



Fair Work
OMBUDSMAN

Post-election briefing

May 2025

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P: s22 irrelevant information E: s22 irrelevant information

The Hon Amanda Rishworth MP
Minister for Employment and Workplace Relations
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Dear Minister

Congratulations on your recent appointment as Minister for Employment and Workplace Relations.

Please find enclosed an outline of the Fair Work Ombudsman's (FWO) current operations, resourcing and priorities.

This outline will introduce you to our new operating model that aims to achieve our vision of 'Working for Fairer Workplaces'. This vision calls on workplaces to uphold standards so that workers receive the wages and conditions they are entitled to, and employers operate on a level playing field. This is central to a well-functioning economy and society. Our operating model depends upon partnering with workplace participants – workers, unions, employers, and employer organisations – and working closely with other regulators. Our outline describes how we are setting out to do this.

In addition, included below is the FWO's Quarterly Report for January to March 2025, which provides updates on the agency's key regulatory activities and engagements over the last quarter. Subject to your availability, the delivery of our Quarterly Report could provide the basis for recurring quarterly or regular meetings between the FWO and you and your staff.

If you have any enquiries about this information or anything else related to the FWO, please don't hesitate to contact me directly on s22 irrelevant information or via my office on s22 irrelevant information, or at s22 irrelevant information.

I am looking forward to working with you and your office.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "Anna Booth".

Anna Booth

Fair Work Ombudsman

22 May 2025

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Overview of the FWO

Purpose, functions and engagement with your office

1. The Fair Work Ombudsman (FWO) is a statutory office established on 1 July 2009 under the *Fair Work Act 2009* (Cth) (Fair Work Act) to promote **harmonious, productive, cooperative workplace relations and ensure compliant workplaces in Australia**. As one of the statutory bodies established under the Fair Work Act, the FWO supports the object of the Fair Work Act, including promoting **fairness, national economic prosperity, and social inclusion**.
2. The FWO is the independent regulator for Australia's national workplace relations system. Our statutory functions, set out in section 682 of the Fair Work Act, include:
 - **promoting and monitoring compliance** with Australian workplace laws,
 - **providing education, assistance and advice** to employers, employees, regulated workers, regulated businesses and other persons in a road transport contractual chain, outworkers, outworker entities and organisations,
 - **inquiring into and investigating breaches** of the Fair Work Act or a fair work instrument,
 - **taking appropriate enforcement action**, including by commencing court proceedings, and
 - performing our statutory functions **efficiently, effectively, economically and ethically**.
3. Our regulated community is made up of approximately **14.4 million workers and one million employers**. We encounter and respond to a broad spectrum of workplace relations issues across a variety of workplaces. In 2023-24, the FWO recovered **over \$473 million** in unpaid wages for **nearly 160,000 workers**, resolved **17,504 workplace disputes**, and amassed **28.9 million visits** to our website, [fairwork.gov.au](https://www.fairwork.gov.au).¹
4. **Anna Booth** was appointed as the Fair Work Ombudsman on 1 September 2023 for a five-year term, pursuant to section 681 of the Fair Work Act. She is supported by a senior leadership team and the staff of the Office of the Fair Work Ombudsman, including Fair Work Inspectors appointed under section 700 of the Fair Work Act. Biographies and contact details for Anna and the FWO's senior leadership are at **Appendix A**, and the FWO's organisation chart is at **Appendix B**.
5. Contact details for principal day-to-day support for your office are:
 - Rachel Volzke, Chief Counsel / Group Manager – Legal and Policy: s22 irrelevant information or s22 irrelevant information
 - Anthony Fogarty, Executive Director – Policy: s22 irrelevant information or s22 irrelevant information
 - Chris Crisafi, Director - Workplace Relations Policy: s22 irrelevant information or s22 irrelevant information
6. Rachel, Anthony and Chris lead the FWO's engagement with your office and department on a range of operational and policy matters. This includes providing insights into the FWO's work to

¹ www.fairwork.gov.au/sites/default/files/2024-10/office-of-the-fair-work-ombudsman-annual-report-2023-24.pdf

assist your office and the Department of Employment and Workplace Relations (DEWR) to develop workplace relations policy, legislation and budget measures, or respond to emerging workplace relations issues.

7. The FWO will provide your office with a **Quarterly Report** on our activities and developments within the regulatory environment. The Quarterly Report: January-March 2025, is provided at **Appendix C**. If you and your office are amenable, our Quarterly Reports could be used as a basis for **recurring quarterly or regular meetings** between you, your office and the FWO.
8. We also have a dedicated inbox **s47E(d) Certain Operations of Agencies** for constituent enquiries about workplace relations issues or concerns. Your staff are welcome to promote the use of this channel amongst the staff of other federal and state members of parliament.
9. The FWO has **22 offices across Australia**, in all capital cities and multiple regional centres. As at 1 May 2025, the FWO had a headcount of **1018 staff, including 221 Fair Work Inspectors** (in addition to the agency head), working across these locations. All non-senior executive FWO employees are covered by the FWO Enterprise Agreement 2024-2027 and related policies and procedures.
10. The FWO's appropriation for 2025-26 is **\$181.916 million of operating funding and \$7.194 million of capital funding**, with a budgeted **Average Staffing Level (ASL) of 996.5**.
11. During the last term of government, the FWO received specific funding related to the newly commenced criminal jurisdiction, enforcing compliance with the Fair Work Act across the entire construction industry, large corporate underpayments, the Employer Advisory Service, helping small business to understand the right to disconnect and to implement paid family and domestic violence leave, the Pacific Australia Labour Mobility scheme, and the prohibition against workplace sexual harassment.

Strategic direction

12. Our **2024-25 Corporate Plan** sets out the FWO's vision of '**Working for Fairer Workplaces**'. Our vision calls on workplaces to uphold standards so that workers receive their lawful entitlements and employers operate on a level playing field, and envisages a positive culture for all workplaces, where the rights of all are respected and their voices heard.
13. Our Corporate Plan sets out **6 strategic objectives**, developed to guide the FWO's work:²
 - Employers and workers know about the FWO and what we do
 - Employers and workers understand their workplace rights and obligations
 - Disputes about compliance with workplace laws are resolved by dispute resolution and the use of enforcement tools
 - Non-compliance is deterred through strategic compliance and enforcement activities
 - Serious and systemic non-compliance is detected and addressed
 - Our systems, capabilities, and ways of working support our people to deliver our objectives

² www.fairwork.gov.au/sites/default/files/2024-08/office-of-the-fair-work-ombudsman-2024-25-corporate-plan.pdf

14. The FWO is currently in the process of developing our 2025-26 Corporate Plan for delivery in the next financial year, which will include key activities and agency performance data to measure our success against each strategic objective.

Case study: working parents strategic communications campaign

In April and May 2024, the FWO ran a strategic communications campaign to raise awareness of legislative changes to **parental leave and flexible work entitlements** (flowing from Protecting Worker Entitlements and Secure Jobs, Better Pay amendments to the Fair Work Act) and to promote the FWO's online information and resources.

The primary audience for the campaign was working parents and parents-to-be, to help them plan parental leave and increase awareness of their workplace entitlements. The FWO strategically targeted this audience through media engagements, digital advertising across the FWO's social media, messaging on nearly 3,000 digital screens and panels in healthcare environments, and stakeholder engagement with a range of government, community, and healthcare organisations.

The campaign reached at least 1.5 million people and generated over 11 million impressions, more than 157,000 clicks through to our website, and a 97.6% increase in visitors to online information for parents and families.

Tripartism and collaboration

15. Investing in **building tripartism and collaboration within the workplace relations system** is essential to achieving the FWO's vision and fostering a culture of compliance across Australian workplaces. This is a common thread which runs through our Compliance and Enforcement Policy, 2024-25 Corporate Plan, and our current Regulator Statement of Intent.³
16. Over the last 18 months, to enhance our practice of genuine consultation and collaboration, the FWO has set up regular tripartite engagement with key employer and union stakeholders through our **Advisory Group** and **sector reference groups** for each of the agency's priority areas. Through these mechanisms, outlined at **Figure 1**, the FWO can leverage the expertise of a wide range of stakeholders and expand our regulatory reach.

