

From: s.22 Irrelevant Information
To: [FWO - Criminal Investigations Branch](#)
Cc: s.22 Irrelevant Information
Subject: For information: inquiry into wage theft [SEC=OFFICIAL]
Date: Friday, 27 March 2026 5:11:15 PM
Attachments: [Hansard Wage theft \(FED\).pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Hi all,

I hope you have had a good week. As mentioned at the RTG meeting yesterday, there will be a [parliamentary inquiry into wage theft](#) following the passing of a motion by Senator Payman on 24 March 2026. Please see attached Hansard for those of you who are interested.

s.22 Irrelevant Information will be embedded into CIB for the duration of the inquiry to assist with any work that arises and to enable you to continue to focus on progressing our investigations. s.22 Irrelevant Information will also continue to assist with the pipeline project during this time.

While I did not expect an inquiry to be held this quickly after the commencement of the offence provision, this is nothing to be concerned about and is an opportunity to provide meaningful feedback on our experiences to date to inform considerations as to whether further reforms are needed.

I will keep you informed as the inquiry progresses. Otherwise, I do not expect that it will impact upon the work that you are doing and it is business as usual for CIB.

I hope you all have a lovely weekend.

Kind regards



 s.22 Irrelevant Information (she/her) | Executive Director – Criminal Investigations Branch

Regulatory Transformation Group

FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
X: s.22 Irrelevant Information
M: s.22 Irrelevant Information
E: s.22 Irrelevant Information@fwo.gov.au

Level 25, 400 George Street, BRISBANE QLD 4000

GPO Box 9887 BRISBANE QLD 4001

I work flexibly and may send emails at times which suit me. Unless clearly marked, I do not expect you to read or respond to my email outside your own working hours.

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia

BRIEF

TO: Meeting Attendees

CONTACT:

s.22 Irrelevant Information

FROM: WR Policy

PHONE:

s.22 Irrelevant Information

DATE: 30 March 2026

BRANCH:

Policy

REQUIRED ACTION: For noting

SUBJECT: FWO and DEWR Meeting Brief

Purpose

1. You are meeting with the Department of Employment and Workplace Relations (DEWR) Workplace Relations Group from 10am to 10.30am AEST on Tuesday 31 March 2026.

Invitees:

Fair Work Ombudsman (FWO):

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

DEWR: s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

2. The agenda for the meeting is at Attachment A.

s.22 Irrelevant Information

3. Wage Theft Inquiry

Lead: FWO

6. The Senate referred the issue of wage theft to the Education and Employment Reference Committee for inquiry on 24 March 2026, with a reporting date of 18 June 2026, following a motion moved by Senator Payman which was supported by the Coalition and the Greens.
7. The Terms of Reference for the inquiry are broad, covering “the extent to which the wage theft framework under the Fair Work Act 2009, and operation of subsection 327A(1), has led to a decrease in the incidence of wage theft in Australia, and any other related matter”.
8. The Committee has invited the FWO to make a submission to the inquiry. Submissions close on 23 April 2026.
9. The inquiry follows interest in wage theft by Senator Payman and in the media:
 - Senator Payman made a Senate Order for the Production of Documents from Minister Rishworth, the Minister for Home Affairs and the Attorney-General regarding the criminal underpayment offence, including relevant correspondence between Ministers, DEWR, FWO, AFP and the CDPP.
 - Senate estimates questioning by Senator Payman about FWO activities relating to the criminal offence, including the number of referrals made by the FWO to the AFP and CDPP.
 - Commentary in a s.22 - irrelevant information article in the Weekend Australian on 14 February 2026 criticised the FWO for having only commenced two investigations into the offence and made no referrals.

s.22 Irrelevant Information



DEWR/FWO Meeting

Agenda

Date: Tuesday, 31 March 2026
Time: 10am-10.30am (AEST)
Venue: via TEAMS

Title

Lead

s.22 Irrelevant Information

Wage theft inquiry

FWO

s.22 Irrelevant Information

image by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 11:22 am

FYI not sure if s.22 Irrelevant Information copied you in on her r... by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 11:22 am

FYI not sure if s.22 Irrelevant Information copied you in on her reply re that DEWR sub

I'll try have a look at it by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 11:22 am

I'll try have a look at it

Thanks s.22 Irrelevant Information: I haven't received anything oth... by s.22 Irrelevant Information

8/04 11:29 am

s.22 Irrelevant Information

Thanks s.22 Irrelevant Information: I haven't received anything other than your email - let me know when you've reviewed and I can have a look

Will do, thanks s.22 Irrelevant Information by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 11:30 am

Will do, thanks s.22 Irrelevant Information

Hi s.22 Irrelevant Information I've had a first look at the sub a... by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 12:28 pm

Hi s.22 Irrelevant Information I've had a first look at the sub and made some tracked changes and comments. I think it's been agreed to keep the subs very high level so I've avoided adding in much re the offence provisions but will keep considering

Hi s.22 Irrelevant Information - is the link the one about 3 emails... by s.22 Irrelevant Information

8/04 12:40 pm

s.22 Irrelevant Information

Hi s.22 Irrelevant Information - is the link the one about 3 emails down in the chain you forwarded to me?

Yep that's the one by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 12:40 pm

Yep that's the one



1 Like reaction.

Thanks - I'll look now by s.22 Irrelevant Information

8/04 12:40 pm

s.22 Irrelevant Information

Thanks - I'll look now

Thanks s.22 Irrelevant Information - have mentioned to s.22 Irrelevant Information... by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 12:41 pm

Thanks s.22 Irrelevant Information - have mentioned to s.22 Irrelevant Information that you are looking too (she was asking me if I was done with the sub)

This is for the Inquiry requested by Senato... by s.22 Irrelevant Information

8/04 12:42 pm

s.22 Irrelevant Information

This is for the Inquiry requested by Senator Payman, yes?

Yes - DEWR only sub - FWO's to come later by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 12:42 pm

Yes - DEWR only sub - FWO's to come later



1 Like reaction.

Do you think we should make more of the com... by s.22 Irrelevant Information

8/04 12:46 pm

s.22 Irrelevant Information

Do you think we should make more of the commencement provisions? They seem a bit buried whereas it's actually quite important if the Senate wants answers about why there have been no referrals

e.g. move that sentence two paragraphs late... by s.22 Irrelevant Information

8/04 12:46 pm

s.22 Irrelevant Information

e.g. move that sentence two paragraphs later under application

or leave "The wage theft offence commenced ... by s.22 Irrelevant Information

8/04 12:47 pm

s.22 Irrelevant Information

or leave "The wage theft offence commenced on 1 January 2025" and put the rest further down

Yeah I think that's a good suggestion by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 12:48 pm

Yeah I think that's a good suggestion



1 Like reaction.

In the "Liability of bodies corporate and a... by s.22 Irrelevant Information

8/04 12:58 pm

s.22 Irrelevant Information

In the "Liability of bodies corporate and accessories" section do we need to refer to s6 of the Crimes Act too? It's a bit vague

p4 by s.22 Irrelevant Information

8/04 12:59 pm

s.22 Irrelevant Information

p4

I think so re ancillary offenders - so "(Pa... by s.22 Irrelevant Information

s.22 Irrelevant Information

8/04 1:00 pm

I think so re ancillary offenders - so "(Part 2.4 of the Criminal Code and s 6 of the Crimes Act 1914 (Cth) apply)"



1 Like reaction.

I agree with your and s.22 Irrelevant Information suggestion by s.22 Irrelevant Information

8/04 1:02 pm

s.22 Irrelevant Information

I agree with your and s.22 Irrelevant Information suggestion



1 Heart reaction.

s.22 Irrelevant Information

From: s.22 Irrelevant Information
Sent: Friday, 10 April 2026 5:08 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information
Subject: RE: Wage theft inquiry - examples of comparable international and domestic laws [SEC=OFFICIAL]

Hi all,

Hope you've had a good week. s.22 Irrelevant Information has asked whether it would be possible for us to have access to any working document that you might have started for our submission? Our intention wouldn't be to mess with it while you are still drafting, but it would help us to have a bit longer with the document and we may be able to identify gaps/directions we need to go in earlier. If so, could s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information and I please have access?

I also just wanted to flag that I will be on leave next week and will be back on Monday 20 April. s.22 Irrelevant Information will be back on deck next week and available if you need her.

In relation to the Migration Act amendments I referenced in my earlier email, the *Migration Amendment (Strengthening Employer Compliance) Act 2024* introduced new offences into the Migration Act to tackle migrant worker exploitation. There were 3 new work-related offences introduced that make it illegal for employers, including sponsors, and labour hire intermediaries to:

- coerce or pressure a temporary visa holder to breach a work-related visa condition
- coerce or pressure a non-citizen without a valid visa to accept or agree to a work-related arrangement
- use a worker's temporary visa status to exploit them in the workplace (including in relation to existing visa conditions and requirements to support future visa application).

The laws cover a range of work-related situations where exploitation might happen, including but not limited to:

- underpaying a migrant worker
- pressuring a migrant worker to work more hours than allowed by their visa conditions
- threatening to cancel a migrant worker's visa (employers cannot cancel visas)
- coercing a migrant worker to hand over their passport
- coercing a migrant worker to engage in unwanted sexual acts
- pressuring a migrant worker to accept inadequate living conditions, such as poor housing, inadequate meals or access to running water and electricity.

The offences commenced operation on 1 July 2024 and (as far as I can tell) no criminal prosecutions appear to have been commenced to date.

Not that I think we necessarily would want to use the state offences as examples but it took the Victorian Wage Inspectorate 17 months from their commencement of their wage theft leg to commence their first wage theft prosecution (and I think they could file the proceedings themselves so didn't have the added complexity of needing to brief a prosecutorial body like we do?) and Qld police have never brought proceedings since the offence of stealing under the Qld Criminal Code was amended to include intentional underpayments in Sept 2020.

Thanks very much,

s.22 Irrelevant Information

 s.22 Irrelevant Information (she/her) | Executive Officer

Regulatory Transformation Group
FAIR WORK OMBUDSMAN

Please note that I do not work Fridays.

T: s.22 Irrelevant Information
X: s.22 Irrelevant Information
 @fwo.gov.au

GPO Box 9887 Brisbane QLD 4001 | **Yuggera Country** - 400 George Street, Brisbane QLD 4000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | subscribe to email updates



From: s.22 Irrelevant Information
Sent: Thursday, 2 April 2026 4:03 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information
Subject: RE: Wage theft inquiry - examples of comparable international and domestic laws [SEC=OFFICIAL]

Thanks [REDACTED] – look forward to working with you too!

IA-2925 009

And no worries at all, we will look into it next week.

Cheers

From: [REDACTED] <[REDACTED]@fwo.gov.au>

Sent: Thursday, 2 April 2026 4:24 PM

To: [REDACTED] <[REDACTED]@fwo.gov.au>

Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>

Subject: RE: Wage theft inquiry - examples of comparable international and domestic laws [SEC=OFFICIAL]

Thanks [REDACTED] – looking forward to working with you all on this.

Short answer is that there's not an existing document that I know off. I have started to look into some worker exploitation crim offences recently introduced into the Migration Act as we suspect they might not have been used much/at all yet either so I can contribute that if it turns out to be useful. I can let you know if I stumble upon any other similar leads!

Have a nice break – talk soon.

[REDACTED] (she/her) | Executive Officer

Regulatory Transformation Group
FAIR WORK OMBUDSMAN

Please note that I do not work Fridays.

[REDACTED]
[REDACTED]@fwo.gov.au

GPO Box 9887 Brisbane QLD 4001 | **Yuggera Country** - 400 George Street, Brisbane QLD 4000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



From: [REDACTED] <[REDACTED]@fwo.gov.au>

Sent: Thursday, 2 April 2026 2:32 PM

To: [REDACTED] <[REDACTED]@fwo.gov.au>

Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>

Subject: Wage theft inquiry - examples of comparable international and domestic laws [SEC=OFFICIAL]

Hey [REDACTED]

Hope you are well, and that you aren't too far from logging off and enjoying an extra-long weekend!

I just wanted to let you know that Policy is currently drafting FWO's submission to the Education and Employment References Committee's [Wage Theft](#) inquiry, and will also be involved in developing a briefing package to support any FWO witnesses that are called to appear before the inquiry.

We think it would be useful to include some domestic or international comparisons in the package, to assist in setting the scene around:

- how long deterrence can take post the introduction of a law (ideally criminal); and
- how long it can take to file a matter/make a referral post the introduction of a new criminal law.

We thought we would reach out to you initially, on the off-chance that there might already be a document floating around that considers comparable laws that you might be able to share with us? If there's not, that's fine too, we've got some time until we're likely to need that info, so we can look into it.

If possible, if you are able to let us know either way by Wednesday next week (9 April), that would be much appreciated.

Thanks heaps,

s.22 Irrelevant Information



s.22 Irrelevant Information

he/her) | Assistant Director

Government Policy

FAIR WORK OMBUDSMAN

Part-time hours are Monday, Tuesday, Wednesday (until 2:30pm) and Thursday.

s.22 Irrelevant Information

s.22 Irrelevant Information

E: s.22 Irrelevant Information @fwo.gov.au

GPO Box 9887 Adelaide SA 5000 | Kurna Country - L2, 148 Frome Street, ADELAIDE SA 5000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.



The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

Record my hours – available now



<http://www.fairwork.gov.au> | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)

s.22 Irrelevant Information

From: s.22 Irrelevant Information
Sent: Wednesday, 8 April 2026 3:40 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information
Subject: RE: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]
Attachments: FWO edits - DRAFT DEWR Submission - Wage Theft Inquiry - April 2026.docx

Hi s.22 Irrelevant Information and team,

Thank you for sending through an early draft of DEWR's submission to the Wage Theft Inquiry. We appreciate the opportunity to review.

With thanks to the FWO team, we have collated some suggestions in comments and track changes for DEWR's consideration - mostly to align aspects of the submission with the language used in FWO's QoN response and Compliance and Enforcement Policy.

Please don't hesitate to reach out if you have any questions or require any further information from us. I'd be very happy to discuss any of our comments or suggestions.

Thanks again,

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information
 E: s.22 Irrelevant Information @fwo.gov.au

s.22 - irrelevant information

From: s.22 Irrelevant Information
Sent: Tuesday, 7 April 2026 5:00 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information @dewr.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @dewr.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @dewr.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>
Subject: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

Hi s.22 Irrelevant Information,

As discussed, please find attached an early draft of our submission for your review by 3pm tomorrow (Wed 8 Apr) if possible.

Specifically, we'd be grateful for your review and any updates to:

- the 'FWO's role' section (pages 4-5) which we've tried to capture at a very high level – we're particularly keen for your review of the characterisation of the number of FWO investigations on foot and referrals
- the 'safe haven' section (page 5), including how the FWO's role is described
- the 'purpose and context' section (page 6), specifically the last paragraph of the FWO's broader role in addressing underpayments.

Always happy to chat.

Cheers

s.22 Irrelevant Information (he/him)
 Workplace Justice Reform
 s.22 Irrelevant Information

From: s.22 Irrelevant Information
Sent: Tuesday, 7 April 2026 12:13 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>

Cc: [redacted] <[redacted]@dewr.gov.au>; [redacted] <[redacted]@dewr.gov.au>; [redacted] <[redacted]@dewr.gov.au>;
<[redacted]@dewr.gov.au>; [redacted] <[redacted]@fwo.gov.au>; [redacted] <[redacted]@fwo.gov.au>; [redacted] <[redacted]@fwo.gov.au>;
[redacted] <[redacted]@fwo.gov.au>; [redacted] <[redacted]@fwo.gov.au>

Subject: RE: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

Thanks so much for sharing this with us, [redacted] and for the chat this morning!

And confirming we'll copy you, [redacted] and your teams into relevant emails relating to the Inquiry.

Always happy to chat.

Cheers
[redacted]

[redacted] (he/him)
Director (a/g) | Workplace Justice Reform
Entitlements Safeguards Division
[redacted]

From: [redacted] <[redacted]@fwo.gov.au>
Sent: Tuesday, 7 April 2026 12:07 PM
To: [redacted] <[redacted]@dewr.gov.au>
Cc: [redacted] <[redacted]@dewr.gov.au>; [redacted] <[redacted]@dewr.gov.au>; [redacted] <[redacted]@dewr.gov.au>; [redacted] <[redacted]@dewr.gov.au>;
[redacted] <[redacted]@dewr.gov.au>; [redacted] <[redacted]@fwo.gov.au>; [redacted] <[redacted]@fwo.gov.au>; [redacted] <[redacted]@fwo.gov.au>;
[redacted] <[redacted]@fwo.gov.au>; [redacted] <[redacted]@fwo.gov.au>

Subject: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

Hi [redacted]

Thanks for reaching out about DEWR's submission to the Senate's Wage theft inquiry this morning – it was lovely to catch up!

As discussed, FWO is also looking to pull together a flat and relatively succinct submission, expanding on our answer to a QoN we took from Senator Payman at Estimates (draft response attached, noting it is sitting the MO and will likely be tabled soon).

We would be happy to cast an eye over any aspects of DEWR's submission relating to the FWO that you are able to share with us this week, and will keep you in the loop on how our submission is shaping up - particularly in relation to any data that we end up using.

