### Overview

I acknowledge the importance of the role of the Fair Work Ombudsman as the independent national workplace relations regulator and I am committed to achieving its purpose to promote harmonious, productive, cooperative, and compliant workplace relations in Australia. As an independent statutory appointment, the functions of the Fair Work Ombudsman are set out in s682 of the Act.

I acknowledge and welcome the expectations outlined in the Minister's Statement that my Office and I:

- Embed and act on the Government's principles of regulator best practice, including:
  - prioritising continuous improvement and building trust
  - taking a risk-based and data-driven approach, and
  - embracing tripartism, collaboration and engagement in our operations and delivery of our purpose.
- Keep pace with innovation and regulatory change and respond to changing contexts.
- Support the Government's policy priorities and objectives through our education and advice, and compliance and enforcement functions, and work collaboratively with the Minister and the portfolio, including the Department of Employment and Workplace Relations (the **Department**).

As an independent statutory office holder under the Act, I will exercise my functions and powers, and deliver on these expectations, in good faith and to the best of my ability. I will lead my Office to exercise these functions in good faith and to be agile and responsive to legislative change. My Office will work collaboratively with stakeholders to implement reforms and support tripartism in Australia's workplace relations system.

Productive and cooperative workplace relations are key to the Act's overarching objects of enhancing economic prosperity and social inclusion in Australia. Cooperation in the workplace has been shown to

provide mutually reinforcing benefits for both businesses and workers through higher levels of economic output, better wages and conditions and increased trust and retention. Collaborative workplace relations, which harness and embrace workers' voices, can better identify and resolve workplace issues, and promote positive change. My Office can play an important role in highlighting the benefits that can flow to the broader community from these approaches and helping workplaces collaborate effectively.

Every part of the workplace relations ecosystem has an important role to play in creating a culture of compliance that fosters productive and inclusive workplaces that maintain workplace standards for Australian workers and a level playing field for compliant employers<sup>1</sup>. My Office and I intend to lead by example.

Engagement and collaboration with the workplace community is critical to enabling effective regulation, promoting confidence in the regulator and supporting us to exercise our statutory mandate. We welcome input from our stakeholders to support us in this mission, and vice versa. Collaboration can help us operate more effectively and efficiently, and exercise our functions impartially and transparently, by engaging with the workplace community about the issues that affect them. As we embed a more collaborative approach into our work, we are committed to acting in accordance with International Labour Organisation Conventions ratified by Australia. This includes the [Labour Inspection Convention, 1947](#), which enshrines the impartiality of labour inspectors, while ensuring regulators make appropriate arrangements to promote effective co-operation across government, and collaboration with employers, workers, and their representative organisations.

I have consulted with my staff, key stakeholders and the Department about how the Agency can best respond to the Minister's Statement of Expectations, particularly regarding opportunities to harness constructive dialogue and tripartism to achieve our statutory mandate, and apply the principles of best practice regulation outlined in the Minister's Statement of Expectations.

There was consensus on the benefits of establishing a standing tripartite advisory group of peak employer organisations and worker representatives to provide my Office with advice and information relevant to our work assisting the regulated community, with equal representation from worker and business organisations. The organisations that I intend to invite to become standing members of this group are key

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<sup>1</sup> As outlined in the [Jobs and Skills Summit September 2022 - Outcomes](#), key stakeholders including business groups, unions and Government all agreed on the need to proactively work together to strengthen tripartism and constructive dialogue in Australian workplace relations to promote safe and secure jobs, and fair and productive workplaces. See page 6 for further details.

workplace relations institutions and represent the broad interests of both workers and businesses. They are the:

- Australian Council of Trade Unions
- Australian Chamber of Commerce and Industry
- Australian Industry Group
- Business Council of Australia
- Council of Small Business Organisations of Australia

Stakeholders were also supportive of the establishment of sector reference groups focused on our regulatory priorities, including to support co-design work in our priority sectors. My Office will work with sector-specific stakeholders to design and establish these groups.