Figure 1: FWO tripartite mechanisms and meetings (at 1 May 2025)



³ <https://www.fairwork.gov.au/sites/default/files/2025-01/fwo-regulator-statement-of-intent-2025.pdf>

17. The **Advisory Group** comprises of FWO senior executive staff and representation from equal numbers of employer organisations and worker representatives. The Advisory Group meets approximately quarterly, working together on **embedding a culture of workplace compliance across Australia**, overseeing progress in the FWO's priority areas, and contributing to aspects of the FWO's corporate planning. Membership of the Advisory Group is at **Table 1**.

Table 1: Advisory Group members	
Office of the Fair Work Ombudsman (FWO)	Anna Booth, Fair Work Ombudsman (Chair) FWO Senior Executive Staff
Australian Chamber of Commerce and Industry (ACCI)	Andrew McKellar, Chief Executive Ashlea Cameron, Associate Director
Australian Industry Group (Ai Group)	Innes Willox, Chief Executive Officer Brent Ferguson, Head of National Workplace Relations Policy
Business Council of Australia (BCA)	Bran Black, Chief Executive Kat Eather, General Counsel
Council of Small Business Organisations of Australian (COSBOA)	Luke Achterstraat, Chief Executive Officer Matthew Addison, Chair Mike Sommerton, Industrial Relations Specialist
Australian Council of Trade Unions (ACTU)	Sally McManus, Secretary Yvette Nash, Executive Officer Affiliate representatives: Paul Farrow, National Secretary (AWU) / Chris Donovan, Assistant National Secretary (AWU) Gerard Dwyer, National Secretary (SDA) / Robert Tonkli, Chief of Staff (SDA) Tim Kennedy, National Secretary (UWU) Madeleine Johnston, National Industrial Officer (AMWU) Emeline Gaske, National Secretary (ASU)

18. Our **sector reference groups** are similarly comprised of employer and worker industry experts and representatives, who help the FWO to identify and understand unique issues within each priority area and **develop strategic approaches to respond to systemic non-compliance**.
19. In the spirit of tripartism and collaborative compliance, stakeholders on the Advisory Group and the sector reference groups provide **support for, and commitment to, the FWO's projects and activity planning and provide feedback on key strategic documents**. For example, the Advisory Group was consulted on the FWO's updated Compliance and Enforcement Policy, and the development of the Voluntary Small Business Wage Compliance Code and associated guidance material.

Case study: Higher Education Reference Group

The FWO established the **Higher Education Reference Group** at the beginning of 2024, comprising the **National Tertiary Education Union (NTEU)**, the **Australian Higher Education Industrial Association (AHEIA)** and senior officials from the FWO. The Higher Education Reference Group meets quarterly, providing a forum to share information, develop industry-specific resources, and to collaborate on the FWO's University Strategy to tackle systemic non-compliance in the sector.

As at 1 May 2025, the FWO had entered into **enforceable undertakings** with **6 Australian universities** and has leveraged these to formally embed workforce consultation within university

structures, promoting workers voices in the sector (see Table 2 under 'Compliance and enforcement' for more information on enforceable undertakings). In consultation with the Higher Education Reference Group, the FWO will continue to pursue cultural change in universities as a priority.

20. The FWO has established a **network of strategic relationships** with agencies across federal, state and territory governments which support the effectiveness of our operations. We are an active participant on **more than 40 cross-government forums, inter-departmental committees and international fora**, including the:
- Regulators Leadership Cohort, led by the Department of Finance
 - Construction, Forestry and Maritime Employees Union (CFMEU) Joint Agency Working Group, led by the Australian Federal Police (AFP)
 - Digital Platform Regulators Forum, led by the National Disability Insurance Scheme Quality and Safeguards Commission (NDISQSC)
 - Phoenix Taskforce, led by the Australian Taxation Office (ATO)
 - Respect@Work Council, led by the Australian Human Rights Commission (AHRC).
21. We **regularly engage with regulators in areas of shared responsibility**, including, where relevant, through joint investigations and enforcement activities. Many of our strategic relationships have been formalised through exchange of letters, memorandums of understanding or referral guides, which set out arrangements for information sharing and referrals and facilitate collaborative education and compliance initiatives. **Formal arrangements** are in place between the FWO and external bodies, including the ATO, the AFP, the AHRC, Australian Border Force (ABF) and the Department of Home Affairs.
22. These arrangements also enable us to partner with stakeholders and promote **voluntary, industry-led mechanisms that support compliance**. An example of this is our exchange of letters with the **Cleaning Accountability Framework (CAF)** - an independent, multi-stakeholder initiative established by the United Workers Union and Australian Super in partnership with the FWO. The CAF comprises representatives from across the cleaning supply chain and seeks to build a sustainable culture of compliance and improve work standards and conditions in property cleaning services.
23. When negotiating an enforceable undertaking the FWO may consider, if appropriate, **facilitating payments by an employer to multi-stakeholder mechanisms** to support industry initiatives aimed at embedding workplace compliance. For example, in January 2025, the FWO executed an enforceable undertaking with Hamilton Island Enterprises Limited, an organisation responsible for operating a range of accommodation businesses on Hamilton Island, who agreed to a direct payment of \$250,000 to the CAF. Contrition payments of this nature help to drive industry-wide compliance and prevent similar contraventions in the future.
24. The FWO has recently launched a **Cooperative Initiatives Grants Program 2025-2029**, which will help to build the capacity of multi-stakeholder mechanisms to deliver meaningful, long-term improvements to workplace practices and embed tripartite relationships.

FWO strategic priorities

25. The FWO's **evidence-based priority areas** provide a framework through which we make decisions about resource allocation, helping to guide our proactive and responsive work. We prioritise

working with the sectors that are at significant risk or demonstrate a history of systemic non-compliance, being: **aged care services, agriculture, building and construction, disability support services, fast food, restaurants and cafes, large corporates and universities**. We monitor our priority areas and review them regularly, while staying responsive to emerging issues.

26. In consultation with our Advisory Group and sector reference groups, and informed by **data and intelligence**, we design programs of work tailored to each priority area to proactively detect and deter non-compliance. Our targeted compliance activities in any given priority sector may include education and communication, tailored material and resources, influencing sector-wide compliance and governance, or targeted compliance and enforcement activities.

Case study: addressing non-compliance in the building and construction sector

Improving compliance across the building and construction industry, and from all workplace participants in the sector, is an identified priority area for the FWO.

On 10 November 2022, the FWO resumed responsibility for regulating the commercial building and construction industry from the Australian Building and Construction Commission (ABCC). Since that time to 1 May 2025, the FWO has **recovered over \$16.7 million in unpaid entitlements for employees and completed more than 6,800 disputes** in the building and construction sector (both commercial and residential).

The FWO has initiated investigations into **allegations of serious misconduct, including sexual harassment, in the commercial building and construction industry**, including those raised in relation to the CFMEU on the 'Building Bad' and 'Building Worse' 60 Minutes programs (aired on 14 July 2024 and 17 March 2025 respectively) and reported through print media. As at 1 May 2025, the FWO had **149 investigations on foot into alleged contraventions of the Fair Work Act across the building and construction sector**, including into allegations of sexual harassment.