We are co-leading this work across FWO's WR Policy and Gov Policy teams, so grateful if any emails etc relating to the wage theft inquiry could be sent to myself and [redacted] cc'ing [redacted] and [redacted]

Thanks again, and happy to chat at any point!
[redacted]

[redacted] (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

[redacted]
E: [redacted]@fwo.gov.au

GPO Box 9887 Melbourne VIC 3000 | **Kulin Nation** - Level 14, 414 La Trobe Street, Melbourne VIC 3000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and community. We pay our respect to them, their cultures, and Elders past, present and future.

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

1

[illegible]

Thanks again for consulting with us. We have now reviewed the updated draft submission and included some comments in the attached for your consideration.

We have not consulted more broadly with our criminal investigations or legal counterparts on this draft in the timeframes, but we will share this draft and our response with them and let you know if they identify any red lines.

██████████ (she / her) | A/g Director

22 Irrelevant Information
E 22 Irrelevant Information @fwo.gov.au

Excellent, thanks! We are taking a look now and will come back with any red lines.

(she / her) | A/g Director

T: [REDACTED]
E: [REDACTED]@fwo.gov.au

Thanks s.22 Irrelevant hope you had a great weekend too!

This draft is currently with our AS, and we are hoping the FWO-related content is close to final.

Always happy to chat.

From: [REDACTED] s.22 Irrelevant Information @fwo.gov.au>

Hi [REDACTED] (and [REDACTED] and team!)

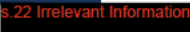
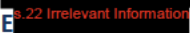
Hope you all had a nice weekend. Thank you for sharing the latest draft of DEWR’s submission and for highlighting the changes for us.

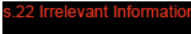
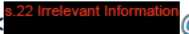
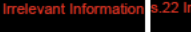
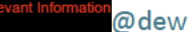
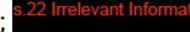
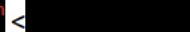
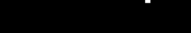
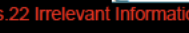
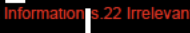
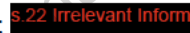
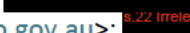
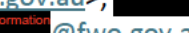
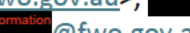
To help us determine what level of clearance / consultation to undertake on our side, can I check where you are at in your clearance process and whether you expect that the FWO-related content in this draft is close to final?

Thanks, and happy to have a chat if that’s easiest!

 (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN


E @fwo.gov.au

From:  <@dewr.gov.au>
Sent: Monday, 13 April 2026 10:38 AM
To:  <@dewr.gov.au>;  <@fwo.gov.au>
Cc:  <@dewr.gov.au>;  <@dewr.gov.au>;  <dewr.gov.au>;  <@fwo.gov.au>;
<fwo.gov.au>;  <@fwo.gov.au>;  <@fwo.gov.au>;  <@fwo.gov.au>;  <@fwo.gov.au>;
 <@fwo.gov.au>;  <@fwo.gov.au>
Subject: RE: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

Hi team,

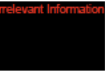
We are seeking your review of the revised DEWR submission by COB today 13 April, if possible. Please note our changes are highlighted in the submission.

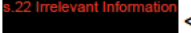
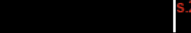
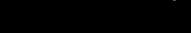
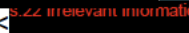
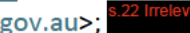
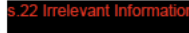
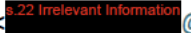
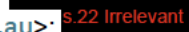
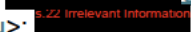
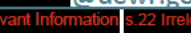
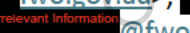
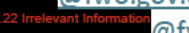
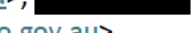
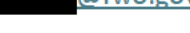
As  and  discussed on Friday, we've expanded the civil remedy framework content, emphasised the FWO's voluntary compliance work and noted their education role more broadly (referencing the EAS). We're also keen for your review to ensure the content is accurate.

 [DRAFT DEWR Submission - Wage Theft Inquiry - April 2026.docx](#)

Please reach out with any questions.

Cheers,



From:  <@dewr.gov.au>
Sent: Thursday, 9 April 2026 8:56 AM
To:  <@fwo.gov.au>
Cc:  <@dewr.gov.au>;  <@dewr.gov.au>;  <@dewr.gov.au>;  <@fwo.gov.au>;
 <@dewr.gov.au>;  <@dewr.gov.au>;  <@dewr.gov.au>;  <@fwo.gov.au>;
 <@fwo.gov.au>;  <@fwo.gov.au>;  <@fwo.gov.au>;  <@fwo.gov.au>;
Subject: RE: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

Thanks so much,  and teams!

We'll let you know if we have any questions.

Cheers



s.22 Irrelevant Information

From: s.22 Irrelevant Information
 To: s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
 Subject: RE: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]
 Date: Wednesday, 8 April 2026 3:43:07 PM
 Attachments: [RE Seeking FWO review by 3pm Wed 8 Apr Wage Theft Inquiry Submissions SECOFFICIAL.msg](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)

Thanks all – incredible effort given the timeframes! FYI, we’ve gone back to DEWR with collated comments (attached).

Cheers,

s.22 Irrelevant Information

s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy

FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

E: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

From: s.22 Irrelevant Information

Sent: Wednesday, 8 April 2026 1:53 PM

To: s.22 Irrelevant Information

Cc: s.22 Irrelevant Information ; s.22 Irrelevant Information ; s.22 Irrelevant Information ; s.22 Irrelevant Information ; s.22 Irrelevant Information ;

s.22 Irrelevant Information ; s.22 Irrelevant Information ; s.22 Irrelevant Information ; s.22 Irrelevant Information ; s.22 Irrelevant Information ;

Subject: RE: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

No worries s.22 Irrelevant Information

s.22 Irrelevant Information and I have reviewed, as have s.22 Irrelevant Information and s.22 Irrelevant Information from Legal. Suggested amendments and comments are tracked in the document.

Happy to discuss.

Kind regards,

s.22 Irrelevant Information



s.22 Irrelevant Information (she/her) | Executive Officer

Regulatory Transformation Group

FAIR WORK OMBUDSMAN

Please note that I do not work Fridays.

s.22 Irrelevant Information

[fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

GPO Box 9887 Brisbane QLD 4001 | Yuggera Country - 400 George Street, Brisbane QLD 4000

☐ ☐ The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

From: s.22 Irrelevant Information <s.22 Irrelevant Information@two.gov.au>

To: **s.22 Irrelevant Information**@fwo.gov.au>

Cc: [REDACTED] <[REDACTED][fwo.gov.au](mailto:[REDACTED]@fwo.gov.au)>; [REDACTED]
[REDACTED] <[REDACTED][fwo.gov.au](mailto:[REDACTED]@fwo.gov.au)>; [REDACTED] <[REDACTED][fwo.gov.au](mailto:[REDACTED]@fwo.gov.au)>; [REDACTED]
[REDACTED] <[REDACTED][fwo.gov.au](mailto:[REDACTED]@fwo.gov.au)>; [REDACTED] <[REDACTED][fwo.gov.au](mailto:[REDACTED]@fwo.gov.au)>

Apologies – meant to include you here as well!

6.22 Irrelevant

From: s.22 Irrelevant Information

To: s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>; s.22 Irrelevant Information
<s.22 Irrelevant Information fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>

Cc: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information
s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information
s.22 Irrelevant Information@fwo.gov.au

Subject: FW: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions
[SEC=OFFICIAL]

Hi [REDACTED] and [REDACTED]

See the link in [redacted] email below to DEWR's first draft submission for the Wage Theft Inquiry. It's fairly short and high level and we've added some suggestions to align with the language used in our QoN response (attached for reference).

As [REDACTED] has flagged below, DEWR provided this last night and has asked for feedback by 3pm today, which frankly seems absurd for a submission that's not due until 23 April. See how you go, but we're happy to provide the suggested amendments as a starting point, but note that some of our specialist and relevant SES will not have had the opportunity to review this as yet (noting that [REDACTED] is not back from leave until tomorrow I think?), so further feedback/suggestions may be coming at a later stage.

Happy to chat further.

Thanks

s.22 Irrelevant Information

From: s.22 Irrelevant Information

Sent: Wednesday, 8 April 2026 10:38 AM

To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>

Cc: s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information

s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au

Subject: FW: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions

[SEC=OFFICIAL]

Hi s.22 Irrelevant Information

As set out below, DEWR have asked us to take a look at their draft submission to the Wage Theft Inquiry. With thanks to everyone copied for the quick turnaround, we've tracked suggested changes to more closely align with our related QoN response (attached for ease of reference) and our Compliance and Enforcement Policy. Our suggested changes are relatively minor and can be viewed here: [FWO edits - DRAFT DEWR Submission - Wage Theft Inquiry - April 2026.docx](#)

DEWR have asked for our review by 3pm today. Please let us know if you'd like any edits and/or if you'd like us to share it with s.22 Irrelevant Information and s.22 Irrelevant Information

Thanks

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

From: s.22 Irrelevant Information
 Sent: Wednesday, 8 April 2026 1:51 PM
 To: s.22 Irrelevant Information, s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information, s.22 Irrelevant Information
 Subject: RE: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

Thanks s.22 Irrelevant Information (and s.22 Irrelevant Information)

I'll let policy know.

Thanks,

s.22 Irrelevant Information (she/her) | Executive Officer
 Regulatory Transformation Group
FAIR WORK OMBUDSMAN

Please note that I do not work Fridays.

s.22 Irrelevant Information

E s.22 Irrelevant Information @fwo.gov.au

GPO Box 9887 Brisbane QLD 4001 | **Yuggera Country** - 400 George Street, Brisbane QLD 4000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.



The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



From: s.22 Irrelevant Information
 Sent: Wednesday, 8 April 2026 1:22 PM
 To: s.22 Irrelevant Information, s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information, s.22 Irrelevant Information
 Subject: FW: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

Hi s.22 Irrelevant Information and s.22 Irrelevant Information

Just to close the loop – s.22 Irrelevant Information (who is acting for s.22 Irrelevant Information) and I have both reviewed the draft sub in the limited time available to us and included our own tracked changes and comments for consideration. We've kept in mind that the sub is intended to be quite high level.

Let us know if you/Policy need anything further from us.

Thanks,

s.22 Irrelevant Information Principal Lawyer
 Legal Enforcement Branch 1
 Legal & Policy Group
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E s.22 Irrelevant Information @fwo.gov.au

GPO Box 9887 Brisbane QLD 4001 | 400 George Street, Brisbane QLD 4000

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: RE: Wage theft inquiry - examples of comparable international and domestic laws [SEC=OFFICIAL]
Date: Friday, 10 April 2026 5:58:43 PM
Attachments: [image012.png](#)
[image014.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[image020.png](#)
[image025.png](#)
[image030.png](#)
[image032.png](#)
[image037.png](#)
[image039.png](#)
[image040.png](#)
[image041.png](#)
[image008.png](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Hi s.22 Irrelevant

Thanks so much for looking into these examples and for sending through the below information. I definitely think we'll be able to weave some of this into the submission.

Here is a link to the working document: [\[Draft\] - FWO Submission - Wage Theft Inquiry.docx](#)

I would note that the document is still very much in draft form - we are aiming to have it ready for EL2 review in the Policy branch by Tuesday 14 April. Having said this, please feel free to jump in and take a look, any feedback or initial thoughts would be greatly appreciated. We are still working to integrate some additional guidance s.22 Irrelevant provided us late this afternoon - I'll be looking to have this completed sometime on Monday morning.

Please feel free to give me a call on Monday if you'd like to discuss further.

Cheers,

s.22 Irrelevant Information Assistant Director – Workplace Relations policy

Legal and Policy Group

FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E s.22 Irrelevant Information n@fwo.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders, past, present and future.

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information
Subject: RE: s.22 Irrelevant Information /Anna monthly meeting [SEC=OFFICIAL]
Date: Wednesday, 15 April 2026 1:27:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.jpg](#)

Hi s.22 Irrelevant Information

There is one item Anna would like to discuss in her catch up with s.22 Irrelevant Information tomorrow: *Wage theft inquiry*.

Could you please let s.22 Irrelevant Information know?

Many thanks

s.22 Irrelevant Information



s.22 Irrelevant Information (her) | Executive Assistant to the Fair Work Ombudsman | A/g Board Secretariat

s.22 Irrelevant Information

E: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

From: s.22 Irrelevant Information [@dewr.gov.au](mailto:s.22 Irrelevant Information@dewr.gov.au)
Sent: Thursday, 9 April 2026 12:37 PM
To: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)
Subject: RE: s.22 Irrelevant Information /Anna monthly meeting [SEC=OFFICIAL]

Just updated! Thank you

s.22 Irrelevant Information

From: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)
Sent: Thursday, 9 April 2026 11:44 AM
To: s.22 Irrelevant Information [@dewr.gov.au](mailto:s.22 Irrelevant Information@dewr.gov.au)
Subject: RE: s.22 Irrelevant Information /Anna monthly meeting [SEC=OFFICIAL]

Thanks s.22 Irrelevant Information

I think 30 minutes would be fine if you could please send through the updated calendar invite.

Many thanks

s.22 Irrelevant Information



s.22 Irrelevant Information (she/her) | Executive Assistant to the Fair Work Ombudsman | A/g Board Secretariat

s.22 Irrelevant Information

E: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

From: s.22 Irrelevant Information [@dewr.gov.au](mailto:s.22 Irrelevant Information@dewr.gov.au)
Sent: Thursday, 9 April 2026 11:39 AM
To: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)
Subject: RE: s.22 Irrelevant Information /Anna monthly meeting [SEC=OFFICIAL]

Thank you for coming back to me with times

Confirming i have moved the 12 May occurrence to now 18 May at 1:30pm.

s.22 Irrelevant Information can do 9:30am -10 on Thursday if Anna is happy with 30 minutes?

Many thanks,

s.22 Irrelevant Information

From: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)
Sent: Thursday, 9 April 2026 11:36 AM
To: s.22 Irrelevant Information [@dewr.gov.au](mailto:s.22 Irrelevant Information@dewr.gov.au)
Subject: RE: s.22 Irrelevant Information /Anna monthly meeting [SEC=OFFICIAL]

From: [REDACTED]
Sent: Tuesday, 21 April 2026 9:07 AM
To: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Cc: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks team – I have reviewed again this morning. Looking good – and that is good news

5.22 Irrelevant

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Tuesday, 21 April 2026 8:24 AM
To: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>;
[REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>;
[REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks. The numbers have been trending up for a few years (just smaller quanta).

Group Manager - Regulatory Transformation Group

FAIR WORK OMBUDSMAN

T: [REDACTED]
X: [REDACTED]
M: [REDACTED]
E: [REDACTED] two.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Sent: Tuesday, April 21, 2026 8:22:50 AM
To: s.22 Irrelevant Information <s.22 - irrelevant information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>;
 s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>;
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>;
 s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>;
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks

Just flagging for this cohort that we're also chasing down numbers of self-reports in recent years to see if this can assist with the narrative (as well as the query from the MO via DEWR yesterday).

Thanks

s.22 Irreleva

From: s.22 Irrelevant Information <s.22 - irrelevant information@fwo.gov.au>
Sent: Monday, April 20, 2026 5:19:45 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>;
<s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>;
Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Hi [REDACTED] and [REDACTED]

With big thanks to you all for your review and comments, we've now accepted changes and actioned comments in the sub. Over to you to review this cleaned up version.

We'll do a final grammar/formatting check once we're close to the final version.

Many thanks.

22 Irrelevant information

From: s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>
Sent: Sunday, 19 April 2026 5:46 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>; s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>;
 s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>;
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>;
 s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks § 87(2)(b) and § 87(2)(b) Irrelevant Information - we'll review, clean it up and re-circulate.

Thanks

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information; BOOTH,Anna; s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]
Date: Tuesday, 21 April 2026 9:12:17 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.jpg](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Hi all,

Just a quick note to advise that since providing the initial figures in the submission, we have commenced a new criminal investigation. We have also received another referral which is under assessment.

We will update the figures in the submission for Anna's signature.

Kind regards

s.22 Irrelevant Information

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Tuesday, 21 April 2026 8:37 PM
To: BOOTH,Anna; s.47E(d) - agency operations; s.22 Irrelevant Information@fwo.gov.au;
s.22 Irrelevant Information@fwo.gov.au
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information
<[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>;
[REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
[REDACTED]@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks AB - yes - the formatting has officially crapped itself in this version! - but rest assured that we'll get it cleaned up and properly formatted and give it a final proof before we submit on Thursday. I'll also share a final copy with the MO and DEWR once it's submitted.