The standing tripartite advisory group and the sector reference groups will help my Office explore two key themes that were part of consultation: collaborative education and collaborative compliance.

These new advisory groups will complement our existing and ongoing stakeholder and community engagement activities. Importantly, we will continue to work closely with a wide range of stakeholders, including community groups who represent a diverse range of workers and employers, to ensure that our work continues to reflect the broad views and expectations the workplace community has of a modern regulator. The valuable feedback and insights provided by these existing networks will continue to inform the work of the Agency.

The guiding principles set out in this statement and consultation with stakeholders as well as my Office, will inform further proposals for collaborative activities. I will also have close regard to the principles in the Minister's Statement of Expectations, will embed and act in accordance with the Government's principles of regulator best practice as outlined in the [Regulator Performance Resource Management Guide 128](#) when conducting our operations, and will strive for continuous improvement against these principles.

### **1. Continuous improvement and building trust**

My Office and I will:

- Continuously improve our education and regulatory functions by adopting a culture of innovation that promotes consultation with workplace participants and recognises this as central to building trust and promoting productive, harmonious, and compliant workplaces.

- Embrace continuous learning and the development of best practice approaches to workplace relations by routinely reviewing our operating procedures, including our approach to compliance and enforcement, and the effectiveness of the education and advice we provide workplace participants.
- Consider reports and recommendations directly relevant to the Agency and, where appropriate, carefully implement those that assist in enhancing the delivery of the Agency's statutory functions.
- Build trust and confidence by acting with transparency and accountability, including by continuing to publish Regulatory Priorities, a Compliance and Enforcement policy, a Corporate Plan, key enforcement outcomes and other relevant guidelines, and by consulting with relevant parties on matters of importance to workplace participants.
- Ensure that advice and assistance provided to workplace participants is clear, accessible, and practicable, and highlights the benefits of voluntary compliance with workplace laws.

## **2. *Risk-based and data-driven***

My Office and I will:

- Proactively outline our approach to risk and decision-making, including through our Risk Management Framework and our annual Corporate Plan, and through our Regulatory Priorities.
- Continue to refine our risk-based and data-driven strategic approach to compliance and enforcement activities by using anonymous reports, stakeholder feedback, intelligence, and research and analysis of key issues and trends affecting Australian workplaces.
- Utilise data and evidence to drive effective education and regulation and ensure that an appropriate appetite for risk is adopted in undertaking these functions.
- Seek feedback regularly and be responsive to customer feedback and complaints, including by using this information to inform improvements.
- Promote data-driven strategic compliance approaches in the workplace relations community, including through our international engagement activities, in order to advance best practice approaches to regulation across jurisdictions.

## **3. *Collaboration and engagement***

My Office and I recognise genuine consultation and collaboration as essential to the development and maintenance of competent and innovative regulatory practices, building tripartism, the development of

a culture of compliance, and the promotion of economic prosperity and social inclusion in Australian workplaces. To reflect this, we intend to work collaboratively with relevant stakeholders to:

- Identify opportunities for operational collaboration to educate workplace participants on workplace laws and promote multi-stakeholder mechanisms that support compliance, such as the Cleaning Accountability Framework.
- Enhance intelligence gathering and ensure there are pathways for appropriate information to be shared between the Agency and the workplace community (and others).
- Consult regularly on technical advice and listen to our stakeholders' views and learn from their experience. My Office will develop its own independent and impartial view about the application of the Act, awards and other workplace instruments, but in so doing will have regard to the experience and views of the relevant stakeholders.
- Promote workplace level mechanisms that encourage respectful dialogue and behaviour between all workplace parties and representatives.
- Leverage preventative measures including collective approaches to monitoring compliance that promote worker voices and elevate discussions of compliance, the Fair Work Commission's Collaborative Approaches program and early dispute resolution processes.