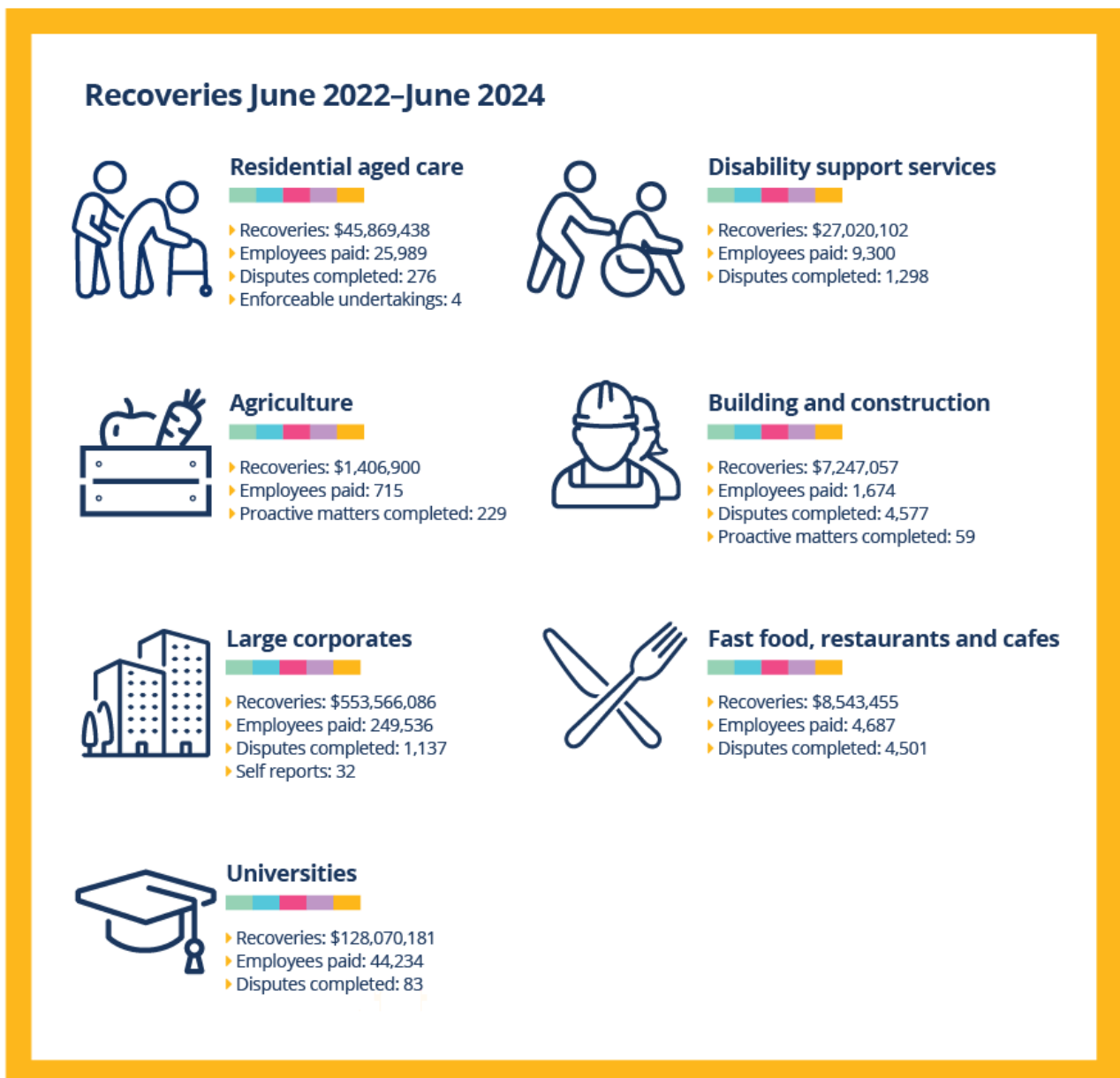
As at 1 May 2025, the FWO had **14 litigations on foot across the building and construction sector**. Two of these matters relate to alleged general protections breaches involving the CFMEU: one relating to alleged unlawful conduct of a CFMEU officer, Stephen Parker, at a Perth construction site, and one relating to alleged coercion and adverse action by John Setka.

s37 Documents affecting enforcement of law

27. The FWO also has an enduring commitment to prioritise education and assistance for **small business employers and employees**, and **vulnerable or at-risk workers** and provide a range of services and tools to assist these groups to understand and comply with their workplace rights and obligations.

28. In 2023-24 the FWO's small business-related webpages (including the **Small Business Showcase**) were accessed a collective total of more than 200,000 times, and our dedicated **Small Business Helpline** answered 51,346 calls. Our **Employer Advisory Service**, a free service to help small business employers understand and meet their workplace pay and entitlements obligations, provided 3,000 pieces of tailored written advice.
29. The FWO seeks to ensure vulnerable worker cohorts, such as **migrant workers**, have access to the information and support they need to understand and access their workplace entitlements. Where possible we provide in-language resources and assistance, including through our **anonymous reporting tool** which is available in 16 different languages (in addition to English). In 2023-25, **126,843 translations** were made on our website using the auto-translation tool.
30. **Figure 2** provides an overview of regulatory outcomes in our priority areas for the 2022-23 and 2023-24 financial years.

Figure 2: FWO priority areas



How we regulate

31. In recent years, the FWO has been at the forefront of the government's response on issues of national importance, from assisting businesses and employees with emergency changes to workplace laws through the COVID-19 pandemic, to addressing systemic non-compliance in the university sector, and investigating allegations of serious non-compliance of the Fair Work Act on commercial building sites.

Recent significant outcomes

- ▶ In August 2024, the FWO secured our highest ever penalty in a litigation, securing **\$15.3 million against the former operators of the Sushi Bay outlets** in New South Wales, Darwin and Canberra for deliberately exploiting vulnerable migrant workers, including underpaying 163 staff more than \$650,000, and falsifying records to try to cover up the underpayments. Prior to this matter, our highest court ordered penalty had been **\$10.3 million secured against Commonwealth Bank of Australia** and its subsidiary CommSec in February 2024.
- ▶ In December 2024, the FWO entered into enforceable undertakings with the **University of Sydney for more than \$23 million** in payments to over 14,000 underpaid staff and the **University of Melbourne for \$72 million** in payments to over 25,000 underpaid staff. Recently, in March 2025, the FWO entered into an enforceable undertaking with **La Trobe University for more than \$10.77 million** in payments to over 6,500 staff. Each university is required to make a contrition payment to the Commonwealth's Consolidated Revenue Fund and implement a broad range of measures to ensure compliance with workplace laws going forward.
- ▶ In the 2023-24 financial year, we litigated several large employers for non-compliance with the Fair Work Act, including the **Commonwealth Bank of Australia, Woolworths Group, Coles and Melbourne University**.
- ▶ Not all of our significant matters give rise to recoveries in the millions – some are significant because of their **deterrence value and/or the rectification of a clear power imbalance**. For example, In July 2024, we secured \$197,000 in court penalties against **Doll House Training** for contraventions including sham contracting involving three workers with a disability.

Education and advice

32. We have been working hard to position the FWO as an **accessible, predictable and reasonable regulator** while taking a **strategic approach** to our regulatory activities - maximising the impact of our regulatory interventions and meeting public expectations within the resources afforded to us (see 'Strategic direction' and 'FWO priorities' for more information).
33. The FWO's operations are informed by the **three-tier regulatory triangle**, as visualised at **Figure 3**. This is a best-practice approach to regulation which has been adopted across different fields.



Figure 3: Regulatory triangle

34. The regulatory triangle is comprised of three stages of compliance:

- **Voluntary compliance** – the base of the triangle and ideally, the vast majority of workplace participants are aware of their rights and obligations and workplaces can achieve compliance with the right advice and education.
- **Guided compliance** – the middle tier, where some workplaces and workplace participants will require more hands-on assistance or intervention if issues have not been fully managed within the workplace.
- **Enforced compliance** – the top tier of the compliance triangle, comprising the smallest number of workplace participants, where strong regulatory action is required to punish or deter serious non-compliance.

35. In practice, this means placing an emphasis on developing and maintaining our **advice and education tools and services** so that the workplace community is empowered to prevent non-compliance from the outset, and enabling workplace participants to resolve issues through **dispute assistance** before non-compliance matters become protracted. However, if we do find that a workplace law has been broken, we may use our **broad range of compliance and enforcement tools** to ensure compliance and resolve the issue (see 'Compliance and enforcement' for more information).