Thanks

[REDACTED]

From: BOOTH,Anna; s.47E(d) - agency operations >

Sent: Tuesday, April 21, 2026 8:28:37 PM

To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information
s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information s@fwo.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information
<s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>;
s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information
s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au>

Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks s.22 Irrelevant Information It is looking good. My only comment , trivial is it may be, is I think the last page has a duplicated paragraph. In s.22 Irrelevant Information absence s.22 Irrelevant Information will place my e-signature on the letter when the final version is provided tomorrow. All the best,
Anna



Anna Booth (she/her) | Fair Work Ombudsman



The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

s.22 - irrelevant information

s.22 Irrelevant Information

s.22 - irrelevant information

From: [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>
 Sent: Thursday, 16 April 2026 12:53 PM
 To: [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>; [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>; [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>; [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 Cc: [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>; [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>; [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>; [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 [REDACTED] <s.22 Irrelevant Information@fwo.gov.au>;
 Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Hi team,

AB called this morning and provided the below feedback/thoughts over the phone on the draft for consideration:

- Could we consider including costings for each of the dot points under the

‘Implementing the crim’ section on page 3 – we had a quick chat about the challenges of this, but agreed we would likely need the narrative around this for any hearing in any case – [REDACTED] can you work with crim to have a first go at pulling this together and we’ll see what it looks like?

- Could the same set of dot points (on page 3 under the ‘implementing’ section) be expanded to go into as much detail as possible for everything that is being done as part of the implementation – [REDACTED] – can we ask you to bulk this section up with as much specificity as possible – specifically, AB mentioned issuing subpoena’s, engaging Services Australia at a cost etc. etc.
- In the same set of dot points, should we highlight that we’ve had to establish a standalone criminal investigations Branch to allow for/meet the derivative immunities use requirements?
- Be more forthright with the language: instead of ‘it can take time’, use ‘it does take time’; instead of ‘extrapolation of FWO’s data around non-compliance may not be reflective’, use ‘extrapolation of FWO’s data will not be reflective’ etc.
- Be as specific as possible with number of matters under investigation and under assessment
- On the challenges of criminal investigations content on pages 3 and 4, Anna likes the language and issues raised in [REDACTED] comments – can these also be incorporated into that section
- In the paragraph on page 2 about working collaboratively and constructively with stakeholders and our tripartite approach, can we also include a sentence reinforcing that reporting potential breaches of the FW Act is everyone’s responsibility – and we act on referrals from the public, government agencies, unions, employer organisations, media and parliamentarians
- In the section about ‘FWO’s work addressing underpayments’ on page 5 and the use of the term ‘wage theft’, can we include that the term is a colloquialism

[REDACTED] and I also had a chat this morning and we think there would also be merit in moving that whole section ‘FWO’s work addressing underpayments’ up to go below the ‘Role of the FWO’ section and above the crim specific section. That way we can begin with the context of the term ‘wage theft’ and the broad spectrum/continuum of matters covered by that term and the significant amount of work we have done across the ‘wage theft’ continuum, and then drill down into the crim specific content. Let’s see how that lands.

Hope that all makes sense – yell out if anyone wants any clarity.

Thanks for everyone’s ongoing efforts.



s.22 Irrelevant Information

s.22 Irrelevant Information

From: s.22 Irrelevant Information
Sent: Monday, 20 April 2026 1:54 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information
Subject: FW: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]
Attachments: 2026 1704 FWO Submission for Senate Inquiry - DRAFT.docx; 2026 04 FWO Submission for Senate Inquiry - work undertaken by CIB.docx

FYI – in case this helps with the sub or later hearing materials. This is what CIB has sent through to date.

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E: s.22 Irrelevant Information@fwo.gov.au

From: s.22 Irrelevant Information
Sent: Monday, 20 April 2026 11:49 AM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks very much for this s.22 Irrelevant Information, it's really appreciated! It's been a bit of a flurry on the wage theft submission this morning, but s.22 Irrelevant Information and I will work through this and see if there's anything we have missed that could be included to enhance FWO's submission – and if not, this information will be useful to feed into any hearing materials.

We will reach out if we have any questions.

Cheers,

s.22 Irrelevant Information

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E: s.22 Irrelevant Information@fwo.gov.au

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Sent: Friday, 17 April 2026 6:26 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Subject: FW: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Good afternoon s.22 Irrelevant Information and s.22 Irrelevant Information

Thanks for your time earlier today. Based on our discussions I have pulled together two documents. The first is an overview of evidence management, trying to explain our work in layman's terms. The second is some explanation and costings (some still outstanding as I am still collating) linked to the dot points in the Draft Submission under the heading “**Implementing the criminal jurisdiction**” on page 4.

I will continue to work on refining these two documents but wanted you to have something as a base for further review/recommendations on what you would like me to address. Please feel free to reach out to me at any time.

Cheers,

s.22 Irrelevant Information

s.22 Irrelevant Information (she/her) | Director – Evidence Management

Criminal Investigations Branch
FAIR WORK OMBUDSMAN

E: s.22 Irrelevant Information@fwo.gov.au

I work flexibly and may send emails at times which suit me. Unless clearly marked, I do not expect you to read or respond to my email outside your own working hours.

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

From: s.22 Irrelevant Information@fwo.gov.au
Sent: Thursday, 16 April 2026 12:09 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information@fwo.gov.au

Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au>
Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Thanks for forwarding, s.22 Irrelevant Information

@s.22 Irrelevant Information as discussed, would you please help s.22 Irrelevant Information and s.22 Irrelevant Information with the bullet highlighted in yellow below?

@s.22 Irrelevant Information would you please help s.22 Irrelevant Information and s.22 Irrelevant Information with the bullet highlighted in pink below? We can discuss in pipeline meeting this afternoon.

 [\[Draft\] - FWO Submission - Wage Theft Inquiry.docx](#)

Kind regards

s.22 Irrelevant Information

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Sent: Thursday, 16 April 2026 1:42 PM
To: s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au>
Subject: FW: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

FYI

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information
E: s.22 Irrelevant Information@fwo.gov.au

s.22 - irrelevant information

Freedom of Information Act

Work undertaken by CIB to implement the criminal jurisdiction

1. Capital investment to cater for new physical infrastructure requirements:
 - o Building evidence secure rooms compliant with SCEC requirements (approx \$257,000 to date)
 - Retro-fit/build a secure room into one location in time for start of office, then other offices as leases roll over
 - Therefore there will be an ongoing cost in this area for some years beyond above amount
2. Requirement development and building of case management system and secure platform
 - o Building TRACE over 3 year period with incremental delivery to fulfil requirements of criminal investigations (approx YTD \$7.13M to date)
 - TRACE is a non-discretionary project supporting the Criminal Wage Theft reforms under the *Fair Work Act 2009* (Cth)
 - establish technical integration pathways that will support future growth, improved data sharing, enhanced cyber security and an improved end user experience
 - Ensure support of criminal investigations and trial-quality evidentiary requirements
3. Operational investment required to conduct criminal investigations:
 - o Procurement of specialist hardware and equipment to support specific requirements (approx
 - Class-C cabinets for locations
 - Dedicated scanners not linked to general FWO environment
 - Items to ensure integrity of digital evidence (e.g. writeblockers)
 - Audio/video recording units which are tamper proof and make multiple copies
 - o Procurement of equipment required to support Search Warrant activities
4. Entering into arrangements for forensic services with Services Australia to cover technical capabilities not reasonable for FWO to retain:
 - o Developed MoU to support assistance as required on cost recovery basis (rather than market rates) (approx \$126,000 for hardware/software p.a.; then labour on hourly rate as used)
 - Digital forensics is highly specialised and only required at specific times

- FWO work will not justify having these skills in-house due to small size of agency
5. Costs of conducting interviews when small team (need to travel as not represented at all locations):
 6. Development of substantial guides, policies and templates for work that was not undertaken at the FWO prior to the offence:

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

s.22 Irrelevant Information

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Sent: Wednesday, 22 April 2026 11:08 AM
 To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Thanks both, I will check in with s.22 Irrelevant Information and s.22 Irrelevant Information

s.22 Irrelevant Information – whilst I acknowledge this, I am aware that s.22 Irrelevant Information and s.22 Irrelevant Information have been eager to include that information and I have raised the concern re the balance – I think ultimately they hold the pen. To the extent that these topics are raised at any hearing, there is of course more detail that could be provided on the non-investigation content.

s.22 Irrelevant Information – I was wondering whether the serious contraventions regime may also be a suitable eg? If so, what would the chronology look like on that? It has some parallels because it is reliant on having sufficient conduct within time as well as the consideration of the public interest in pursuing where it is too early/not the right vehicle etc.

Thanks,

s.22 Irrelevant Information

OFFICIAL: Sensitive

s.22 - irrelevant information

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Sent: Wednesday, 22 April 2026 9:25 AM

To: [Redacted] <[Redacted]@fwo.gov.au>; [Redacted] <[Redacted]@fwo.gov.au>
Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Morning,

I can see the benefit but defer to you both as I don't have that background and don't know the appropriateness of using those specific matters.

As flagged the other day [Redacted] I think the submission is now too long and has over-corrected in giving too much detail and over-explaining everything CIB has been doing. I think some of that detail/explanation (potentially even this franchising comparator) could be pulled out and saved for any hearing. Especially when the FWO's hands are tied in terms of how much info (if any) can be given about the ongoing investigations.

If we assist with incorporating this into the sub, just a heads-up Policy have asked we don't edit the document directly and send any edits or additions to [Redacted]

Happy to discuss further.

Thanks,

OFFICIAL: Sensitive

From: [Redacted] <[Redacted]@fwo.gov.au>
Sent: Wednesday, 22 April 2026 8:16 AM
To: [Redacted] <[Redacted]@fwo.gov.au>; [Redacted] <[Redacted]@fwo.gov.au>
Subject: Fw: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Hi guys, thoughts on the below? Will check in before we agree anything but [Redacted] was mindful of your view re civil

From: [Redacted] <[Redacted]@fwo.gov.au>
Sent: Wednesday, April 22, 2026 8:04 am
To: [Redacted] <[Redacted]@fwo.gov.au>; [Redacted] <[Redacted]@fwo.gov.au>
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

It's also via an amendment to the FW Act made by the coalition.

From: [Redacted] <[Redacted]@fwo.gov.au>
Sent: Wednesday, April 22, 2026 7:36:57 AM
To: [Redacted] <[Redacted]@fwo.gov.au>; [Redacted] <[Redacted]@fwo.gov.au>
Subject: RE: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Hi [Redacted]

Yep – I appreciate that but I think it is a good example of the importance of not rushing things but also our demonstrated outcomes, so I am keen to include it. And no worries about the [Redacted] – we have time 😊

From: [Redacted] <[Redacted]@fwo.gov.au>
Sent: Wednesday, 22 April 2026 7:33 AM
To: [Redacted] <[Redacted]@fwo.gov.au>; [Redacted] <[Redacted]@fwo.gov.au>
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

I'm potentially open to that - but also prob need to think about other possible flow through from that. Also we have had other franchise matters [Redacted] although was a bit diff/ not contested) so just would need to check what the chronology would look like.

s.47F - Personal information [Redacted] but will give it some thought this morning when back online.

From: [Redacted] <[Redacted]@fwo.gov.au>
Sent: Wednesday, April 22, 2026 6:33:15 AM
To: [Redacted] <[Redacted]@fwo.gov.au>; [Redacted] <[Redacted]@fwo.gov.au>
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

No objections from me if [Redacted] is comfortable. We could frame it as an example of, as with any new provisions, needing to identify a matter where the appropriate breaches have occurred, ensuring there is sufficient evidence, witness cooperation (if applicable) etc. etc. - and highlight the time taken since the intro of those provisions (and note that this is still before the courts?).

From: [Redacted] <[Redacted]@fwo.gov.au>
Sent: Wednesday, April 22, 2026 5:59:30 AM
To: [Redacted] <[Redacted]@fwo.gov.au>; [Redacted] <[Redacted]@fwo.gov.au>
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]

Hi

I had a thought overnight and whether it might also be useful to glad our use of the franchise provisions? Both in terms of the time taken but also the great outcome we have been able to achieve in terms of s.22 - irrelevant information? What do you reckon?

s.22 - irrelevant information

s.22 Irrelevant Information

From: s.22 Irrelevant Information
 Sent: Tuesday, 21 April 2026 12:11 PM
 To: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information
 Subject: s.22 Irrelevant Information
 Re: Seeking FWO advice by 12pm Tue 21 Apr: FWO investigation data [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

All good - thanks s.22 Irrelevant Information - we'll either leave them out or caveat that they're not finalised numbers at this stage.

Many thanks!

s.22 Irrelevant Information

OFFICIAL: Sensitive

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Sent: Tuesday, April 21, 2026 12:06:44 PM
 To: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information
 Cc: ASHFORD, Sian <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au
 Subject: RE: Seeking FWO advice by 12pm Tue 21 Apr: FWO investigation data [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Thanks s.22 Irrelevant Information

Noting that DEWR haven't asked for the numbers around investigations, assessments and referrals I think that we should leave this out in the below reply. As you have noted, the finalised figures will be included in the settled submission. The benefit of taking this approach is that we avoid any potential confusion if the numbers change between now and our submission being finalised.

Otherwise, no issues from my perspective.

Kind regards,

s.22 Irrelevant Information

OFFICIAL: Sensitive

From: s.22 Irrelevant Information@fwo.gov.au
 Sent: Tuesday, 21 April 2026 11:50 AM
 To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au
 Subject: RE: Seeking FWO advice by 12pm Tue 21 Apr: FWO investigation data [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi all,

Thanks, s.22 Irrelevant Information for the steer! I've checked in with and it sounds like no employers have sought to rely on the Code in the civil space either.

s.22 Irrelevant Information and I have drafted a couple of points for to DEWR to send on to the MO below. Any issues with us sending this once we have verified the self-report numbers?

We have also included (for DEWR's background only at this point) numbers from the FWO's wage theft inquiry submission on investigations, matters under assessment and referrals received – but happy to pull this back if it just muddies the waters. DEWR will see these numbers through FWO's submission in any case!

Cheers,

s.22 Irrelevant Information

Response to MO query:

- Noting that the FWO's criminal jurisdiction is relatively new and applies prospectively, to date no small businesses employers have requested access to protection under the Voluntary Small Business Wage Compliance Code and no employers have sought to enter into a cooperation agreement with the FWO.

- The FWO continues to see a high-volume of self-reports which is increasing year-on-year. For example, the FWO received 92 self-reports received in the first half of FY25-26 (tracking towards double the rate of self-reports received by the FWO in FY21-22) and 162 self-reports for the whole of FY24-25, compared with 127 self-reports in FY23-24. This indicates that businesses are actively seeking to identify and fix issues and supports the FWO's view that the majority of businesses proactively take steps to resolve wage underpayment issues once they are identified.

For DEWR's background only, in addition to two ongoing criminal investigations there are a further 7 matters are under assessment for progression to potential criminal investigation by the FWO. Since the commencement of the criminal offence the FWO has assessed 36 referrals.

Workplace Relations Policy
FAIR WORK OMBUDSMAN

OFFICIAL: Sensitive

Hi

OFFICIAL: Sensitive

From: s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>
Sent: Monday, 20 April 2026 11:21 AM
To: s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>
Cc: s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>
s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>
Subject: FW: Seeking FWO advice by 12pm Tue 21 Apr: FWO investigation data [SEC=OFFICIAL:Sensitive]

I am trying to ascertain whether the MO is intending to include that information in DEWR’s sub, or whether it’s just for their background so that we know how we should approach this – but in any case, it seems like a question that might come up at an eventual hearing.

Thanks, and happy to discuss further.

s.22 Irrelevant Information

s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T:
E: @fwo.gov.au

OFFICIAL: Sensitive

From: s.22 Irrelevant Information s.22 Irrelevant Information @dewr.gov.au>
Sent: Monday, 20 April 2026 10:41 AM
To: s.22 Irrelevant Information @fwo.gov.au>
Cc: s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information s.22 Irrelevant Information @dewr.gov.au> s.22 Irrelevant Information @dewr.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information fwo.gov.au>
Subject: Seeking FWO advice by 12pm Tue 21 Apr: FWO investigation data [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s.22 Irrelevant Information

Hope you had a good weekend!

As flagged via teams, we’ve just received a request from the Minister’s office for advice on the “number of investigations which are resolved by FWO via cooperative agreement & compliance with small business code & pursued via civil remedies (broken down as a percentage/ proportion of investigations).”

While we appreciate that you’re busy finalising your submission, we’d be most grateful for your advice on this request by 12pm tomorrow (Tue 21 Apr) to allow us time to get this to the MO by mid-afternoon tomorrow as requested.

Always happy to chat.

Cheers

s.22 Irrelevant Information

s.22 Irrelevant Information (he/him)
Workplace Justice Reform
s.22 Irrelevant Information

OFFICIAL: Sensitive

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information s.22 Irrelevant Information
Subject: Re: [For review] FWO submission - Wage Theft Inquiry [SEC=OFFICIAL]
Date: Tuesday, 21 April 2026 8:38:22 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.jpg](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

Hi

Forgot to mention, if adding in anything around coop agreements and the code, should we frame the language on the code that no small business employers have requested assessment against the code during an investigation or when reporting underpayments?