More broadly, my Office and I will:

- Promote and foster a culture of compliance across the workplace relations landscape by engaging in collaboration with all workplace participants and stakeholders.
- Continue to encourage stakeholders, including employee and employer organisations, to engage in the promotion of harmonious, productive and compliant workplaces.
- Promote open, transparent and consistent engagement by proactively seeking opportunities to engage with stakeholders, including in the development of education and in relation to our approach to compliance, and by being receptive to feedback, ideas and diverse stakeholder experience and views.
- Continue to examine new ways in which information, insights and learnings can be shared to promote best practice.
- Embed collaborative work practices and consultation in the performance of our core services and acknowledge that engagement with a broad range of stakeholders is integral to discharging our functions and purpose effectively.

In particular, we will work proactively and collaboratively with the Fair Work Commission and Australian Human Rights Commission to support integrated and unified approaches and pathways to assist the regulated community understand their rights and obligations and to raise and resolve workplace issues.

### **Innovation and regulatory change**

In accordance with the Statement of Expectations, I intend to ensure our regulatory approach keeps pace with technology, industry practices and community expectations.

My Office and I will proactively monitor the regulatory environment we operate in to identify opportunities to refine and enhance our operating policies and procedures. This will include routinely reviewing the effectiveness of our educational services and our use of compliance tools. We will be cognisant of and adaptive to the whole-of-Government technology and cyber security priorities and associated or potential impacts on our business and service delivery, and responsive to the changing needs and expectations of the Australian public.

### **The Government's policy priorities and objectives**

I recognise the important role my Office plays in assisting the Government to implement its workplace relations reform agenda and broader policy objectives, through our education and advice, and compliance and enforcement functions.

In particular, my Office and I will:

- Provide education and advice to support workplace participants to understand changes to their workplace rights and obligations arising from reforms to the Act and assist them to achieve compliance.
- Work closely with the workplace relations community, industry, government, and workers to build tripartism and consultative approaches and foster social and economic progress.
- Prioritise and support vulnerable workers, including workers with disability, and support implementation of relevant recommendations from the *Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*.
- Work closely with the Department to participate in a tripartite approach that leverages the Agency's regulator experience to inform the development and evolution of workplace relations policy and promote compliance with International Labor Organisation Conventions ratified by Australia.

### **Relationship with Minister and portfolio**

My Office and I will work closely and collaboratively with the Department. Through this relationship we intend to ensure that Government and the Department can leverage the expertise and knowledge of my Office to inform policies and initiatives that fulfil the objectives of Australia's workplace relations system as set out in the Act.

We will undertake to provide accurate and timely information on issues related to the performance of our statutory functions under the Act, so the Minister and Department are well placed to respond to any issues of importance related to the federal workplace relations system.

### **Transparency and implementation**

This statement is underpinned by feedback from staff across my Office. Development of this statement was an important opportunity to consult my staff on the principles that guide their work. The constructive and insightful feedback provided by my staff demonstrates the Agency's capability to support the development, implementation and adoption of initiatives consistent with the principles outlined above.

A strengthened focus on internal consultation through existing groups like the Agency Consultative Forum and enhanced engagement with workplace delegates will help to embed new initiatives within the Agency's work. The key strategic planning activities of my office such as branch-level business planning and the agency's Corporate Plan will be informed by and be consistent with this Statement of Intent.

More broadly, my Office and I continue to focus on achieving equitable and fair outcomes for all workplace participants. Activities across the Agency to support these outcomes will be informed by stakeholder feedback, with results evaluated and key learnings incorporated into future activities.

In line with a best practice approach to transparency and accountability, we will publish both the Minister's Statement of Expectations and this Statement of Intent on our website.

These statements, combined with a demonstration of how we have adopted the principles of regulator best practice, will be integrated into our future performance reporting processes as required under the *Public Governance, Performance and Accountability Act 2013* and *Public Governance, Performance and Accountability Rule 2014*.

15 December 2023