36. **The FWO is a digital-first agency** - our website is a key component of our advice and education outreach. The FWO website, fairwork.gov.au has **increased its annual visits by 8%** from 26.8 million visits in 2022-23 to 28.9 million visits in 2023-24.⁴ Catering for all workplace participants, our small business related webpages were accessed a collective total of **more than 200,000 times** in 2023-24. In the same year, **80% of our customers reported that our digital tools improved their understanding** of workplace rights and obligations.

37. We are working with DEWR and the Fair Work Commission (FWC) to explore ways in which we can harness new technologies to enhance our service delivery to the public, and ensure that workplace participants have the tools they need to understand their rights and obligations. The FWO is currently developing an **AI Strategy and Innovation Framework** that will establish the governance, guardrails and frameworks necessary to safely and ethically enable the use of artificial intelligence within the agency.

38. Our website and digital resources are underpinned by our responsive and customer-focussed advice and dispute resolution services, which are universally accessible to workplace participants in Australia. Day to day, the FWO receives enquiries from workers and employers ('reactive matters') which we will attempt to resolve, in the first instance, through providing the customer with **education or advice about their workplace rights and obligations**. For example, in 2023-24, the FWO answered **290,000 calls** on our Infoline and provided **3,000 pieces** of tailored written advice through our Employer Advisory Service.

39. When a customer requests our help to resolve a workplace issue, the FWO will offer phone-based **dispute assistance to facilitate a resolution** between the parties to the issue. As part of the dispute assistance service, the FWO assesses each allegation made and provides tailored advice on managing workplace disputes effectively.

⁴ www.fairwork.gov.au/sites/default/files/2024-10/office-of-the-fair-work-ombudsman-annual-report-2023-24.pdf

40. Most matters that go through our dispute assistance service are resolved or **diverted to alternative services best suited to achieving a resolution** (for instance, through referral to the small claims jurisdiction of the Federal Circuit and Family Court of Australia or to a relevant state tribunal). These avenues provide fair, quick and cost-effective legal options for workplace participants when workplace-level resolution is not possible. All information provided during a customer's interactions with the FWO is recorded and can be used to inform future compliance and enforcement activities.
41. Our operating model means that we have resources available to proactively **identify and respond to emerging issues within our regulatory environment**, including by conducting inquiries to identify and address causational factors of non-compliance within a sector.

s37 Documents affecting enforcement of law

Compliance and enforcement

42. In December 2024, we updated our publicly available **Compliance and Enforcement Policy**.⁵ The Policy sets out how the FWO fulfills its compliance and enforcement functions under the Fair Work Act, including by reference to the regulatory triangle (see 'Operating model' for more information).
43. The FWO has adopted a regulatory posture focused on **proactively addressing persistent non-compliance in key industries**, freeing up more resources to providing better **support to vulnerable cohorts of workers and small businesses** and to take **civil or criminal enforcement action against serious, significant or systemic non-compliance** where there is strong deterrence value or public interest.
44. We use **intelligence** to identify, monitor and address **emerging and systemic non-compliance**: our reactive and proactive investigations, and any subsequent enforcement action, is evidence-based, proportionate and honours the principles of natural justice and due process. When prioritising matters, the Compliance and Enforcement Policy outlines how we use our discretion to assess whether taking a particular regulatory action is in the **public interest**, and to ensure our compliance and enforcement activities are an **effective, ethical, economical and efficient use of public resources**.

Case study: aged care providers proactive activities

In February to March 2025, inspectors from the FWO visited and conducted proactive investigations in **27 aged care sites** across metropolitan and regional areas in Victoria, New South Wales, South Australia, Queensland and Western Australia.

Under the FWO's work plan for these activities, developed in consultation with the Aged Care Services Reference Group, aged care organisations were strategically selected for inspection after considering risk factors including history of non-compliance with the Fair Work Act, anonymous reports from staff members, and employment of visa holders, among other intelligence. Our

⁵www.fairwork.gov.au/sites/default/files/migration/725/compliance-and-enforcement-policy.pdf

investigations focussed on employer compliance with pay and entitlements for personal care workers, nurses, and nursing assistants, and with record keeping obligations.

In 2023-24, the FWO recovered **more than \$40.5 million for over 22,000 underpaid aged care workers** in residential aged care. In that financial year, **12% of all anonymous reports** made to the FWO were from workers providing health care and social assistance.

45. The FWO determines which reactive matters may progress to an investigation based on their **alignment with our strategic priorities**, and where suspected contraventions are **serious, significant or systemic**. This means that, where the FWO deems necessary, reactive matters can be escalated from a request for assistance, through to an investigation, and onto enforced compliance outcomes such as litigation.

Fair Work Inspector Powers

To investigate non-compliance and ensure identified contraventions are quickly resolved, **Fair Work Inspectors (inspectors) have a range of compliance powers** that they can exercise under the Fair Work Act for compliance purposes (per s 706). These powers include:

- ▶ **Power of inspectors to enter premises (s 708)** – An inspector may enter a certain premises if they reasonably believe either the Fair Work Act or Fair Work Instrument applies to the workplace, or records or documents relevant to compliance are on the business premises.
- ▶ **Powers of inspectors while on premises (s 709)** – While on premises an inspector may inspect any work, process or object, interview any person, require a person to tell them who has or who can access a record or document, require the person with access to a record or document to hand it over while the inspector is on the premises or within a specific time frame, inspect and make copies of any record or document which is kept on premises or can be accessed from a computer kept on the premises, and take samples of any goods or substances after informing the owner or other relevant person in charge of the goods or substances.
- ▶ **Powers to ask for a person's name and address (s 711)** – An inspector can require a person to tell them their name and address if the inspector reasonably believes the person has contravened the Fair Work Act. If the inspector reasonably believes the name and address given were false, the inspector can require a person to provide evidence of their name and address.
- ▶ **Powers to require the production of records and documents (s 712)** – An inspector can issue a written notice to produce records or documents, requiring a person to provide records or documents at a particular location, within a specified time period of at least 14 days.
- ▶ **Power to keep records or documents (s 714)** – If a record or document is produced to an Inspector they may inspect, and make copies of, the record or document, and keep the record or document for such period as necessary.
- ▶ Though not an inspector power, in certain circumstances the FWO also has the power to **apply to the Administrative Review Tribunal for a FWO Notice (pursuant to s 712AB)** requiring a person to give the FWO information, produce documents or answer questions relevant to an investigation.

46. On 1 January 2025, the FWO's jurisdiction expanded to include the new **criminal wage underpayments offence** and related offences alongside our civil jurisdiction. The FWO is responsible for conducting investigations into conduct that may contravene the criminal underpayment offences, but only the Commonwealth Department of Public Prosecutions (CDPP) or AFP may commence proceedings in court. Referrals to the CDPP or AFP will generally be

reserved for the **most serious conduct**, including where there is a greater need for specific or general deterrence than civil litigation can provide.

47. The FWO's Compliance and Enforcement Policy recognises that not all conduct potentially amounting to a criminal underpayment offence must result in a referral to the CDPP, and that small businesses require additional assurance that their unintentional conduct won't be criminalised. The FWO has the option of entering into a **Cooperation Agreement** with a potential offender and/or assessing small business compliance with the **Voluntary Small Business Wage Compliance Code** on a case-by-case basis when undertaking criminal investigations.
48. A list of compliance and enforcement tools routinely used by the FWO are outlined in **Table 2**.