They are not something that is triggered automatically just because a small business is involved (ie we don't proactively do it. I think we all know a code compliant ER wouldn't be in the assessment pool of investigation anyway).

s.22 Irrelevant Information

s.22 Irrelevant Information s.22 Irrelevant Information

Group Manager - Regulatory Transformation Group

FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

X: s.22 Irrelevant Information

M: s.22 Irrelevant Information

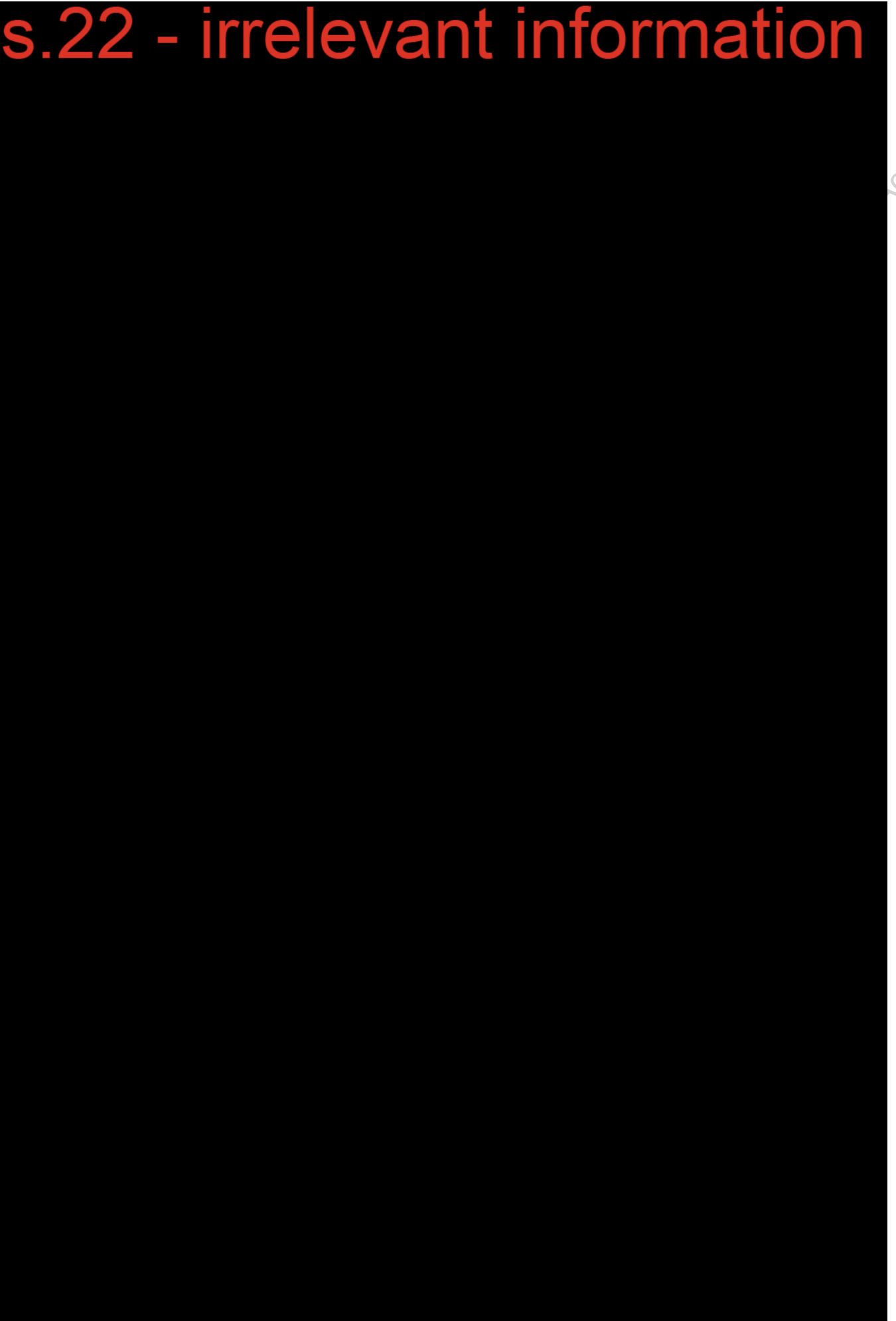
E: s.22 Irrelevant Information

[fwo.gov.au](https://www.fwo.gov.au)

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000

s.22 Irrelevant Information

s.22 - irrelevant information



From: [REDACTED]
To: s.22 Irrelevant Information [REDACTED]
Cc: [REDACTED] s.22 Irrelevant Information [REDACTED] s.22 Irrelevant Information [REDACTED] s.22 Irrelevant Information [REDACTED] s.22 Irrelevant Information [REDACTED]
Subject: RE: Seeking FWO advice by 12pm Tue 21 Apr: FWO investigation data [SEC=OFFICIAL:Sensitive]
Date: Monday, 20 April 2026 4:59:09 PM
Attachments: [image001.png](#)
[image002.png](#)

OFFICIAL: Sensitive

Hi [REDACTED]

We have not entered into any cooperation agreements or decided not to refer a matter because of compliance with the Code.

Kind regards,

[REDACTED]

under the Freedom of Information Act

s.22 - irrelevant information

s.22 Irrelevant Information 21/04 12:08 pm

Hi s.22 Irrelevant Information hope your day is going okay 😊 Thanks so much for all of your help on the wage theft inquiry sub. We're about to do a final edit. We'd be grateful if you could jump out of the doc and if you have any further necessary edits please feel free to message me or s.22 Irrelevant Information directly.

21/04 12:10 pm

Will do! s.22 Irrelevant Information flagged with s.22 Irrelevant Information that there will likely be an edit to the investigation/assessment numbers - we should be in a position to flick that through this afternoon I think



s.22 Irrelevant Information 21/04 12:11 pm

That sounds good, thanks so much 😊

Wednesday, 22 April

22/04 8:37 am

s.22 Irrelevant Information

s.22 Irrelevant Information 22/04 8:37 am

s.22 Irrelevant Information

22/04 8:38 am

I have the final updated figures from CIB:

Since 1 January 2025, the Criminal Investigations Branch has assessed ~~36~~ 39 matters, both proactively identified and referred from internal and external channels, and commenced ~~3~~ 4 investigations into suspected criminal conduct as defined in the Offence. The FWO currently has ~~two~~ three ongoing operations investigating suspected criminal conduct as defined in the Offence. The FWO also has 7 matters under assessment to consider progression to criminal investigation.

s.22 Irrelevant Information 22/04 8:39 am

Thanks so much 😊 I'll insert those updates now, really appreciate it.

22/04 8:40 am

No worries - thanks for all your work, it's looking good!

s.22 Irrelevant Information 22/04 8:40 am

Getting closer, thanks for all of your help with it!

s.22 Irrelevant Information 21/04 2:16 pm

IA-2925 043

Given this submission is in it's close to final iteration am I going to annoy people by making changes?

If this is the case, I will wind them back

21/04 2:16 pm

probably

we can always save the point for hearing

or maybe just call s.22 Irrelevant Information to talk it through

s.22 Irrelevant Information 21/04 2:17 pm

I was too tired last night to look at it properly but have now made some changes.

s.22 Irrelevant Information 21/04 2:28 pm

I will leave the wage theft defn stuff alone. Have made a few other changes to the crim section - hope I haven't annoyed people too much with these late suggestions.

I have told s.22 Irrelevant Information that we have received another referral and I am considering an assessment paper this afternoon which may result in another investigation - I have asked if I can give him the final numbers tomorrow morning.



[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Wed, 22 Apr 2026 12:16:23 +1000

This bolded part of the below sentence in the wage theft submission (p4) - The CDPP, as a separate statutory agency **and prosecution service**, will then independently consider if there is sufficient evidence to prove the offence and it is in the public interest to commence a prosecution (in line with the *Prosecution Policy of the Commonwealth*)

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Wed, 22 Apr 2026 12:16:54 +1000

that is a strange way of describing the CDPP. Do we need it? Could we delete as refer to prosecution later in the sentence

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Wed, 22 Apr 2026 12:18:23 +1000

i agree - can you speak to s.22 Info or s.22 Irrelevant Information about this (I assume they might have written this)

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Wed, 22 Apr 2026 13:14:53 +1000

Apparently that wording is standard - they use it sometimes to

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

Re the subs at page 2 where it talks about wage theft not being a defined term, I think that the issue is that the term wage theft is often incorrectly used to capture a range of underpayment scenarios. I don't think it is a question of definitional breadth - theft is intentional not inadvertent. Just wanting to see if you agree before I suggest amendments to this.

Sorry - for clarity - I am referencing the wage theft inquiry subs

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
Cc: s.22 Irrelevant Information s.22 Irrelevant Information
Subject: FW: Submission invitation – Inquiry into Wage theft [SEC=OFFICIAL]
Date: Thursday, 23 April 2026 2:10:44 PM
Attachments: [Fair Work Ombudsman Submission - Wage Theft Inquiry.pdf](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)
[image001.png](#)
[image002.png](#)

Hi all,

Attached is the final of the FWO's submission to the Inquiry into Wage Theft which has now been submitted. Many thanks for everyone's assistance in pulling this together. I've also now shared this with the MO and DEWR.

Still no word on a hearing at this stage – we'll let you know when we hear anything.

Thanks



Executive Director of Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

M: s.22 Irrelevant Information

GPO Box 9887 Melbourne, VIC, 3001 | 414 La Trobe Street, Melbourne, Victoria, 3000

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

From: [Redacted]@fwo.gov.au>
Sent: Thursday, 23 April 2026 1:55 PM
To: eec.sen@aph.gov.au
Cc: [Redacted] <[Redacted]@fwo.gov.au>

Subject: RE: Submission invitation – Inquiry into Wage theft [SEC=OFFICIAL]

Dear Committee Secretary,

Thank you for the invitation to make a submission to the Education and Employment References Committee's Inquiry into Wage Theft.

Please find a submission from the Office of the Fair Work Ombudsman to the Inquiry **attached**.

Please don't hesitate to contact us if you require any additional information regarding our submission.

Kind regards,

s.22 Irrelevant Information

s.22 Irrelevant Information

Director – Government Policy

Policy

FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E @fwo.gov.au

s.22 Irrelevant Information

GPO Box 9887 Melbourne VIC 3001

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)

From: Committee, EEC (SEN) <eec.sen@aph.gov.au>

Sent: Friday, 27 March 2026 2:45 PM

To: FWO - Government Policy s.47E(d) - agency operations

Subject: Submission invitation – Inquiry into Wage theft

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.



EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE

27 March 2026

Ms Anna Booth
Fair Work Ombudsman
Fair Work Ombudsman

Via email: **s.47E(d) - agency operations**

Dear Ms Booth

Submission invitation – Inquiry into Wage theft

On 24 March 2026, the Senate referred the following matter to the Education and Employment References Committee (committee) for inquiry and report by 18 June 2026.

The extent to which the wage theft framework under the Fair Work Act 2009, and the operation of subsection 327A(1), has led to a decrease in the incidence of wage theft in Australia, and any other related matter.

Information about the inquiry is available on the [inquiry website](#).

The committee invites the Fair Work Ombudsman to make a submission addressing some or all of the terms of reference. The closing date for submissions is 23 April 2026.

Submissions can be made online via the inquiry webpage, sent via email to eec.sen@aph.gov.au, or posted to the committee at PO Box 6100, Parliament House, Canberra ACT 2600.

If your submission is accepted by the committee, it will usually be made publicly available on the inquiry webpage. If you would like to request that your name or any part of your submission to be kept confidential, please state this clearly when you make your submission and provide a reason for your request. You will be advised whether the committee has agreed to your request.

Submissions become committee documents. You should not circulate or publish your submission before it has been accepted by the committee. Once accepted, submissions are covered by [parliamentary privilege](#) in Australia but the unauthorised release of them is not.

For further information about making a submission see: [Making a submission – Parliament of Australia \(aph.gov.au\)](#).

If you have any questions, please contact the secretariat via email at eec.sen@aph.gov.au or via phone at **s.22 - Irrelevant information**

Yours sincerely



s.22 Irrelevant Information

Committee Secretary

From: s.22 Irrelevant Information
Sent: Friday, 24 April 2026 12:29 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information s.22 Irrelevant Information
Subject: FW: Submission invitation – Inquiry into Wage theft [SEC=OFFICIAL]
Attachments: Fair Work Ombudsman Submission - Wage Theft Inquiry.pdf

Hi s.22 Irrelevant Information

You would be aware of course of the current Wage Theft Inquiry regarding the operation of the criminal offence provision. FWO has recently provided a submission, which I share with you by way of heads up. I would be grateful if you could not circulate outside CDPP until it has been placed on the Inquiry [website](#), which we are assuming will happen in the next day or two.

Happy to discuss if you have any queries about the areas we have covered.

Kind regards,

s.22 Irrelevant Information

s.22 Irrelevant Information (she/her) | Executive Director - Legal Enforcement
Legal & Policy Group
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
X: s.22 Irrelevant Information
M: s.22 Irrelevant Information
E: s.22 Irrelevant Information fwo.gov.au

GPO Box 9887 VIC 3001 | 414 La Trobe St, Melbourne VIC 3000

Executive Assistant: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

I work flexibly and may send emails at times which suit me. Unless clearly marked, I do not expect you to read or respond to my email outside your own working hours.

Please note I do not work on Fridays.

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

s.22 Irrelevant Information

From: s.22 Irrelevant Information
Sent: Friday, 24 April 2026 6:06 PM
To: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: Re: FWO submission published - inquiry into wage theft [SEC=OFFICIAL]

Thanks s.22 Irrelevant Information

From: s.22 Irrelevant Information@fwo.gov.au>
Sent: Friday, April 24, 2026 5:22:20 PM
To: s.22 Irrelevant Information<s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information<s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information<s.22 Irrelevant Information@fwo.gov.au>
Subject: FWO submission published - inquiry into wage theft [SEC=OFFICIAL]

Hi s.22 Irrelevant Information, s.22 Irrelevant Information and s.22 Irrelevant Information

FYI our submission to the inquiry into wage theft has been published: [Submissions – Parliament of Australia](#)

Thanks

s.22 Irrelevant Information

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

s.22 - irrelevant information

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Sent: Thursday, April 23, 2026 2:04:38 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@dewr.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@dewr.gov.au>;
 s.22 Irrelevant Information <s.22 Irrelevant Information@dewr.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Subject: FW: Submission invitation – Inquiry into Wage theft [SEC=OFFICIAL]

Hi s.22 Irrelevant Information and s.22 Irrelevant Information

For info – attached is the FWO's submission to the Wage Theft Inquiry (which we've also shared with the MO).

No doubt a hearing request will follow at some stage soon and something should land in our calendars for a catch up to discuss preparations in the near future.

Thanks

From: s.22 Irrelevant Information
Sent: Thursday, 23 April 2026 2:01 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@dewr.gov.au>; DLO Rishworth <DLO.Rishworth@dewr.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@dewr.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Subject: FW: Submission invitation – Inquiry into Wage theft [SEC=OFFICIAL]

Dear s.22 Irrelevant Information

For your information and visibility, please find attached the FWO's submission to the Education and Employment References Committee's Inquiry into Wage Theft.

Happy to discuss further.

Thanks

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

Monday, 27 April

Reaction bar with icons: thumbs up, heart, grinning face with smiling eyes, surprised face, and a plus sign in a circle, followed by an edit icon and a more options icon.

s.22 Irrelevant Information

Reaction bar with thumbs up and plus sign in a circle icons.

not public yet

s.22 Irrelevant Information

27/04 10:21 am

Thanks!

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information s.22 Irrelevant Information
Subject: UoM sub
Date: Monday, 27 April 2026 3:00:32 PM
Attachments: [Submission to the Senate Inquiry into Wage Theft 2026 - 24 April 2026.pdf](#)

Hi [REDACTED]

As per my message.
[REDACTED]

s.22 Irrelevant Information s.22 Irrelevant Information

Group Manager - Regulatory Transformation Group

FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

X: s.22 Irrelevant Information

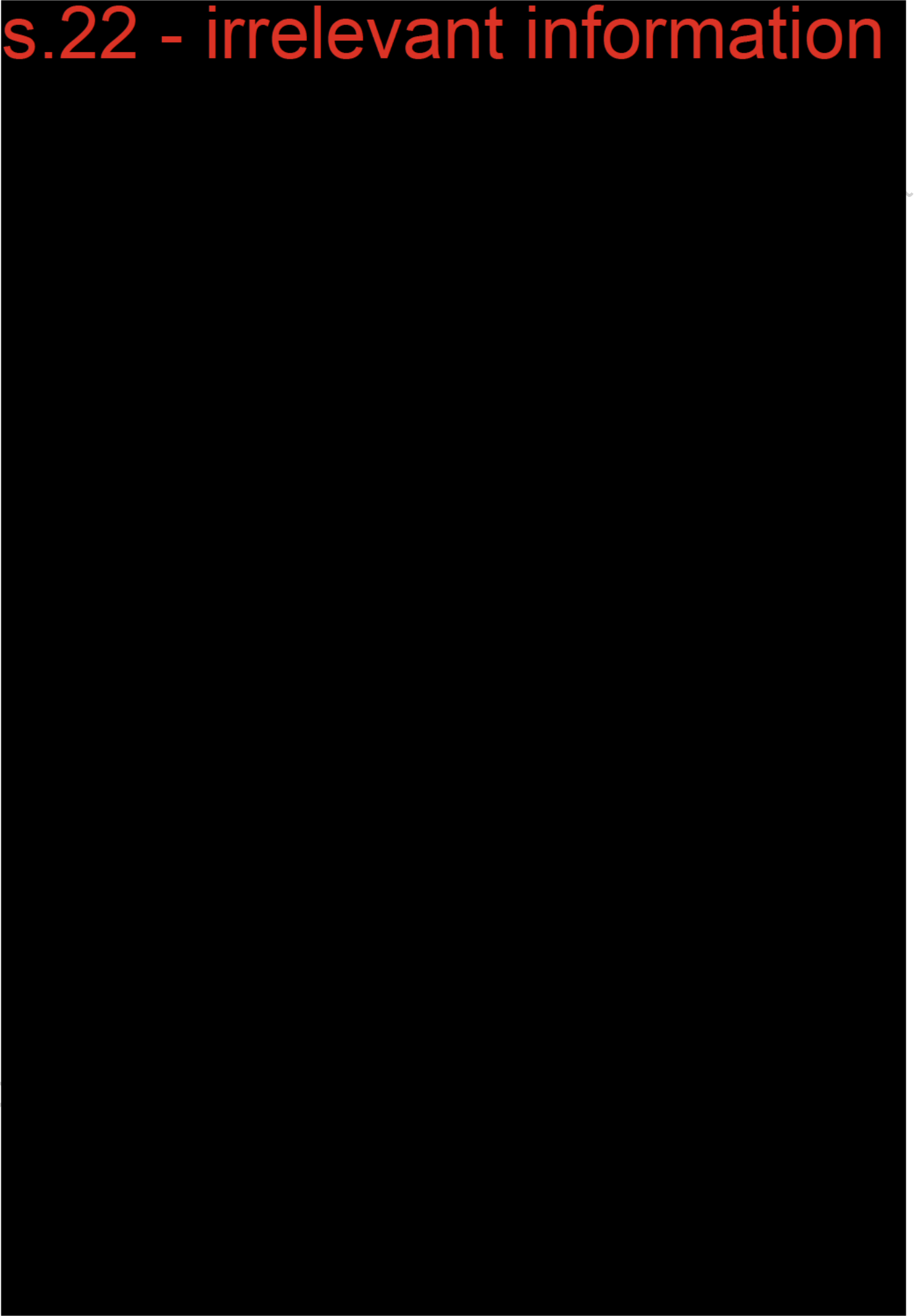
M: s.22 Irrelevant Information

E: s.22 Irrelevant Information fwo.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

s.22 - irrelevant information



From: [REDACTED] <[REDACTED]@fwo.gov.au>
 Sent: Thursday, 30 April 2026 6:06 PM
 To: s.22 Irrelevant Information
 Cc: [REDACTED]
 Subject: RE: Wage theft inquiry - TPs re [REDACTED] [SEC=OFFICIAL]

Thanks so much [REDACTED]. Let me know if you or [REDACTED] needs anything else.

s.22 Irrelevant Information

From: s.22 Irrelevant Information@fwo.gov.au
 Sent: Thursday, 30 April 2026 5:52 PM
 To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Cc: s.22 Irrelevant Information@fwo.gov.au
 Subject: RE: Wage theft inquiry - TPs re [REDACTED] [SEC=OFFICIAL]

Thanks [REDACTED] This is really useful.

I've carried this across to the briefing for the inquiry, and made some further amendments to try to compress it a little bit. Hopefully it's what [REDACTED] is after.

Thanks,

s.22 Irrelevant Information

From: s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au
 Sent: Thursday, 30 April 2026 4:08 PM
 To: s.22 Irrelevant Information@fwo.gov.au
 Cc: s.22 Irrelevant Information@fwo.gov.au
 Subject: RE: Wage theft inquiry - TPs re [REDACTED] [SEC=OFFICIAL]

Hi [REDACTED] and [REDACTED]

Noting the preference is to keep this short, I've just added two bullet points (in red below) to indicate that the FWO's position on the proceedings is consistent with our C&E Policy, and added the year of the CN (I think that's important to indicate the CN was issued 11 years after we first published the interpretation).

Please let me know if you need anything else.

Thanks

s.22 Irrelevant Information

From: s.22 Irrelevant Information@fwo.gov.au
 Sent: Thursday, 30 April 2026 3:25 PM
 To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Cc: s.22 Irrelevant Information@fwo.gov.au
 Subject: RE: Wage theft inquiry - TPs re [REDACTED] [SEC=OFFICIAL]

Hi [REDACTED]

Further to the below and with thanks to [REDACTED] please see below some draft points for you to consider and contribute to.

I think this is already longer than what I believe [REDACTED] is after, but don't hesitate from adding anything you consider worthwhile from your perspective and I can check in with [REDACTED] about what's needed and if we need to whittle it down.

- The Federal Court proceedings referred to by the Ai Group in their submission originated from the FWO issuing a compliance notice to an employer in the SCHADS sector in January 2024 to rectify contraventions of the Award, based on our historic interpretation of the sleepover provisions of that Award.
 - Our positions on the interpretation of award and legislative provisions are established, and evolve over time, in support of exercising our statutory functions, including to provide education and advice about, and monitor and enforce compliance with, rights and obligations under the FW Act and fair work instruments.
 - While the FWO cannot make determinations about the law or how it applies in specific circumstances, we are acutely aware that our information and guidance informs decisions that businesses and workers make and so the interpretative positions that underpin them must be thoroughly considered, consistently applied and defensible.
 - Our historic interpretation of the sleepover provisions of the SCHADS Award was based on comprehensive research, analysis and advice, and had been communicated consistently to the public since 2013.
- In the circumstances, issuing a compliance notice to the employer was reasonable enforcement action under the FWO's Compliance and Enforcement Policy. "Guided compliance" (including a compliance notice) can be taken where it is appropriate to formally direct duty holders, require them to undertake certain specified actions and demonstrate compliance with workplace laws (p. 9).
- The employer which received the compliance notice chose to exercise its statutory right under the FW Act to commence proceedings against the FWO to review the notice, on the basis it disagreed with the FWO's interpretation and considered it had not contravened the Award. As would be reasonably expected, the FWO defended the proceedings consistently with its historic interpretation and the FWO's position that "clarifying the law helps the workplace community understand the various obligations and rights arising from Commonwealth workplace laws" (Compliance & Enforcement Policy, p. 15).
- Although the Full Court of the Federal Court did not agree with our historic interpretation, both the primary judge and Full Court on appeal found that the drafting of the SCHADS Award lacks clarity and precision in several respects. In this context the Fair Work Commission has recently decided to vary the sleepover provisions of the SCHADS award with effect from 1 June, in proceedings brought by AI Group and other parties.
 - We consider the Full Court's findings to provide helpful clarity to employers and employees about their rights and obligations under the SCHADS Award, and have updated our information and guidance to reflect these findings.

- o We also have committed to working with the members of our Disability Support Services and Aged Care Services Reference Groups, which includes both employer organisations and unions, to ensure that our information and guidance supports the needs of employers and employees in these sectors, including further updates about the 1 June changes.

Thanks,

From: [REDACTED]
Sent: Thursday, 30 April 2026 1:39 PM
To: [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: RE: Wage theft inquiry - TPs re [REDACTED] [SEC=OFFICIAL]

Thanks [REDACTED], and yes I good point about the framing – [REDACTED] also noted that when we were discussing earlier.

I'm happy for you to prepare wording on that basis, and that can complement what [REDACTED] is preparing.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Thursday, 30 April 2026 1:14 PM
To: [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: RE: Wage theft inquiry - TPs re [REDACTED] [SEC=OFFICIAL]

Hi [REDACTED]

Thanks for your email. I'm happy to add something to [REDACTED] content when it's ready.

s.22 Irrelevant Information

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Thursday, 30 April 2026 11:58 AM
To: [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: Wage theft inquiry - TPs re [REDACTED] [SEC=OFFICIAL]

Hi [REDACTED]

Policy have asked for assistance with preparing some defensive talking points for [REDACTED] reference in the wage theft inquiry hearing on Monday, to address paragraphs 19 and 20 of the AI Group's submission (**attached**). Those paragraphs read a bit critically of the FWO enforcing its interpretation of the sleepover provisions of the SCHADS Award in compliance activities given their uncertainty and ambiguity.

[REDACTED] is pulling together some points about agency positions in this context, and I was wondering if you could assist with a point or two about why the FWO may proceed with enforcement action/litigation even where there is award uncertainty (e.g. to obtain clarity about the application of the law). I'm hoping you might have something to hand already from the [REDACTED] context, but if not if you have time today to draft something up quickly that would be greatly appreciated.

Happy to discuss.

Thanks,

[REDACTED]
[REDACTED] | Executive Director / Senior Executive Lawyer (a/g)

Legal and Specialist Advice Branch
FAIR WORK OMBUDSMAN

GPO Box 9887 Sydney NSW 2001 | **Eora Nation** 175 Liverpool Street, Sydney NSW 2000

Please note, I work a 9-day fortnight, generally with every second Friday off.

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

From: s.22 Irrelevant Information
Sent: Friday, 1 May 2026 5:26 PM
To: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: Re: Wage theft inquiry hearing brief and supporting documents [SEC=OFFICIAL]

Super effort - thanks [REDACTED] and all.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Friday, May 1, 2026 5:25:04 PM
To: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: Wage theft inquiry hearing brief and supporting documents [SEC=OFFICIAL]

Hi everyone

Many thanks for your contributions to the meeting this afternoon. The additional content discussed has now been included in the hearing brief and we've also cleaned it up: [m \[Draft\]- Inquiry Appearance brief - Wage Theft Inquiry 2026.docx](#).

Please also see the following documents for additional information and context:

[Summary of submissions to the Wage Theft Inquiry.docx](#) – we’re adding the Victorian Trades Hall and Young Workers Centre submission at the moment and will continue to update the document, so this one is a work-in-progress.

 [Stakeholder references to wage theft in the Closing Loopholes review subs.docx](#)

 [FWO Operations Snapshot - February 2026.docx](#)

Many thanks to everyone for their collaborative efforts, hope you all have a good weekend.

5.22 Irrelevant Information

s.22 - irrelevant information

2

s.22 Irrelevant Information 30/04 4:51 pm

Hey s.22 Irrelevant Information hope your day is going okay On the Inquiry brief, s.22 Irrelevant Information mentioned that he might circulate a copy this evening so that it can be considered ahead of tomorrow's meeting. Just flagging it in case you prefer to accept tracks etc in the CIB/Legal section before that happens.



IA-2925 063

30/04 5:52 pm

Sorry I missed you s.22 Irrelevant Information - all good



Friday, 1 May

s.22 Irrelevant Information s.22 Irrelevant Information 05 3:48 pm

Hey s.22 Irrelevant Information we're going to aim to send a clean and formatted version of the brief, along with other documents requested, probably around 5pm. Does that work for you?



1/05 3:50 pm

Perfect - I'm not playing around anymore for the moment lol



Monday, 1 June

1/06 1:00 pm

Hey s.22 Irrelevant Information Hope you're well - do you have any idea in the wage theft inquiry QoNs ended up getting tabled on Friday?

s.22 Irrelevant Information s.22 Irrelevant Information 1/06 1:01 pm

The last we heard from DEWR on Friday is that they likely wouldn't be tabled until Tuesday (the ACT has a public holiday today) but i'm just seeing if we can double check in the system, i'll come back to you.

1/06 1:02 pm

Great - thank you!

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information
Subject: FW: Inquiry Talking Points - Evidence Management [SEC=OFFICIAL]
Date: Friday, 1 May 2026 8:59:03 AM
Attachments: [2026 0430 FWO Submission for Senate Inquiry - notes for MC.docx](#)

FYI

From: s.22 Irrelevant Information@fwo.gov.au>
Sent: Thursday, 30 April 2026 5:05 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information@fwo.gov.au>
Subject: Inquiry Talking Points - Evidence Management [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

Please find attached the document for Evidence Management. I note that s.22 Irrelevant Information has already supplied her information for PMO. If you would like me to alter some details to reflect her table format, happy to do so.

Regards,

s.22 Irrelevant Information

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

STATISTICS FOR ALL MATTERS ACCEPTED FOR ASSESSMENT:

Notices to produce issued	210
Voluntary productions received	93
Documents (evidentiary only) produced	6,035
Agencies who have supplied data: • FWC • ATO • Austrac • Victorian Workcover Authority • Dept Home Affairs (ABF) • Services Australia • AFP	7

FWO EVIDENCE MANAGEMENT TEAM

The Evidence Management team (**EM**) provides evidence management and analysis support for criminal investigations. They develop and maintain related policies and procedures, operate and administer evidence management systems, and train and provide services relating to the analysis and presentation of evidence.

The EM team was developed and introduced at FWO to support criminal investigations. This includes specialist skill sets such as physical evidence handling, safehand protocols, electronic evidence processing, data analysis and eDiscovery as well as experience in various disciplines such as IT, project management, legal and policing. They are required to provide assistance on a national level across multiple sites.

WHAT IS EVIDENCE MANAGEMENT:

Evidence management incorporates policies, protocols and procedures to maintain security and continuity when handling evidence gathered during investigations to ensure its integrity and admissibility before a court. EM will collect, store, analyse, disclose and dispose of evidence in compliance with applicable Commonwealth, state and territory legislation. In addition to these, compliance also includes standards, policies and guidelines governing continuity of evidence, chain of custody, duties of disclosure, and information security.

Evidence must be handled and preserved in a manner that prevents loss, contamination or unauthorised access, and supported by accurate records that demonstrate its authenticity and reliability from the point of collection through to

presentation in legal proceedings. These requirements underpin procedural fairness in the criminal context.

EM ACTIVITIES SINCE IMPLEMENTATION

The EM team has implemented a broad range of evidence handling and storage policies which underpin the framework for all evidence management within FWO. They cover evidence, in any form, from any source and on any storage device and applies to all staff and persons engaged by FWO as consultants or contract service providers (designated persons). Evidence Management are the primary caretaker and adviser on evidence management at FWO.

To implement the new jurisdiction, EM has overseen the design and construction of secure Evidence Rooms in compliance with relevant Australian Security Intelligence Organisation Technical Notes, FWO and Department of Employment and Workplace Relations security requirements. These have been fitted with appropriate storage for evidence (including digital) and specialist IT devices for evidence-handling.

Specialist training has been provided by Evidence Management to support uplift of skills to Fair Work Inspectors as well as other training to specific groups within the FWO. This is in addition to the mandatory training undertaken to members of the CI branch. This training has covered the requirements in the criminal environment where evidentiary standards are significantly higher, requiring meticulous attention to continuity, chain of custody, forensic integrity and contemporaneous documentation.

Evidence Management has entered arrangements for a variety of services with Services Australia to ensure full capability. These services include highly specialised skills such as digital forensics and forensic accounting.

The EM has worked with other teams within FWO to develop a secure digital environment, and evidentiary platform that meets the requirements for criminal investigations and referrals.

REQUIREMENTS CRIMINAL INVESTIGATIONS

The below standards are expected:

- **CDPP Disclosure Policy** - imposes broad and ongoing disclosure obligations, including exculpatory material, investigator notes, and unused evidence.
- **Continuity and chain of custody requirements** - evidence must be tracked from seizure to court to demonstrate authenticity and integrity.

- **Forensic evidence standards** - compliance with accredited forensic procedures (e.g. NATA-accredited laboratories) and proper handling of exhibits.
- **Digital evidence management standards** - preservation of electronic data, audit trails, use of validated tools, and protection against alteration or loss.
- **Australian Government Investigation Standard** - articulates Australian Government policy and is the foundational standard, framing accountability and security for entities conducting investigations relating to the government programs and legislation they administer.

RISKS IF EVIDENCE MANAGEMENT NOT FOLLOWED

Failure to follow proper evidence management processes can lead to the following risks:

- **Inadmissibility of evidence.** If evidence is improperly collected, handled, stored or documented, courts may exclude it - particularly where there are breaks in continuity, contamination, or uncertainty about authenticity.
- **Findings of unfairness or abuse of process.** Failures such as loss of exculpatory material, delayed disclosure, or inability to account for evidence handling may breach the prosecution's fairness obligations. Courts may respond by excluding evidence, granting permanent stays of proceedings, or making adverse rulings that critically weaken the case. In extreme circumstances, systemic failures in evidence management can result in matters collapsing irrespective of the underlying merits.
- **Disclosure risks.** If material is not properly identified, retained or disclosed due to deficient evidence systems, this can amount to a breach of ongoing disclosure obligations. Such failures may lead to trials being aborted, convictions being overturned on appeal, or retrials being ordered.
- **Accountability and reputational risks** for both agencies and individual officers. Poor evidence practices may attract judicial criticism, adverse findings by oversight bodies, or internal disciplinary action. Such outcomes can damage an agency's standing with courts and prosecutors, reduce confidence in future investigations, and impair the agency's ability to rely on its evidence in contested proceedings.

BEST PRACTICE IN EVIDENCE STORAGE (physical and digital)

The underlying principles are the same: evidence must be secure, traceable, unaltered and recoverable from the point of seizure through to final disposition.

Core principles for all evidence

Across both physical and digital evidence, best practice is guided by four fundamental principles:

- Integrity: evidence must not be altered, damaged or contaminated.
- Chain of custody: every movement, access and handling event must be documented.
- Security: access must be restricted to authorised persons only.
- Accountability: records must clearly demonstrate who did what, when, why and under what authority.