Table 2 – FWO compliance and enforcement tools	
Tool	Description
Enforceable undertaking (EU)	Fair Work Act, s 715 - An EU is a written agreement between the FWO and an employer, which can be entered into if the FWO reasonably believes the employer has contravened a civil penalty provision in the Fair Work Act. The FWO will consider a number of factors when deciding whether to accept an EU, including where the employer is prepared to voluntarily fix the issue, they have limited or no history of non-compliance, are cooperating with the FWO, and they agree to preventative actions in the future.
Compliance notice (CN)	Fair Work Act, s 716 - When an inspector has formed a reasonable belief that an employer has contravened certain provisions of the Fair Work Act or terms of certain instruments, they can issue a CN. A CN can require an employer to take specified action to remedy the direct effects of the identified contraventions. Where an employer complies with a CN, the FWO cannot commence court proceedings for the identified contraventions. If an employer does not comply with a CN without reasonable excuse, we can seek civil penalties in court for non-compliance with the CN.
Infringement notice (IN)	Fair Work Regulations, r 4.04 - An IN is similar to an on-the-spot fine and can be issued by an inspector if they reasonably believe that an employer has breached obligations in the Fair Work Act or the Fair Work Regulations regarding record-keeping, pay slips and advertising pay rates in job ads. Where an employer complies with an IN, the FWO cannot commence court proceedings for the identified contraventions.
Cooperation agreement	Fair Work Act, s 717A - The FWO can enter into a written cooperation agreement with someone (such as an employer, business, or individual) who has told us they have engaged in conduct that may amount to a potential criminal underpayment offence or related offence. While the cooperation agreement is in force, the FWO cannot refer conduct outlined in that agreement to the AFP or CDPP for possible criminal prosecution. We may still consider civil enforcement options if appropriate.

The Voluntary Small Business Wage Compliance Code (the Code)	The Code is an instrument declared by the Minister under section 327B of the Fair Work Act , which was developed by the FWO in consultation with DEWR and external stakeholders including those on the small business subcommittee of the FWO's Advisory Group. If the FWO is satisfied that an employer has satisfied the Code in relation to a failure to pay an amount, demonstrating that the underpayment was unintentional, the FWO is prevented from referring the employer's conduct to the AFP or CDPP for possible criminal prosecution. We may still consider civil enforcement options if appropriate.
Compliance partnerships / proactive compliance deeds	The FWO is reinvigorating our practice of entering into compliance partnerships with interested businesses who want to publicly demonstrate their commitment to creating compliant and productive workplaces. Compliance partnerships are formalised through proactive compliance deeds , published to the FWO's website, which set out bespoke arrangements for how the business and the FWO will work together to ensure compliance.

49. The FWO routinely publishes media releases on the commencement of proactive investigations, litigations and key enforcement outcomes to raise awareness of the FWO's activities and deter wrongdoing. Media staff in your office will receive FWO media releases just prior to publication (where possible) directly from the FWO media team.

Delivering government commitments

50. The FWO is committed to working with you and your department to ensure delivery of your workplace relations election commitments is informed by our insights and experiences as a regulator. We have considered the Government's commitments and have set out some initial considerations from our perspective as the national regulator, should they assist.

Abolish non-compete clauses for workers earning less than the high-income threshold in the Fair Work Act (currently \$175,000 per year)

51. Non-compete clauses in employment contracts is an area where the FWO receives queries from workers through our customer advice channels. Currently the FWO is only able to refer these customers to seek independent legal advice.
52. We understand that the government intends to consult on policy details for banning non-compete clauses and on closing other loopholes in competition law, including non-solicitation clauses for clients and co-workers and non-compete clauses for high-income workers. The FWO will engage with your department and across government as needed to feed into these consultation processes, including contemplation of any compliance or enforcement role for the FWO.

Fund a community and disability sector workforce project to support the development of a modern and fit for purpose classification structure in the Social, Community, Home Care and Disability Services (SCHADS) Award

53. The SCHADS Award covers workers and employers in two of the FWO's priority areas – aged care services and disability support services.

54. The SCHADS Award generates a proportionately high number of requests for FWO technical advice from workers and businesses, reflecting the number of award-covered workers in this sector and the intricacy of the award.
55. The FWO has engaged members of the FWO's Aged Care Services Reference Group and Disability Support Services Reference Group on award interpretation issues causing confusion in the sector. The Reference Groups includes the peak employer groups and unions from the sector.
56. The FWO stands ready to assist with information or advice about any technical issues that could be settled through the project.

Other government policies in the workplace relations portfolio

57. We also recognise the government's other key election commitments, namely supporting a real increase to the minimum wage through the FWC's 2024-25 Annual Wage Review process, legislating to protect penalty rates in modern awards, and legislating to guarantee that parents dealing with stillbirth or early infant death can continue to access their paid parental leave.
58. The FWO can work with your office and department, if required, to contribute operational and factual expertise, data and information to support the efficient and effective delivery of the reforms. This may include the development of guidance materials to educate the regulated community on any workplace relations changes the government makes and assist workplaces with implementation.

Priority projects

59. There are a range of other priority projects underway at the FWO that relate to the government's agenda and priorities. These are summarised below.

PROJECT	NEXT STEPS
<p>Building and construction industry</p> <p>We continue to actively engage with key stakeholders across the industry and progress investigations and litigation of serious misconduct in the sector, including investigations into allegations of sexual harassment.</p> <p>The FWO is aware of the draft National Industry Construction Forum's (NCIF's) Blueprint for the Future, which sets out recommendations for immediate action, including that regulators take a more proactive and visible approach to enforcement, that the FWO commence a national investigation into sex discrimination and sexual harassment within the sector and a national investigation into the treatment of apprentices, trainees, young workers, and other vulnerable cohorts in the sector.</p>	<p>s37 Documents affecting enforcement of law</p> <p>FWO and will work with your office and department to advance the aims of the NCIF.</p> <p>The FWO will keep your office and department informed of our ongoing work in this sector.</p>
<p>Responding to workplace sexual harassment</p> <p>The FWO is responsible for investigating complaints regarding the Fair Work Act prohibition against workplace sexual harassment and stop sexual harassment orders issued by the FWC and, where appropriate, taking enforcement action.</p> <p>We remain a core member of the Respect@Work Council.</p>	<p>s37 Documents affecting enforcement of law</p>

<p>Recently, the FWO has seen a significant increase in anonymous reports and enquiries relating to alleged workplace sexual harassment. There has also been stakeholder interest in the FWO's activities to combat sexual harassment, and media reporting in relation to sexual harassment in the building and construction industry which the FWO confirmed we are responding to in a media release on 20 March 2025.</p>	
<p>Small business definition review</p> <p>The FWO is continuing to undertake a review of the small business employer definition in section 23 of the Fair Work Act, in response to a request from former Minister for Employment and Workplace Relations, the Hon Tony Burke MP in a letter dated 15 July 2024 (included at Appendix D).</p> <p>We are examining the application of the current definition, seeking stakeholders' views on potential changes. If there is no consensus amongst stakeholders, we will present potential options for consideration by government.</p> <p>The final report is due on 30 June 2025, after former Minister for Employment and Workplace Relations, Senator the Hon Murray Watt, extended the reporting deadline in October 2024.</p>	<p>Over May and June, the FWO will be finalising the report, including additional consultation with stakeholders.</p> <p>We will inform your office and department before further stakeholder consultation commences.</p>
<p>Horticulture compliance report</p> <p>The FWO is preparing to publish a horticulture compliance report detailing findings of activities in 15 regions. The activities have given rise to findings around non-compliance in the horticulture sector. The sector is one that intersects with issues such as labour hire, piece-rates and the Pacific Australia Labour Mobility scheme. The report makes recommendations for enhancing compliance in the sector.</p> <p>The FWO's Agricultural Reference Group and your department have been consulted on the draft report and the FWO has made revisions to garner stakeholder buy-in for the recommendations, which include increasing the FWO's operational collaboration with government and non-government parties (such as community legal centres) and developing a dedicated FWO strategy for labour hire provider non-compliance in the horticulture sector.</p>	<p>The FWO plans to publish findings and recommendations in the second half of the year, accompanied by media and communications.</p>
<p>Remediation guide</p> <p>In the 2024-25 Budget the government announced \$27.5 million over the forward estimates (and \$7.0 million per year ongoing) for the FWO to continue targeting non-compliance with the Fair Work Act by large corporates. In 2023-24, the FWO recovered \$333 million in underpayments for nearly 110,000 workers from the large corporates sector. The FWO recently published a Payroll Remediation Guide intended to support large employers who identify systemic and widespread underpayments within their organisation.</p>	<p>The guide was published to the FWO's website on 16 April 2025. The FWO will continue to promote the guide as a resource for businesses within our regulated community.</p>