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information
Subject: FW: Inquiry Talking Points on PMO [SEC=OFFICIAL]
Date: Friday, 1 May 2026 8:59:14 AM
Attachments: [Senate Inquiry Talking Points on PMO.docx](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

FYI

From: s.22 Irrelevant Information @fwo.gov.au>
Sent: Thursday, 30 April 2026 4:19 PM
To: <[REDACTED]> fwo.gov.au>
Subject: Inquiry Talking Points on PMO [SEC=OFFICIAL]

Hi [REDACTED]

As requested – please see attached. Let me know if you need anything added or amended.

Thanks

s.22 Irrelevant Information
 (she/her) | PMO Director (a/g)

Criminal Investigations Branch
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E: [REDACTED] @fwo.gov.au

GPO Box 9887 Brisbane QLD 4001 | **Yuggera Country** – 400 George Street Brisbane QLD 4000

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

Following the establishment of the CIB, it became apparent that project management framework practices and controls were an emerging need in:

- Establishing a criminal investigation governance structure that consisted of interdependent, repeatable and consistent delivery practices and controls for investigations
- Adopting a scalable approach to work to allow for a) growth in the branch; or b) an increase in matter volumes within resourcing parameters
- Establishing a means of providing oversight over all investigative and project functions, ensuring resources are always allocated to priority, viable work, with suitable mechanisms for taking corrective action as required
- Managing the continued work to establish and embed CIB policies, practices and culture
- Scoping, managing and delivering emerging work to uplift the capability and output of the branch (e.g., Intelligence)
- Providing subject matter expertise and business ownership for the development and management of a new case management system

In July 2025, the PMO established a desired operating model for the future state of the branch, addressing the changes and uplift required to working practices, policies and guidance materials, team structure, capabilities, culture, technology, equipment, information / data and reporting. The team then conducted a maturity assessment and gap analysis between the desired state and the current state of the branch to scope and plan the work and resources required to reach that desired state.

Over the following 9 months the PMO:

- Implemented minimum viable products to support a framework that incorporates the governance and reporting, financial and resource management, risk management and stakeholder management practices and tools for investigations
- Implemented governance, reporting, finance, resource, risk and stakeholder management and oversight practices and tools at the portfolio level
- Identified the need for and facilitated the implementation of early case assessment to mitigate against over-investment in investigations or opportunity loss with limited resources
- Identified the need for and provided a template for case prioritisation (i.e., CPM)
- Implemented stage-gated investigation planning, approvals and oversight to ensure continued alignment to strategy, escalation of moderate-high level risks and assessment of ongoing viability
- Streamlined multiple individual approvals into single stage plans, reducing administrative burden or the need to continually check in before proceeding with activities
- Identified the need for and introduced of project management techniques and tools to support efficient and effective team planning, work allocation and accountabilities in line with investigative / stage objectives
- Created a services catalogue containing artefacts, tools subject matter expertise, training and supporting guidance materials for all of the above
- Drafted approximately 50 other operational guides and standard operating procedures (SOPs)

- Provided full-time subject matter expertise for the development of a customised case management system – 1st release in May 2026
- Undertook the requirements gathering and business analysis for criminal intelligence data, capabilities and tools in consultation with CIB, the FWO's Analytics and Intelligence Branch and several external regulators
- Coordinated project management training and provided ongoing coaching and support for all CIB members, including more targeted training for EL1s

The PMO is now undertaking work to build more robust and enduring governance, reporting and outcome management practices and oversight at a committee / agency level into the framework, incorporating lessons from other regulators and several published reviews (to be finalised by July 2026). As the final component, this will complete the development of the operating framework. Work thereafter will be focused upon managing and supporting the transition of the full framework into regular BAU operations.

Benefits of utilising a PMO	Risks of not utilising a PMO
Conforms with the Australian Government Investigations Standards (AGIS) and proven industry best-practices. Stage-gating investigations drives continual assessments into the ongoing viability of work with scalability to allow for fluctuations in demand and resource volumes.	Public scrutiny or loss of credibility over inefficient or ineffective practices or inability to deal with work volumes.
Ensures resources are allocated to the most impactful, priority areas. This is of particular importance to the highly resource intensive work that is related to the FWO's most powerful (and reputationally significant) deterrence tool.	Opportunity losses, inefficiencies, overlooked or duplicated work as a result of legal, investigation, evidence and other technical teams operating in silos.
Provides autonomy and clarity around responsibilities by ensuring the right information reaches management and that the expectations of decision-makers are communicated to everyone involved or affected by the work.	Unclear roles and responsibilities, leading to decision making delays or unauthorised actions.
Creates explicit knowledge and embeds a culture of knowledge sharing and continuous improvement.	Loss of corporate knowledge and repeated mistakes due to poor or inconsistent lessons learned and continuous improvement practices.
Ensures decisions are risk-based and data-driven, with clear accountabilities.	Investigative findings are challenged due to a lack of documented authority or oversight, missing or inconsistent records of decisions or investigative activities.

Strong documentation for why matters are or are not investigated or referred for civil enforcement action. Documented processes and logs ensure decision records substantiate their legal defensibility, proportionality and fairness.	
Time and cost can be reduced through the precision of the investigation brought about by effective decision-making and efficient reporting mechanisms. Manages interdependencies across emerging project needs and BAU work.	Investigations taking longer, costing more or losing focus on objectives through scope creep.
Proactively identifies and manages risks and provides a structured change control process to deal with unforeseen challenges. This is of particular importance in criminal investigations (especially for a new criminal regulator) where there is a high degree of uncertainty.	Investigations may be compromised or have unintended legal or reputational consequences due to poor risk management.

To: s.22 Irrelevant Information s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information s.22 Irrelevant Information @fwo.gov.au>; s.22 Irrelevant Information

[@fwo.gov.au>](#); s.22 Irrelevant Information s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#)>
Cc: s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [fwo.gov.au>](#)>
Subject: RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee [SEC=OFFICIAL]

Hey team,

We've had some intel that s.22 Irrelevant Information will be appearing before us on Monday. s.22 Irrelevant Information is going to share the statement that he and s.22 Irrelevant Information are working on regarding the latest MJJ report (which we understand at this stage will not be published prior to the appearance), but can we please inject some migrant worker content into the QA's? s.22 Irrelevant Information might have some content from the back pockets he's currently working on for estimates (or we can use content from last estimates). I think we try and keep it at the work we've done/are doing for migrant worker's more generally, rather than international students specifically.

Thanks

s.22 Irrelevant Information

From: s.22 Irrelevant Information
Sent: Thursday, 30 April 2026 4:06 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#)>
Subject: RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee [SEC=OFFICIAL]

I knew I'd read that data – looks like it's all there on pages 13-14 of the doc. Thanks!

From: s.22 Irrelevant Information
Sent: Thursday, 30 April 2026 3:40 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#); s.22 Irrelevant Information <s.22 Irrelevant Information [@fwo.gov.au>](#)>
Subject: RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee [SEC=OFFICIAL]

Howdy team – from s.22 Irrelevant Information

- Can we please include number of web visits to crim pages (including small business code, cooperation agreements and other relevant tools/page) – I recall seeing these somewhere!?
- Can we include a QA in the document including relevant QoNs and responses and whether they've been published (s.22 Irrelevant Information) – looping you in for this one)

Thanks – s.22 Irrelevant Information currently going through the Q&A as well – so there will be more to come!

Thanks team.

s.22 Irrelevant Information

s.22 Irrelevant Information

From: [REDACTED]
Sent: 2026 3:08 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Additional Wage theft Inquiry data request (CE Policy) [SEC=OFFICIAL]

Hi [REDACTED]

We can only provide data from 1 July 2023, as this is when the new Google Analytics platform commenced.

The Compliance and Enforcement Policy can be downloaded from the [Compliance and enforcement](#) webpage. I've provided downloads for both versions below (PDF and Word).

Compliance and Enforcement Policy document downloads

Document	2025-26 (to 31 Dec)	2024 - 25	2023 - 24
s.22 - irrelevant information	1,047	3,170	4,958
s.22 - irrelevant information	3,424	8,241	6,574
Total	4,471	11,411	11,532

Regards,

[REDACTED] | Assistant Director (a/g) – Reporting and Data Management

Analytics and Intelligence
FAIR WORK OMBUDSMAN

T: [REDACTED]
 E: [REDACTED]@fwo.gov.au

PO Box 2151 Coffs Harbour NSW 2450 | Level 1, 73 Albany Street, Coffs Harbour NSW 2450

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respect to them, their Cultures, and Elders past, present and future.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Friday, 1 May 2026 2:43 PM
To: [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au
Cc: [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au
Subject: Additional Wage theft Inquiry data request (CE Policy) [SEC=OFFICIAL]

Hi [REDACTED] and [REDACTED]

We have one additional urgent data request coming out of preparation for the wage theft hearing Monday. [REDACTED] is keen to know how many times the Compliance and Enforcement Policy is downloaded.

Can we get the following periods please:

2025-26 (to 31 Dec)	2024 - 25	2023 - 24	2022 - 23
---------------------	-----------	-----------	-----------

Sorry to ask but is it possible to get this data this afternoon?

Many thanks

[REDACTED]

Summary of Wage Theft Inquiry Public Hearing – Monday 4 May

Time / Witness(es)	FWO mention	Summary of evidence
10:30am – 11:10am Australian Security Industry Association Limited Mr [s.22 Irrelevant Information], Chief Executive Officer Ms [s.22 Irrelevant Information], Senior Workplace Relations Advisor	FWO mention in relation to Perth Security company FWO matter before the courts (serious contraventions) [appears to refer to s.22 Irrelevant Information (Griffin Alpha Security Group) & Perth security guards deliberately underpaid more than \$900,000, FWO alleges - Fair Work Ombudsman –liability hearing Wednesday / Thursday last week in Perth Federal Circuit and Family Court. Judge Lucev engaged with issues relating to the “knowledge” element threshold in s557A(5A) to satisfy serious contraventions for an accessory. Judgement has been reserved. FWO mention re UNSW penalties (\$213,120) for ‘systemic’ record keeping breaches - UNSW penalised \$213,120 for “systemic” breaches - Fair Work Ombudsman Payman line of questioning re Mr [s.22 - irrelevant information] submission, which mentions a number of historical FWO matters in the Qld security industry: - VIP Security - Federal Circuit Court fined company owner \$115,668.00 in 2018 [2018] FCCA 1969 - Step Ahead Security Services owner fined \$308,000 in 2016 [2016] FCCA 1482	Senator Kovacic (Chair) joined by Senators Smith, Dolega, B Pocock and Payman. QoNs being requested by 18 May. Opening Statement: • Represent 3000 security companies • Position: deliberate, intentional wage theft should be addressed, important to distinguish between this and widespread systemic underpayments • Closing Loopholes = WR environment more complicated • Sector is 24/7 and works across different sites – adds to complexity • Small payroll errors can very quickly escalate into underpayments • Majority of cases underpayments are not deliberate and arise from ambiguity in the system, payroll systems and contested interpretation [s.22 Irrelevant Information] • Current criminal framework risks blurring line between intentional and inadvertent underpayments • Adverse consequences • Drafting of offence captures intentional late payment – rather than deprivation, late payment unlawful, different from conduct that results in permanent deprivation • Why complexity, not intent, drives most non-compliance • Why implication and clarity are preconditions to enforcement and why wage theft offence should be pleaded inline with AIG submission

	Mention of work done with the FWO In 2016-17 which found non-compliance rates of ~60% [seems to refer to Inquiry report Fair Work Ombudsman to work with local councils to improve management of security supply chains - Fair Work Ombudsman] Senator Payman asked a direct question relating to whether the \$50 million over 4 years provided to the FWO was an appropriate expenditure of tax payer funds given no referrals for potential criminal prosecution have been made.	Senator Kovavic: Labour hire, chain of contractors where are compliance risks? • Short term contracts, typically prime company will look to subcontract to uplift capacity • Should be full transparency around payment in accordance with industrial instruments for any subcontracted workers, this is not always the case • Input into 2018 Gold Coast games, all workers covered by same instrument • Sub-contracting shouldn't result in people being paid less and less • Used to address peak demand and done transparently Q: MA, separate licensing regulation, structural complexity, how does this drive non-compliance • Majority is confusion, where employer doesn't understand obligations. Small portions deliberate. Don't have a specific figure Q: Members seeking support to comply in the first place? • Yes, and seeking interpretation. Multiple pieces of legislation they are seeking advice on. Seek assistance to ensuring they are complying. • Those they aren't complying deliberately don't contact us. • Member enquiries are primarily about compliance Q: is most member engagement about complexity? • Usually to do with specific penalties for night shifts and for public holidays Senator Delago: High profile underpayments across the sector. How do contractors who underpay undercut good operators?
--	--	--

		• Impact is wide, members who do the right thing are not able to compete with those underpaying as part of business model. • Transparency, protected security services sector has a very low margin (3 – 5 %). Pitching work at prices that is too good to be true. The business seeking service should do due diligence • Race to the bottom mentality – there is a best practice model, would like to see this rolled out Q: Member enquiries about compliance, what other measures is the org taking to inform members about changes? • Special industry group = provide guidance on new legislation on a monthly basis. Most members don't have a dedicated IR function • Publications, bulletins, social media • Education is a key part of the Org's function, work with agencies in the labour hire and regulation space to ensure messaging is correct • Some employers feel overwhelmed by this, ERs grappling with lots of issues Q: High profile case (FWO matter) from January 2025, Perth company, alleging serious contraventions with \$900,000 underpayment for 44 workers. Do you believe there should be a strong deterrence for non-compliance of this kind? • Yes, for non-compliance. Needs to be a level playing field. Senator Barbara Pocock: view of the s327 provision. Do you support this provision? • Yes, where it relates to deliberate conduct. We don't believe it should apply to mistakes or misinterpretation of award provisions
--	--	---

		Q: Margins • Sector is varied, but low margin in particular parts of the sector. Q: Business model encourages overlooking of proper payments to workers? Appears that this sector has more wage theft than others. Operating model encourages overlooking compliance? • Lack of diligence in the procurement process, want to pay as little as possible. • Not a correct characterisation for whole industry • Complex environment because it is price driven, not quality driven and it is an on demand industry Q: Blurred line around the criminal elements of the Bill. What do you intend around this? • Record Keeping (UNSW case 2026), penalised for systemic recording keeping contraventions. • Larger organisations Woolworths / Coles, treated the same as small businesses and hospitality underpayments cases – • Made reference to another FWO matter (FWO V Main?) Q: How is the civil penalty regime working in this sector? • Very few prosecutions of s327 • Before FWC on a daily basis, there is a lot of civil matters • You have to make sure people know what a mistake and what isn't Senator Payman: Mr ^{s.22 - irrelevant information} submission details cases of wage theft in QLD in the security industry [appears to refer to historical FWO litigations re VIP security and Step Ahead
--	--	---

		security]. What the extent of underpayment in the WA security industry. - One member has contacted ASIAL around a specific provision of the modern award. Reviewed internal materials. Not a wage theft matter Q: Doesn't include the alleged FWO case [appears to be another reference to s.22 Irrelevant Information] (Griffin Alpha Security Group)? - Haven't had member contact around this Q: Submissions indicate security industry uses wage theft as business model. Do you agree with this? - The industry is heavily regulated, state based, labour hire and FWA - Very competitive market 60% non-compliance rate with local council in 2016-17 with Fair Work (potential mention of FWO work) [seems to refer to Inquiry report Fair Work Ombudsman to work with local councils to improve management of security supply chains - Fair Work Ombudsman] Q: Do you think the way government is held to account when they are the procurer - Room for improvement, growing demand for the industry - Need to ensure businesses are winning the contract and paying staff correctly Q: Introduction of the offence, is this performative or will it actually - Needs to be a cultural shift in the protective services industry, procurement models need to reflect appropriate checks and balances
--	--	---

		Q: FWO has not referred a single criminal matter despite \$50 Mil investment (11:08am). Is this an effective use of taxpayer funds? Could these funds be better spent elsewhere? - If the goal is prevention, then clarity is just as important as robust penalties including criminal penalties Q: Is this investment filling this education gap or spreading this awareness? - More work to be done on awareness - Effectiveness will depend on whether provisions can be applied effectively
11:10am – 12:10pm SDA Mr [s.22 Irrelevant Information] National Secretary Mr [s.22 Irrelevant Information] Chief of Staff ACTU Dr [s.22 Irrelevant Information]	Mentions in the opening statement of the role of the FWO in regards to s327 and the fact that no referrals have been made. ACTU noted it can't comment on whether the FWO should've undertaken more criminal investigations at this point. Made mention of submission with a recommendation that there be an independent review of the FWO (this appears to be a reference to the ACTU's submission to the Wage Theft Inquiry, which hasn't been published on the Inquiry's website). Questions from Pocock / Payman on the fragmented enforcement of superannuation (ATO v FWO). SDA evidence noted that the ATO shouldn't be playing a role in this space and that unpaid super should be enforced like any wage. ATO not set up to be enforcer of unpaid wages. ACTU evidence mentioned the role of the FWO, the assisted voluntary dispute process and	Opening Statements: ACTU – intro of offence followed decade over underpayments. Significant civil penalty increases also introduced. Offence is appropriate but too early to address effectiveness. Support approach of civil and criminal liability. Noted ACCI claim that widespread wage theft claims wrong based on no FWO refs but 33% young workers underpaid. Operation Odin found underpayments. ACTU not aware of any prosecutions and FWO confirmed 2 active investigations – can't comment on whether should have done more as too early to know if had deterrence effect but could be examined as part of broader review of FWO. Unions play role with fraction of FWO resources – 20m from SDA in 2023-24. Laborious work to analyse underpayments. Criminal cases lengthy – mentioned time taken to get cases to court – and time and filing fees in small court prevent workers bringing cases. Must be accompanied by civil options. Still worker obstacles despite recent small claims changes. FWC be empowered to undertake role to obtain wage records to conciliate. SDA – CORE message is wage theft widespread, entrenched despite reforms and crim. Takes many forms, wages unpaid

	noted that the process of recovering wages might be better pursued through FWC processes. FWO was mentioned in a question from S Payman where she posed whether unions agreed with the notion that FWO had taken a light touch approach to regulation in the past. ACTU referred to the Made Establishment / s.22 - irrelevant information EU and noted their view is that in certain cases the FWO hasn't gone hard enough on wage theft. The offence provides an opportunity for FWO to prove these critics wrong. Amount of funding for criminal jurisdiction mentioned by ACTU. ACTU suggesting resourcing of regulators in this space needs to be considered to ensure the mix is right. Alluded to the FWC's large workload.	trials, falsification and super. Often systemic embedded in business models. Estimates in billions each year and recoveries show scale. Young workers most exposed per recent research. Least likely to report due to fear of losing shifts. Super must also be treated explicitly as wage theft. Fragmentation between ATO and FWO allows super theft to proceed at scale. Regulator only enforcement model not capable of addressing wage theft at scale -FWO approach means much not identified or addressed. Rec - restoring registered orgs to obtain records and spot check. Rec - accessible small claims jurisdiction, low cost and timely. Crim important development but agree too early to determine if has materially reduced. Addressing requires penalties and effective, accessible enforcement. • Sen Smith Q: to SDA – key case studies union been prosecuting. More details talk to high profile cases • Go back some time to 7/11. More recently, prosecution of Aldi warehouse underpayments working off clock significant. Closed. If had different system like employment court, that matter would not have been small claim but employment court would be able to deal with small claims and allow unions to take large matters. • McDonalds 2 class actions – unpaid breaks and unpaid working time (less progressed). KFC concluded, unpaid breaks. Demonstrated need for reg org to proceed with action obo large number EEs. • Q Smith – often young workers. Any other figures re how many are impacted? How much underpaid in these cases? • Aldi – per worker varies. \$10m gross. KFC varies – \$20m being disbursed atm, on average \$200-300 per EE over 6 years. If individual to take own matter, not worthwhile in current
--	---	--

		system. Costs more to enforce than recovery amount. Need low cost, timely small claims option. • Q Smith – interested in impact of laws, what seeing and message to ERs • Laws big step in right direction. Seeing greater awareness in young workers, publicity around cases always helpful – signal that can raise problems. But underscores representing people in largely non-unionised workplaces. Wage theft in unionised workplaces addressed quickly because processes in place eg EA on back of new laws. Greater openness and culture and EEs more likely to raise issues. Experience is dealt with fairly quickly. Most problems like Howe and Dillon Report, most young workers in non-union workplaces. Need capacity for union spot checks again and protect responsible ERs who pay correctly who know union cop on beat undertaking spot checks • Q smith – say to laws impacting on business viability • Don't accept. Trying to capture businesses not doing right thing. More powers reg orgs have enhances ability. Businesses getting competitive advantage a bigger threat. Penalties on top important to level playing field • Q B Pocock – SDA re sub, seems obvious not just responding to high level wage theft but change from 20 years ago because of employment structure which is evidence for new regulation as just been talking about. Speak to case for other regulation and other cops on beat and changes trying to deal with. • Changes last 2-3 decades not just migrant workers and visas in workplaces which brings insecurity. Some cover from migration law if someone raises issue but more to be done to give more confidence. Dealing with people intimidated, scared by regulators and law needs to take into account. Reg orgs in industries in sectors need powers to proactively spot
--	--	--

		check. Also young and casual and lack life experience to raise issues so need framework for unions to be proactive for level playing field. • Changing nature of work, increased casualisation most obvious, gig economy in many industries and proving difficult for workers. Great work re ee-like laws to better capture but community owes it to any worker to uphold rights. Arms race re gig work – need to continue to look at • Q Pocock – sub 327 narrowly framed given most often arise through payroll practices and incredibly hard to meet. Absence of prosecution. Suggesting small claims and reg org strong copr. Anything else re high threshold and remedies • SDA – if had reg orgs on beat and streamlined small claims then those processes would build evidence and might find evidence threshold too high or not, but still too early to tell. Work on foundations needed then see how crim components work. • ACTU – qtn around high threshold. Compared to Vic which had lower threshold re dishonesty and recklessness component, per sub don't yet know if too high or not, needs more time for prosecutions to emerge re ERs suspected of committing offence. Overall holistic review needed of mix of civil penalties introduced, operation of 100k small claims, and if room for FWC to play a role. • Q Pocock – fragmentation of ATO and FWO. Proposition for how major issue captured. • SDA – fragmentation should cease and underpayment of super far better addressed as deferred wages and enforcement via industrial system and enforced as enforce any underpaid wages. • Q Payman – underpayment of super as wage theft, some subs say 6.2 bn super underpaid in 2022-23. Substantial rise
--	--	---

		since 2017-18. Why is super theft on rise and what can be done to address? • SDA – ATO isn't set up adequately to be proper enforcer of unpaid wages. Processes enable great length of time to pass before hear back. Heard of EEs not getting even acknowledgement letter until several months after raised and months later til action. Over time no compound interest and retirement savings suffer. Super is wages and enforcement should be in industrial system. Should all be turning minds to enforcement and recovery of wages simpler, timely and less costly. • Q PayMan – wage theft on large scale and no material change. Submitted unions should be empowered to investigate / refer. Matter of time before offence has effect or other structural changes needed, to what extent would expanded union powers be part of answer given high standard of proof? • SDA – early days in legislative terms, if can get foundations correct then would assist focus on very serious, systemic underpayments. Also like to thresholds lowered to succeed in prosecution. Structural changes come back to laws allowing reg orgs in each sector ot have powers to be part of solution to clean up wage theft. Unions in workplaces regularly and in nearby workplaces so easy to undertake visits. Currently unless have name all can do is refer to FWO or doesn't get attended to. Need expansion of union powers to enforce in their sector • ACTU – unrealistic to expect would already have led to reduction in wage theft need to see how operates in longer tieme. Evidence is how widespread and systemic. In addition to SDA, role for reg union being able to help people find out how much ought to have been paid, calculate, and seek redress through quick process like powers of FWC to get
--	--	---

		evidence together and have body help conciliate. ATM model is FWO providing EEs with resources to help work out how much underpaid, then AVR to help reach outcome, think better process in FWC. • Payman other QoNs. When Vic criminalised gave offence to new body. Agree with Vic Trade Halls re FWO taking light touch? • ACTU – instances where could see FWO having taking tougher line eg Calombaris around 2019, entered into EU with contrition payment, with training, payroll systems etc. Other similar examples. From union pov in certain cases FWO hasn't gone in hard enough. Opportunity with offence for FWO to prove criticisms wrong. • SDA not familiar with Vic jurisdiction and laws. • Q Kovacic – views on how regs could be streamlined to make easier for businesses to comply so don't have inadvertent underpayments • SDA – would require lots of detail to answer. People try and make more complicated than is. When super 10% still had enormous amount unpaid – what's difficult about calculating 10% Culture of it's too difficult. Too much made of it being complex and rising culture of whatever can get away with should, particularly super seen as option and everyone should put in an extra half hour. • Q Kov – different to first witness about how to apply p hols etc. How to assist those who want to do right. CBA, NAB with large HR teams. How help streamline • SDA – couldn't answer specifics. Cultural part even with those wanting to do right thing. Pay close attention to tax law, need to pay attention to IR law which simpler than tax law. Business responsible for being on top of laws. • Q Kov – evidence that DEWR underpaid despite resources and want to pay correctly. Forsyte thoughts?
--	--	--

		• ACTU Cases like DEWR – show even orgs with best intentions can get things wrong and always complexity but reject overall approach that too complex. Awards less complex than historically and lots of tools to help get things right including software, unions, ER orgs. Corporate culture and what effort has business put into training and compliance tools to ensure has got right. Streamlining historically means reduction that weakens workplaces. Seem step by step changes through civil and now criminal. Prev Goc franchise changes helped supply changes. Since Albo Gov seen crim, need to see how works in practice, civil penalty increases and small claims increases all necessary changes and streamlining seen in past not worked well for workers. • Q Kov – seen any specific changes due to 327. • Not as yet – insufficient evidence. Wholesale review of FWO and mix of penalties and who's appropriate regulator. Sen Payman talked to \$ to FWO to operationalise offence. FWC subject to heavy caseload and when ACTU talks about adding to caseload, look at holistic fashion and regulators to come up with best mix of approaches.
12:10pm – 12:50pm s.22 Irrelevant Information ACCI Mr s.22 Irrelevant Information Director, Workplace Relations Migrant Workers Centre Mr s.22 Irrelevant Information, Chief Executive Officer	• ACCI - Gov should qtn if allocation of resources is value for money (FWO not named). Coles litigation as example of complexity (FWO not named). • ACCI suggested FWO will tell Committee later today that offence not intended to catch one unintended late payment, but that's way legislation written. • Sen Payman asked ACCI for numbers on how much safe harbour mechs used noting FWO can still take civil enforcement – does ACCI think reduced use of provisions?	Opening statement ACCI: • Insufficient evidence to determine if s327 is working as intended • Effectiveness is hard to grasp because • Absence of data or prosecution equals either working as intended, or represent a solution to a problem that doesn't exist • ACCI's position is the latter position is correct • Committee serious question financial resources to this issue, absence to prosecution to date shouldn't lead to conclusion that bar is too high, late payments could be consider a late payment, s327 should only apply to deprivation not late

	• ACCI – no numbers. Might be some businesses put off but businesses who discover underpayments take steps to rectify straight away and ACCI recommends go to FWO if large underpayments but if small biz, ACCI recommends to fix, discuss with EE. • Sen Payman asked about businesses being put off because of FWO potentially not accepting request for safe harbour mech. • ACCI – if business has engaged in conduct under 327, eg 1 late payment, FWO will tell you won't result in prosecution. Strict conditions around when FWO will enter into coop agreements but more likely large businesses than small. • ACCI re reports of unpaid wages, action for FWO to pursue eg audits and think FWO very responsive in identifying sectors and undertaking audits. Although FWO should be speaking to report authors to find out who underpaying ERs are. Q: Do you support the argument for an accessible small claims jurisdiction? • We support this suggestion. Senator Delago to ACCI: ABC published article, FWO and 7/11 matter. Would ACCI acknowledge where workers are having their wages stolen that it creates a problem? • Extraordinary situation, certainly not the norm. It is the exception. Systematic pattern of conduct that was designed to rip people off.	payments, complexity should be addressed, use of wage theft is an unhelpful term Migrant worker centre • Supports comments of ACTU, difficulty in judging these measures considering short timeframes • Wage theft remains pervasive issue • Welcomes Government's efforts in this space • Migrant workers face additional barriers (i/e/ in language) • Some workers weary to engage with regulations (role of other orgs important) • NES submission = improve information provided to workers at start of employment, eers provide more fulsome information statement based on individual EEs rights (consider appropriate instrument / classification) • This could display whether compliance is intentional or not • Difficulties with sponsorship and reporting exploitation, workers make economically rationale choice of staying in Australia to keep visa. Increasing protections under migration act also need Senator Kovacic: Major cause of underpayments for members? • Complexity of the FW system generally, specifically interpretation of Modern Award (i.e public holidays) • Saw recent cases with Woolworths and Coles (annualised salaries), involves reinterpretation of how annualised salaries are paid. Example of confusion that can arise • General increase in regulation that businesses have to deal Q: concerns around narrative or business stealing wages rampantly, not your insights (cultural campaigns)?
--	---	---

	• This kind of conduct should be called out, no reason why this wouldn't be covered by the criminal provisions now in place Q: ACCI CEO recently made a comment to the media to this enquiry, the only instance of theft we can find is the robbery of taxpayers dollars. Does ACCI believe there are no instances of wage theft? • Evidence from FWO is that there are no prosecutions brought under s327, no referrals made either. Would surely have been a prosecution if the problem was as big as it is presented in the media. • We think there are better ways to spend this money, 16.7 people deployed in this section. Re non-deliberate late payment including where repaid a couple of days later where no pattern of behaviour, ACCI noted FWO applies CE Policy, encourages voluntary compliance, then guided compliance. FWO takes sensible approach.	• Not what we see from members, small business owners looking to do the right thing by their staff. This is essential in terms of current labour market, huge demand for workers. Deliberate underpayments not something we observe Q: should wage theft element be restricted to deliberate conduct? • The existing offence suggests knowledge of what amount needs to be paid, also captures late payment. Employers concerned about impact of late payments, and suffering penalties. Cloud that hangs of their head. • Sure FWO would say this isn't the intention but current drafting provides for this Q: How could this be fixed? How do we make it simpler • Not paid in particular timeframe; or, • Should include element in the offence related to permanent deprivation of the an entitlement Q: What makes the biggest practical difference to recover wages? (Migrant Workers Centre) • Improve all aspects of the system • Best practical step would be to give them the confidence to raise workplace issues knowing this won't have detrimental impacts on ability to stay in Australia on a VISA (improving settlement pathways / whistle blower protections) Senator Payman: MWC – ANMF suggested there be an aggravated offence based on exploitation based on a vulnerability (visa status, language). Could this help? • Not something we have considered at this stage, would depend on how it was framed more broadly.
--	---	--

		Q to ACCI: Safe harbour provisions, how many businesses have made disclosures under these provisions? If a business discloses underpayments and FWO can still take civil action, does this mean businesses are less likely to disclose underpayments? • No data on this • Reasonable to assume some businesses wouldn't use these mechanisms because of this • Business's who discover underpayments usually take steps to address this • ACCI recommends employers go to the FWO when underpayments are large Q: Doesn't this show there is a disincentive to approach the FWO based on a good faith disclosure? • Employers engaged in intentional underpayment; this probably wouldn't be relevant. • Not a live issue especially for small businesses • Strict conditions for cooperation agreements, for small businesses this is aimed at large business Q: One off late payments that could potentially result in criminal prosecution, do you believe employers should be able to deliberate miss pay days and get away with it? • Penalties shouldn't apply if the non-payment is beyond their control • Deliberate conduct not acceptable. Senator Barbara Pocock to ACCI: Evidence tells us wage theft is a large and growing problem, almost normalised 1/3 young people underpaid, given it is so widespread, doesn't it trouble you that it is a system issue which is disadvantaging your members doing the same thing?
--	--	--

		• The extent to which this is deliberate conduct or whether the underpayments are a product of other reasons • Young people and the awards they work under are usually complex (hospitality, retail ect) • Impact on members, underpayments usually recitified. FWO should use these reports to target employers. Action for the FWO to pursue. FWO very response, conducting audits and campaigns. Q:What are your reflections on unpaid superannuation? Quote numbers from super council. • Pay day superannuation will make a significance difference to these figures, and dealing with this problem • Assess the impact of this legislation first • Payment of superannuation on ordinary paid time earnings, this makes it more different to ascertain the payment of the super amount Q to MWC, vulnerable workers. What steps can be taken to help workers on visas? • Improvements to strengthen reporting protection, particularly those engaged in the PALM scheme • Continuing of the Workplace Protection Visa • Addressing how long it takes to pursue an underpayment claim, expediated justice • Improving information given to workers re pay and conditions in language they understand is key. Can't enforce a right you can't understand. Q: Do you support the argument for an accessible small claims jurisdiction? • Supports this suggestion.
--	--	---

		Senator Delago to ACCI: FWO 7/11 matter. Would ACCI acknowledge where workers are having their wages stolen that it creates a problem? • Extraordinary situation, certainly not the norm. It is the exception. Systematic pattern of conduct that was designed to rip people off. • This kind of conduct should be called out, no reason why this wouldn't be covered by the criminal provisions now in place Q: ACCI CEO recently made a comment to the media to this enquiry, the only instance of theft we can find is the robbery of taxpayers dollars. Does ACCI believe there are no instances of wage theft? • Evidence from FWO is that there are no prosecutions brought under s327, no referrals made either. Would surely have been a prosecution if the problem was as big as it is presented in the media. ACCI submits that the law is either working as intended by deterring the conduct in question or that the problem which criminalisation was introduced to address is far less prevalent than previously stated. • We think there are better ways to spend this money, 16.7 people deployed in this section. Q: DEWR submission on deterrence, only capture employers that deliberately underpay workers. Should there be a strong deterrence in place? • Always needs to be a deterrence in place. Governments have been done this. Increased penalties and introduce serious contraventions. Level of deterrent under serious contraventions and other areas of the Act are high Q: Late payment because of a non-deliberate reason or error. What could happen under the law? Line of questioning also
--	--	---

		included drawing analogies to other situations of delaying payment in other contexts (payment for groceries). • If the FWO was involved, would apply C&E policy. In first instance, they would want to see it rectified. Noted the compliance triangle approach. Q: Who has more power under the current laws? • Regulators and police take appropriate approaches to determine if the law has been broken and if further punishment is required. • FWO is an example of this.
<u>1:50pm – 2:30pm</u> s.22 (irrelevant information) Dr s.22 (irrelevant information) s.22 (irrelevant information) (Uni NSW) Associate Professor s.22 (irrelevant information) (Uni Newcastle)	Question from S Payman on university employees going to Fair Work for issues with things like promotion decision on unpaid work.	• Opening statement (combined): Undertaken research in higher education, policy and management since 2019. Esp casualisation in higher education. Wage theft of particular interest. Over past decade according to NTEU unis found to engage in wage theft over \$311m, excluding underpayments from uni audits. Acknowledge academic staff privileged but reticent to speak out due to lost work or penalties from unis. Undertake substantial unpaid work to position as competitive in job market and complete admin and research – all in survey in May 2025. 500 responses showed multiple instances of ‘wage theft’ eg working during annual leave, underpaid for marking hours. Culture of overwork and obscured workloads requiring more with less. Impact casual and early academic staff. Concept of intentionality important but underpayment require structure rectification first. • Q Sen Payman- sub notes underpayment through under identified acts – do staff have any say or do or get sack? • I – most unis have set hours (1 hour per student per semester) – 10 mins to mark assignment. Insufficient for feedback and support. Fear about speaking out.