<p>Guidance on representational rights</p> <p>The FWO, in collaboration with representatives from the Australian Council of Trade Unions, Australian Industry Group, and the Fair Work Commission, is developing guidance on representational rights (delegates rights, right of entry, etc) for publication on the FWO's website.</p> <p>The guidance is aimed at educating employers and employees about building relationships through consultation and co-operation, and highlights best practice behaviours from both an employer and union official/delegate perspective in relation to exercising representational rights.</p>	<p>A draft of the guidance material is with relevant stakeholders for comment. The FWO will meet with stakeholders in relation to the guide again in early June 2025.</p>
<p>Black coal industry underpayments</p> <p>In May 2024, during second reading debate of the <i>Fair Work Amendment Act 2024</i>, the Senate passed a motion put forward by Senator Malcolm Roberts requiring the government to investigate claims of underpayments of casual workers in the black coal mining industry. Former Employment and Workplace Relations Minister, Senator the Hon Murray Watt, wrote to the FWO about this in August 2024, requesting that we undertake an investigation.</p> <p>In response, the FWO has designed a targeted activity in the sector, including a dedicated email address for anyone in the sector to approach us about a suspected underpayment.</p>	<p>The FWO is investigating 30 black coal mining industry matters involving 33 workers and 26 employing entities (as at 1 May 2025).</p> <p>Once complete, the FWO will engage with your department regarding how to report findings to the Senate.</p>
<p>Maritime industry compliance and the definition of a 'voyage'</p> <p>In the 2024-25 Budget, the government announced \$1.9 million in funding for the FWO to pilot a two-year compliance monitoring program of award wages paid to seafarers on foreign vessels engaged in coastal trading. At 1 May 2025, a total of seven vessels have been inspected as joint visits with the Australian Maritime Safety Authority (AMSA) through the Shipping Compliance Program Pilot, and the FWO has commenced a total of eight investigations.</p> <p>Additionally, s37 Documents affecting enforcement of law [REDACTED]</p> <p>[REDACTED] and review public facing material on when the framework applies to foreign-flagged ships engaged in coastal trading, to address confusion in the sector.</p>	<p>The FWO is in the process of s37 Documents affecting enforcement of law [REDACTED] and developing tailored guidance for seafarers and employers.</p> <p>s37 Documents affecting enforcement of law [REDACTED]</p>
<p>s37 Documents affecting enforcement of law [REDACTED]</p>	

s37 Documents affecting enforcement of law	
<p>Update on Closing Loopholes implementation</p> <p>Reforms under both Closing Loopholes Acts have now commenced, except for the right to disconnect in relation to small businesses and their employees which is commencing on 26 August 2025.</p> <p>Of note, the criminal offence for intentional underpayment of wages or entitlements commenced on 1 January 2025, expanding the FWO's enforcement options to respond proportionately to serious non-compliance. The FWO's Criminal Investigations Branch is responsible for investigating and referring matters to the Australian Federal Police or the Commonwealth Director of Criminal Prosecutions for prosecution of the criminal offence. As at 1 May 2025, the Criminal Investigations team was undertaking assessments of potential matters for criminal investigation.</p>	<p>Prior to the right to disconnect coming into effect for small businesses in August, the FWO is planning a third communications campaign commencing in May 2025, and a suite of translated educational videos, in consultation with the small business sub-committee of the FWO's Advisory Group.</p>
<p>Cooperative Initiatives Grants Program</p> <p>The FWO has recently launched a Cooperative Initiatives Grants Program 2025-2029 (the Program) to fund organisations to work collaboratively to identify and resolve workplace issues. This replaces the FWO's previous Community Engagement Grants Program (CEGP), which ends on 30 June 2025. Organisations previously funded under the CEGP have been encouraged to apply.</p> <p>The aim of the Program is to prevent non-compliance, create systemic change, and to build capacity of multi-stakeholder mechanisms to deliver meaningful, long-term improvements to workplace practices and relationships. A maximum of \$7.2 million is available over 4 financial years.</p>	<p>The grant opportunity will be published on GrantConnect shortly and be open for approximately 9 weeks. The FWO aims to have grant agreements in place by the end of September. The grants will run until 30 June 2029.</p>
<p>Harnessing new technology to improve service delivery</p> <p>We are continuing to explore ways in which we can leverage new technologies, including artificial intelligence, to enhance our service offerings to the public and ensure that workplace participants have the tools they need to effectively address workplace issues.</p> <p>The FWO is in the process of developing an AI Strategy and Innovation Framework that will establish the governance, guardrails and frameworks necessary to safely and ethically enable the use of AI and will support the ability to run innovation pilots.</p>	<p>The FWO is working with your department and the FWC to explore ways in which we can harness new technologies to enhance our service delivery.</p> <p>The FWO's AI Strategy and Innovation Framework is on track for delivery by the end of this calendar year.</p>

Appendix A – FWO senior leadership team biographies

Anna Booth | Fair Work Ombudsman



Anna Booth commenced her 5-year appointment as Fair Work Ombudsman on 1 September 2023.

Anna has extensive and diverse experience in industrial relations spanning 45 years, working with unions, private, and public sectors. From 2012 to 2020 Anna served as the Deputy President in the Fair Work Commission; Australia's workplace relations tribunal. She was instrumental in setting up the FWC's Collaborative Approaches Program, formally known as the New Approaches Program.

Prior to taking up her role as Deputy President at the FWC, Anna was Chair and a non-executive member of the Slater and Gordon board. She held this role since the law firm's listing on the ASX in 2007. Anna also sat on various boards, including the Commonwealth Bank of Australia, the Sydney Organising Committee for the Olympic Games and insurer NRMA, as well as industry superannuation owned financial services companies ME Bank and IFM. Anna has taught at the Australian Institute of Management and lectured at the Macquarie Graduate School of Management.

During the amalgamation of the Textile, Clothing and Footwear Union, Anna was the first female and youngest federal secretary of a union. She joined the Australian Council of Trade Unions as vice president in 1991. During her period in the union movement, Anna attracted national attention by exposing the exploitation of migrant women workers in sweatshop organisations.

Anna is an accredited mediator under the National Mediator Accreditation System and is the Patron of the Industrial Relations Society of New South Wales.

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Rachel Volzke | Chief Counsel / Group Manager – Legal and Policy



Rachel is the FWO's Chief Counsel and Group Manager of Legal and Policy.

Rachel has more than 25 years of specialist expertise in the Australian Public Service across the full spectrum of workplace relations law and policy issues.

Before joining the Office of the in 2021, she was most recently a Senior Executive Lawyer and Assistant Secretary in the workplace relations portfolio of the Department of Employment and Workplace Relations and its predecessors.

In that role, she was responsible for significant Fair Work and Registered Organisations reform pieces and the management of complex and high-profile litigations on behalf of the Commonwealth.

Before joining the APS, Rachel worked in private practice at the national law firm, Minter Ellison.

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Michael Campbell | Group Manager – Operations



Michael is the FWO's Group Manager Operations.

He leads the national inspectorate and operational staff delivering workplace relations assistance, advice, education, dispute resolution services, and compliance and enforcement outcomes. Prior to this, Michael was the FWO's Chief Operating Officer.

Michael has also been Chief of Field Operations at Fair Work Building and Construction and is a former Deputy Commissioner of the Australian Building and Construction Commission, and has held senior positions in other federal workplace relations regulators including the Workplace Ombudsman, the Office of Workplace

Services, and the Australian Industrial Registry.

He holds a Master of Labour Relations Law from the University of Melbourne and a Bachelor of business from the Royal Melbourne Institute of Technology and is a member of the Industrial Relations Society of Victoria.

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Michelle Carey | Group Manager – Regulatory Transformation



Michelle is the Group Manager of the Regulatory Transformation Group at the FWO.

Michelle is leading the operation of the FWO's recently commenced criminal jurisdiction, as well as the FWO's data analytics, intelligence and surveillance functions.

Michelle previously led the FWO's compliance and enforcement functions relating to large corporate entities, universities and industrial matters and has held senior roles in the FWO in

corporate and legal roles including as a litigator.

With over 20 years-experience in workplace and industrial relations law, Michelle has experience in both the private and public sector, having worked in private legal practice prior to joining the FWO.

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Mark Scully | Chief Operating Officer / Group Manager – Corporate and Engagement



Mark is the FWO's Chief Operating Officer and Group Manager – Corporate and Engagement.

Mark oversees the FWO's Corporate and Engagement Group, which includes responsibility for finance, people services, governance, communications and media.

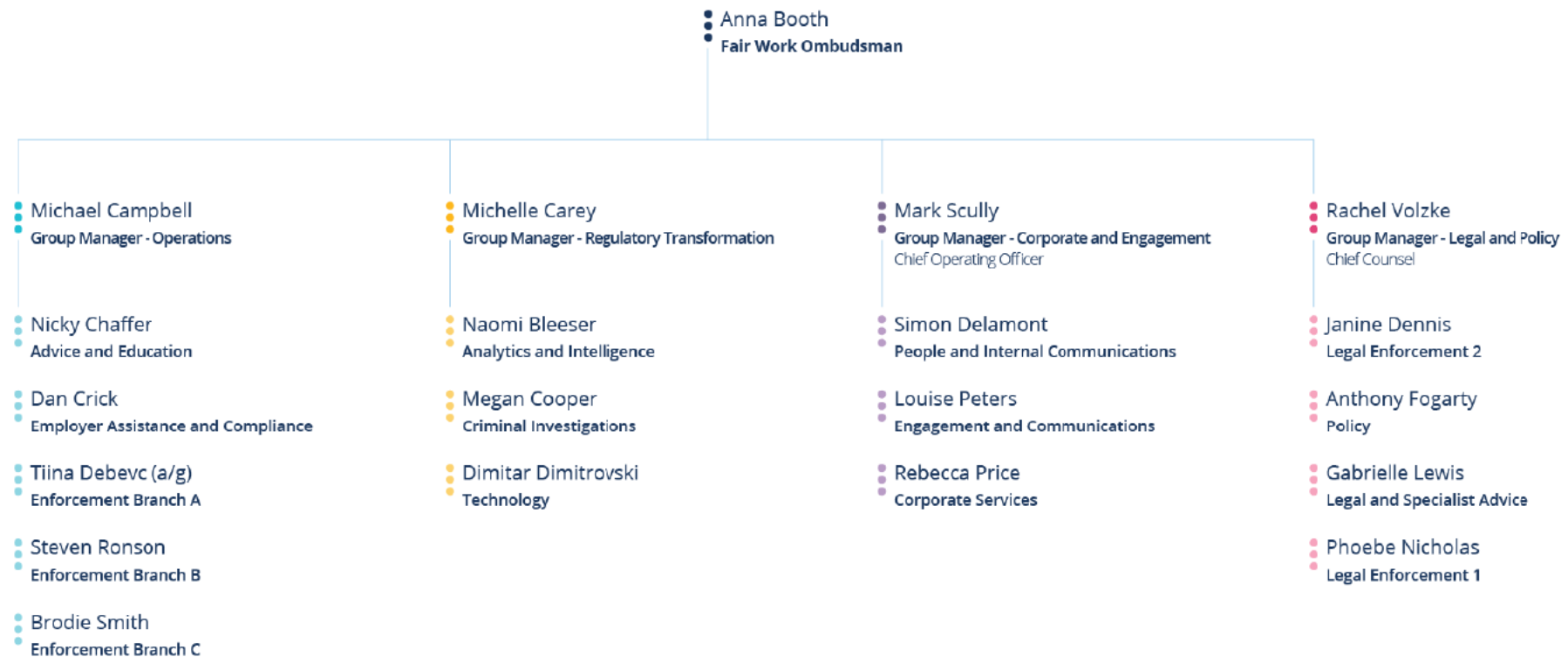
Mark has worked for the FWO and its predecessors for more than 15 years, starting as the Chief Financial Officer for the Workplace Ombudsman. He was previously head of the FWO's Compliance and Enforcement Group.

Prior to joining the Commonwealth public service, Mark worked for more than 20 years in the Victorian public service, mainly in the area of public transport.

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Email: s22 irrelevant information

Appendix B – FWO organisation chart





Fair Work
OMBUDSMAN

Appendix C - FWO quarterly report:
January - March 2025

Fair Work Ombudsman

Quarterly report: January to March 2025



Data snapshot

Financial year to date (end of March FY2024-25)

Advice and education



Total enquiries answered
237,443



Anonymous reports
18,299



Overall website page views
38,871,078



Pay tool sessions
4,333,721

Top website views



FWO homepage
2,343,757 views



2025 public holidays
1,369,625 views



Pay and wages
734,119 views



Minimum wages
657,686 views

Compliance and enforcement



Total recoveries
\$232,275,323



Matters received
14,879



Matters completed
15,186

The majority of these matters went through **dispute assistance**:



12,902 matters completed by dispute assistance



92% of requests for assistance involving disputes completed within 60 days

Some matters resulted in the use of an **enforcement tool**:



477
Infringement notices



865
Compliance notices



57
Litigations



8
Enforceable undertakings

Q3 FY2024-25 highlights

- ▶ Total enquiries closed this quarter increased 8% from Q2 2024-25, at 79,188.
- ▶ Anonymous reports made to the FWO this quarter increased 19% from Q2 2024-25, at 7,402.
- ▶ The number of matters completed by dispute assistance this quarter are consistent with Q2 2024-25, at 4,424, with a small increase of 2%.



Compliance and enforcement snapshot

Key outcomes

The FWO entered into another milestone enforceable undertaking in the university sector.

In March 2025, the FWO entered into an enforceable undertaking with La Trobe University for more than \$10.77 million in payments. This follows previous enforceable undertakings entered into in December 2024 with the University of Sydney, for more than \$23 million in payments and the University of Melbourne for \$72 million in payments.

We recovered significant penalties for the underpayment of migrant workers at United Petroleum outlets.

In February 2025, the FWO secured a total of \$179,221 in penalties against the operators of two United Petroleum branded outlets in Tasmania for the underpayment of four migrant workers and for issuing false payslips. The Royal Automobile Club of Tasmania (RACT) has ended business ties with United Petroleum in response to the matter.

In the spotlight

The FWO continues to investigate and take action against non-compliance in the commercial building and construction sector as one of our priority areas.

On 19 February 2025, we commenced legal action in the Federal Court against the Construction, Forestry and Maritime Employees Union (CFMEU) and its former Victorian Secretary, John Setka. The FWO alleges that Mr Setka intended to coerce the Australian Football League (AFL) into dismissing former Australian Building and Construction Commissioner (ABCC), Stephen McBurney, and that Mr Setka also took adverse action against Mr McBurney.

Since resuming responsibility for regulating commercial building and construction (to the end of February 2025) the FWO has commenced 25 litigations relating to the building and construction sector and 1 Fair Work Commission application relating to right of entry. Most relate to wage underpayments, except for the Setka litigation and the 'Nine the Esplanade' litigation, which relates to allegations of unlawful conduct by a CFMEU officer on a Perth construction site.

The FWO is investigating allegations aired on Channel 9's 60 Minutes program of sexual harassment taking place across Australian building and construction sites. On 20 March 2025, the FWO issued a media release reiterating that there is no place for sexual harassment in any workplace, providing information about how to make a complaint to the FWO and noting our educational resources.

We have been working closely with other Commonwealth regulators to conduct joint operations and inspections across Australia.

We are continuing a national program of audits in tandem with Home Affairs and Australian Border Force (ABF) to assess the compliance of approved sponsors of temporary migrant workers. In February 2025, Fair Work Inspectors and officers from Home Affairs and ABF jointly undertook surprise inspections of about 40 Melbourne businesses employing migrant workers. These latest inspections are in addition to approximately 80 businesses who were jointly inspected in Sydney and Brisbane towards the end of last year.

Media releases on compliance and enforcement outcomes and activities can be accessed via www.fairwork.gov.au/newsroom.



Engagement snapshot

Stakeholder collaboration

The FWO's Advisory Group is collaboratively engaging on our strategic objectives.

The FWO's Advisory Group met for a fourth time on **27 March 2025**. The Advisory Group discussed FWO's processes for ensuring voluntary compliance in as many workplaces as possible, including through our **advice, dispute assistance and small claims pathways**, and possible opportunities to engage further with employer and union stakeholders in these areas.

The Advisory Group was provided also with an update on the **progress of our six sector reference groups** in the FWO's priority areas (building and construction, aged care, higher education, agriculture, disability support services, and fast food, restaurants and cafes).

Our sector reference groups continue to share industry-specific insights on priority areas.

- A **Fast Food, Restaurants and Cafes Reference Group** meeting was held on 29 January 2025, which discussed the FWO's plan for the year ahead as well as potential education targets, with members identifying potential 'hot spots' for our education campaigns.
- At the **Building and Construction Reference Group** meeting on 13 March 2025, members discussed the FWO's upcoming program of work focussing on apprentices and trainees, and education about sexual harassment. Group members also heard from Joanne Farrell, Director of the not-for-profit program Build Like a Girl, and Gabrielle Trainor AO, Chair of the multipartite Construction Industry Culture Taskforce.
- The **Aged Care Services Reference Group** met on 20 February 2025 and **Agricultural Reference Group** met on 18 March 2025 to discuss forward work and compliance developments in their respective sectors.

Ombudsman engagements

- ▶ The Fair Work Ombudsman, Anna Booth, addressed events chaired and attended by key workplace relations stakeholders.
- ▶ On 11 February 2025, Anna presented to the **Industrial Relations Society of Queensland's Annual Breakfast** on the FWO's vision of 'Working for Fairer Workplaces', highlighting the work of the agency, our regulatory approach, and our priorities.
- ▶ On 6 March 2025, Anna appeared on the podcast series '**Perspectives on Closing Loopholes with Clayton Utz**' where she spoke about the FWO's collaborative approach to building a cooperative and compliant workplace community, ongoing investigations into the building and construction sector, and the introduction the new criminal offence for intentionally underpaying an employee's wages or entitlements.
- ▶ On 12 March 2025, Anna participated in a panel discussion for the **Australian Institute of Company Directors Australia Governance Summit Breakfast** where she spoke about the FWO's priorities for 2025, the new criminal offence for intentionally underpaying employees, and the importance of corporate governance in monitoring a company's Fair Work Act compliance.



On the horizon

Activities in the pipeline

The FWO will be publishing our **Horticulture Compliance Report**, with findings from 15 regions.

The horticulture industry remains a high non-compliance risk and sits within one of our priority areas: the agricultural sector. The FWO's **Horticulture Strategy** has given rise to interesting findings around non-compliance in the horticulture sector. The sector is one that intersects with issues relating to piece-rates and the Pacific Australia Labour Mobility scheme.

Following consultation with our Agricultural Reference Group, the FWO plans to publish findings and recommendations in a **Horticulture Compliance Report** in the next quarter.

We are developing a **Payroll Remediation Guide** for businesses who identify compliance issues within their payroll systems.

The **Payroll Remediation Guide**, which will be published in the next quarter, compiles practical observations and guidance about how payroll remediation programs should be structured and conducted, and steps out the FWO's processes and expectations when assessing self-reports of non-compliance.

s37 Documents affecting enforcement of law

Upcoming meetings and engagements

FWO tripartite meetings

- ▶ 3 April 2025: Disability Support Services Reference Group
- ▶ 8 April 2025: Higher Education Reference Group
- ▶ 19 June 2025: Aged Care Services Reference Group

Public-facing events

- ▶ 21 May 2025: Anna Booth will address the Australian Higher Education Industrial Association (AHEIA) Annual Higher Education IR Conference in a plenary session titled 'Harmonious and compliant workplaces in the Higher Education Sector: A collaborative approach'.

Appendix D - Request for small
business definition review



The Hon Tony Burke MP
Minister for Employment and Workplace Relations
Minister for the Arts
Leader of the House

Reference: MS24-000386

Ms Anna Booth
Fair Work Ombudsman
GPO Box 9887
SYDNEY NSW 2001

By email: s22 irrelevant information

Dear Ms Booth

I am writing to request that you conduct a review of the definition of a 'small business employer' in section 23 of the *Fair Work Act 2009* (Cth), which has been in place since the Fair Work Act was enacted in 2009.

The Australian Government recognises the important contribution small business makes to our economy and is committed to supporting small businesses to succeed in Australia. Indeed, one of the objectives of the Fair Work Act is to provide a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by 'acknowledging the special circumstances of small and medium sized businesses.'

To that end, the Fair Work Act includes a number of special arrangements that aim to reduce the regulatory burden on small businesses while balancing that aim with other objectives of the Act, such as providing appropriate workplace protections and entitlements. To access these arrangements, an employer must meet the Fair Work Act definition of a 'small business employer', that is, employ fewer than 15 employees at a particular time.

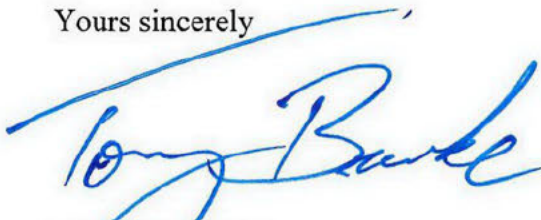
During debate leading to the enactment of the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024*, some members of Parliament questioned whether the small business threshold in the Fair Work Act remains fit for purpose. In order to address these concerns, I agreed to a review of the definition of small business in the Fair Work Act and whether it continues to be appropriate.

As an independent statutory agency with responsibility for providing advice on the Fair Work Act and educating small businesses on its operation, your Office is ideally placed to conduct such a review. I therefore request that your Office undertake the review, and provide a final report and recommendations to me, in accordance with the enclosed Terms of Reference, by the end of 2024.

Should your Office have any questions in relation to this request, the relevant contact in the Department of Employment and Workplace Relations is Mr Henry Jones, Assistant Secretary, Workplace Relations Strategy Branch, who can be contacted on **s22 irrelevant information** or via email at **s22 irrelevant information**

I look forward to reading the final report and recommendations of the review.

Yours sincerely



TONY BURKE

15 / 7 / 2024

Encl.

Review of the *Fair Work Act 2009* definition of 'small business employer'

Terms of Reference

Objective

The review is to examine the definition of 'small business employer' in the *Fair Work Act 2009* (Cth) and advise government on whether that definition remains appropriate. In the event the review finds the definition is no longer fit for purpose, recommendations should be made on how it could be improved.

Scope

In conducting the review, the Office of the Fair Work Ombudsman should consider:

- the objects of the Fair Work Act, including its objective of 'acknowledging the special circumstances of small and medium-sized businesses', and the effectiveness of the current definition in meeting this objective
- that the special arrangements afforded to small businesses must be balanced against the different rights and entitlements of the employees of small businesses compared to the employees of larger businesses
- the construction of the current definition, including the ease with which it can be applied and understood by businesses and workers and whether it remains appropriate
- the need for interoperability of the definition with similar definitions in other Commonwealth laws and requirements, if any, such as those used by the Australian Bureau of Statistics and the Australian Taxation Office, and
- the implications of any proposed amendments to the existing definition of 'small business employer', including for the operation of other provisions in the Act as well as small businesses, workers and government.

The Office of the Fair Work Ombudsman should inform its review and advice through:

- the findings of previous Commonwealth, state and territory government inquiries and reviews into the definition of small business, such as the 2013 Productivity Commission research report *Regulator engagement with small business*
- consultation with the Department of Employment and Workplace Relations and other relevant government agencies who use definitions of small business, and
- targeted consultation with small businesses and employee representatives.

The review will not consider whether amendments should be made to other definitions of small business outside of the workplace relations portfolio.

Deliverables

The Office of the Fair Work Ombudsman is to provide a final report on its findings and recommendations by the end of 2024.

The report is to be published on the Fair Work Ombudsman's website.