		• Q Payman – some promotion policies hidden behind paywalls – interested in WA uni policies. Take more info on notice. • Published behind firewall. Most WA unis behind firewall in 2024 – potentially to do with specific WA requirements or the EAs. • Q – paymen – info on experience when go to ‘fair work’ about promotion and unpaid labour? • Lots of experiences but often too reticent to speak out eg cancer treatments, • Q payman – what outcome hoping Inquiry has? • Value more inquiry into systemic structures that have grown through uni sector including casualisation, FTE could represent up to 15 different workers. Review of promotion policies that require academics to be working at level about paid level for 2 years before eligible for promotion • Q – Payman. Note offence new – believe will be of any use to workers in medium to long ter • Not confident – way of operating in unis means intentionality would be hard to prove, obscured and would be hard to pin point, although written into promotion policies. Happens in conversations and undocumented ways. Survey data examples of managers changing workload systems to make look like staff working less. Coercive control. • Q Sen Pocock – of all sectors uni has had most cases and discussion as place of wage theft. What’s changed as consequence aside from mentioned adaptive behaviours. Has discussion moved things? • Initial reports were coming out after COVID period which was particularly difficult time for sector locked out of JobSeeker. Survey looked across unis and not a lot has changed. Still many casual academics with work restructured so don’t get
--	--	---

		same preparation time built in rather than prep time. Increasing precarity with job losses of permanent staff. • Q Pocock – change but adaption/ concealment? Any embarrassment effect? • More unis self reporting and self auditing. Wonderful in that repaid staff underpaid in past but no overwhelming change across sector. • Q – where land on public calling out/self reporting as a deterrent • No real consequence for entities that have self reported when have recertified payments. Oversight for payments devolved and individuals become responsible for casual staff despite working in regulated system • W – Pocock – union representation comparatively robust – reflections on other sectors with less presence? • Experience in higher ed – prefer not to comment • Q – reflections on SDA and ACTU on need for more accessible forms of recovery like small claims? • Not about specific rec but ways could be fixed. Lots of problems with wage theft because people afraid to speak out so not sure how to rectify eg to or from lab work. Decasualise more than occurring. Not a casual as same way as might be in retail, more piece work. Retail worker might not get shifts but easier to stop giving work in higher ed • Q – Pocock – higher threshold for evidence – saying so complex and diffuse that essentially structural? • Yes, understand many other sectors with complexity but even permanent academics working within research funding or guidelines and timeframes – so restrictions within intuitions that make it hard for managers who want to do right thing • Q Sen Kovacic – any uni investigated since offence commenced?
--	--	---

		• Not to knowledge • Q Kovacic – awareness of what’s happening about payroll systems, processes because of intro of offence? • Haven’t seen any cross-sectoral changes, although changes within institutions of payroll systems eg as result of closing loopholes. • Q Kov – consultation recs – didn’t include criminal sanctions. Was it considered or deliberate choice and does 327 have limited application in sector? • Not that is has limited applicability but part of way work assigned as agreed with union, allocation of time/money per piece of work. At local level within uni staff member responsible for assigning work and that definition is within school workload policy or workload policy. When EBA governs one way and another set of local policies applied at individual level, how determine who’s responsible? Head of workload committee, individual manager, whomever signs off timesheet. Application of offence harder and harder to say intent when policies can be interpreted multiple ways. • Q – Kov – is complexity of IR system increase risk of ERs making unintentional underpayment although no intent? • Certainly a risk. Within uni sector statements in numerous inquiries showing underpayment built in as business models. One way that unis are dealing with funding within which working. If less localised understanding and allocation of tasks on basis of time instead of predetermined model could be of assistance. Agreed complexity could be useful shield for some. • Q Sen Dolega – following stakeholders engaged with, do you support laws to crim wage theft? • Yes, support investigation of wage theft across sectors
--	--	---

		• Q Sen Dolega – talked about wage theft being higher in insecure workers, what other cohorts? • Found anyone on casual, fixed term although reports from permanent staff that workloads assigned impossible • Q Sen Dolega – following laws, what message sent to ERs? • Can't comment as work mostly focused on academic staff but most weren't in senior management. • Q Sen – strong deterrent? • Hard to tell at this stage as to knowledge no investigations, too early • Q Sen Doelga – talk of how capture business doing right thing- what say? • Higher ed has vulnerabilities through funding. Unis can use as rationale. Underpayments baked into sector. At this time not due to funding discrepancies but funding and way structured.
2:30pm – 3:10pm Associate Professor Centre for Employment and Labour Relations Law, University of Melbourne	• Senator Payman referred to FWO's sub and asked about comparison of new provisions. [redacted] agreed so. Given prospective, takes time to bring prosecution and given reserved for most egregious takes time to emerge. Agreed could take years for matter to come before the courts because needs to take place after 1 Jan 2025. • Qtn asked if appropriate for FWO to employ 16.7 staff or resources better put into civil and only undertake crim cases where civil deterrent effect would be insufficient. • Difficult to answer qtn about staff. FWO now has responsibility for dual track system. Nature means needs fairly firm procedure boundaries between investigation of criminal	Opening Statement: Senator Payman: FWO has submitted, not unusual for new penalty regimes to take time to see the impact, do you agree with this comparison? • Yes, appropriate comparison. Prospective in nature, it does take time for their to be a case of sufficient seriousness to bring prosecution. Intended that these are reserved for most serious and egregious examples Q: it could take years for a criminal case to come before the courts? • Yes, Q: Future of work submission, do you believe it is necessary to employ 16.7 ASL to investigate criminal wage matters? Or would

	and civil matters. Any tainting of criminal offence would impact success of prosecution because criminal requirements much stricter, higher burden of proof. Not unexpected in new jurisdiction to try and ensure have sufficient expertise to undertake investigations with due care and skill. • [REDACTED] noted there's been little discussion about whether inspectors can be authorised to require CNs to consider other EEs, and issue penalties. Scope to consider what else CNs can do. Understand not uncommon for ERs to not comply or drag out response. Scope to strengthen CNs by attaching penalties. • On being asked by Sen Pocock if supportive of super being pulled into industrial system, [REDACTED] noted supportive in past that if an issue with payments than an issue with super. Understand ATO's increased efforts to enforced entitlements, seems dividing responsibility is duplicative and inefficient. (no direct FWO mentions) • In relation to lack of data, tried to understand how changes make difference to approach or FWO – no baseline data. More challenging is isolating crim offence eg to say a certain case has changed behaviour across the board, can be sectorial or media reporting that has most impact on business awareness • Wondered whether scope for FWO to seek orders around director disqualifications	it be more appropriate for these resources to be engaged in civil investigation • Difficult to answer this question about number of stuff. FWO now has a dual track system. Needs to be fairly firm procedural boundaries between crim and civil investigations. Can't taint one or the other. Evidentiary requirement are much stricter. • Inception of new jurisdiction, not unexpected that you'd have that many employees to conduct investigation Q: Vic wage theft laws, should stronger record keeping laws be considered to bolster wage theft provisions? • Records are essential to bringing an investigation and litigations that are seeking to enforce entitlements • Where records haven't been accurate kept, presumption that included under the protecting vulnerable worker reforms. • Doesn't extend to criminal jurisdiction • Proving criminal offence where there is intentional destruction of records • Criminal sanctions only get you so far when it comes to deterrence. • Other ways of doing this, less appealing from a political perspective. Increasing perceived risk of being detected, modest sanction helps with this. • Deterrence is only one part to promote compliance. Q: Institutional practices like those in the higher education sector, do you believe wage theft offence is drafted in a way that encapsulates the conduct most people would assume is covered by the term 'wage theft'? - Goes to the heart of this term not being defined.
--	---	---

		- Criminal offence is directed at intentional underpayment, includes a corporate culture under the criminal code - Open question as to how this corporate culture element would be interpreted in the IR perspective Q: Unions having standing to refer matters to the CDPP, views? - Increasing perceived risk of detection, from this perspective would likely be a beneficial thing - Still sits with the CDPP / AFP to decide whether to prosecute Senator Pocock: Unions having capacity to refer, to do that we would need to reinstate of a unions right to inspect time and wage records. Do you support that? - Yes, within reason. Already have some rights in this space but have to provide notice - Payroll software providers, union access to this. Needs to be a broader conversation about whether union can access these records, what constitutes a spot check. - Accessing to employment records is essential to building a case - Common that those engaging in the most egregious forms of conduct don't keep records - Reflect on whether presumption could be amended Q: Increase risk of detection is more beneficial rather than bigger penalties, correct? - Yes, scope for further changes. For instance, compliance notice scheme. - FWIs having powers to issue notice to rectify notice, scope for notices to apply to bigger cohorts. FWIs potentially able to issue penalties in a similar way to INs. Similar to ATO notices and ability to levy fines. - Question whether CN framework should be strengthened.
--	--	--

		Q: layered punishment on top of rectification? - Yes, in certain situations. Some ERs are not cooperative, maybe a penalty could be levied if an ER does comply by a certain date. Q: Complexity of having ATO and FWO regulating Super / Wages. Do you agree that some simplicity is needed, should unpaid super be part of the industrial relations framework? - Supportive of super as part of wage theft provisions. - ATO has increased its efforts in investigation unpaid super - Different priorities to regulator that wants to ensure entitlements are repaid to workers. - Duplicative regulation somewhat problematic Q: Poor data on the extent of wage theft. Is it time for a more systemic approach to data on wage theft? - Data key to guiding policy and implementation - Have tried to better understand the way in which enforcement (changes in laws or regulator FWO) has impacted behaviour. No baseline data. Hard to obtain economy wide data on rates of compliance / non-compliance. - Isolating the effect of criminal wage theft offence on these rates is more difficult - Usually confined to sectorial or regional effect - Media also key, can amplify deterrent effects Q: also important to have data about the level of precarity, fulsome picture of economy - Business structures also very important, these can lead to greater levels of non-compliance
--	--	---

		Senator Dolega: Centres report on young workers. Prevalence of underpayment for young workers. Overview of this report? - Taken on notice as colleague lead this research - Confirmed earlier work that younger workers are vulnerable to being underpaid and find it hard to seek redress. Q: Report made several recommendations. Do you support the new criminal sanction and increased civil penalties? - Yes, important part of the regulatory mix. More to be done if we look at optimal regulation. Incapacitate continued non-compliance. Labour hire licencing an example of this. - Disqualification of directors another example - Who can seek disqualification orders, should this scope be expanded to include other regulators like the FWO - Unions could also be considered, a decision for the court if the orders are appropriate. - Remove repeat offenders from the market Q: Para 4, wage theft not being defined and lacking a settled meaning. Is an inadvertent underpayment theft? - Try to avoid using term wage theft but accept most people adopt that term post 7/11 to label most kinds of wage underpayments wage theft Q: Do you think the use of term wage theft impacts the ability to address actual intentional wage underpayments that could be criminal? Hamper our ability to address 'real theft'? - Research which suggests that intentional underpayments is still seen as white collar which is less serious than real theft (i.e. a burglary) - Media also using this term widely, doesn't necessarily hamper the ability of the regulator to conduct investigations
--	--	---

		- Potentially more of an impact on employers, maligned – want to encourage Q: Notes that large cooperations and government departments have underpaid staff - Employers doing the right thing feel like investment isn't wasted when they see wrong doers punished Q: para 11 of submission, lack of awareness of relevant provisions as one of the drivers of non-compliance, businesses struggling with red tape complexity. Complexity not theft. Fair assessment? Complexity part of the problem - Possibly correct, not the simplest system when compared with global examples - Important features in terms of ensuring vulnerable workers are protected - One way to minimise complexity is negotiate EBA Q: Sophisticated organisations making mistakes, how do we make it simple so employers get it right. - Certainly, clarity of rules and regulation are important factors in promoting compliance. - Not lowering the standards by seeking simplicity - Court decisions around definition of employee, more complicated test of who is an employee. Very good argument that the more complex system is the fairer one. Q: One of the unintended consequences of complexity is that large orgs sometimes get it wrong? - Compliance driven by a range of factors. Lack of awareness and complexity one of those factors
--	--	--

		- Many businesses can comply with many other complex laws and they recognise the negative consequences of not complying with these laws.
3:10pm – 3:50pm FWO DEWR	Q Sen Payman: Any evidence that demonstrates a statistically significant decline in wage theft since offence • [REDACTED] – too soon to make objective assessment. Per submission, early anecdotal indications ERs investing in getting EE payments right, increases in self-report data and existing trends about double to what received in early 2020s. Q - A Sen Payman – Vic trade halls suggests FWO doesn't look at full period that leaves EEs out of pocket and what being done to ensure full restitution. • [REDACTED] – where FWO uses tools, FWO does in some instances make decision about what cohort of activity included on a case by case basis including availability of admissible evidence to support allegations but may take other areas first where evidence adequate. CE policy outlines enforcement model and matters considered eg certain types of contravening conduct xx • Q – Payman – believe any of offence elements should be lowered to better justify investment? • [REDACTED] – too early to make assessment, as regulator apply law as stands. [REDACTED] – not for us as regulator to determine if sufficient. Job is to enforce it as stands and will continue to investigate matters with view to referring them to CDPP Q – how much of \$49.5 m spent to-date • [REDACTED] – may provide additional on notice. Per previous witnesses now dual track regulator so some of funding front ended to stand up function and enabling functions. As move forward move to a state where more investment in operational activities. • [REDACTED] – significant amount of investment to support investigating criminal offences. Had implementation phase – significant investment in technology to criminal standard to meet admissibility standard for successful prosecution. Challenge of existing civil infrastructure doesn't meet standards. Significant investment in platforms and CMS, and physical infrastructure and secure storage, arrangements with AFP for execution of search warrants and SA for forensics. SOPs for how criminal investigation stream interacts with civil, and training including guidance and website materials and activities and engagement with tripartite stakeholders for code and CA guides. Ongoing labour costs that support crim team but not sole investment of money. Range of staff across FWO that support crim investigations eg assessments at various stages, augmented existing teams that provide support including intelligence, calculations, legal, staff specialised in handling evidence and corporate enabling service on-costs. And ongoing IT costs. • Requested money figure spent to date on notice. Next qtn how many referrals to CDPP and AFP.	

- [REDACTED] – no referrals. Assessed 39 matters, 4 progressed to full operations, 3 remain ongoing and 7 further in assessment phase with prelim investigation steps.
 - Q 488 days since offence commenced, millions spent and not single matter referred.
 - [REDACTED] – that's right but not unusual where commencement of new provision in context of FW Act and other schemes not unusual for there to be time between
- Further QoNs in writing**
- Q Sen Dolega – what type of industries are we seeing wage theft most in and what kind of workers disproportionately affected?
 - [REDACTED] – top three industries where received enquiries from EEs or ERs in current FY, health care social assistance, construction, accom food services. RFAs (see 300k per year and when filter those down to those we look into for them) accom and food services, construction and health care and social assistance. Nothing in front re status employment
 - Q – unions suggested businesses factored in penalties as cost of doing business. Evidence of businesses coming forward to self-report since introduction. Info on how much?
 - [REDACTED] – seen an uptick that ERs are investing to see more. 2025 received 165 first half of this FY increased to 91 or 3.5 week.
 - Q – provide support on how to rectify?
 - [REDACTED] – do, part of triaging. Info set out in CE policy re reporting to ensure integrity in remediation so occurs at ERs expense. Last year released remediation guide to assist ERs with process
 - Q – how does small biz code support small biz to come forward? Know clear difference between deliberately doing wrong thing and needing assistance
 - [REDACTED] – as part of implementation tasked in legislation to develop code in consultation with dept and tripartite process, code declared by Min, supplemented coming out of tripartite process was checklist or guide for businesses to ensure pay EEs correctly. Developed in conjunction with code and geared towards small biz ERs. With remediation guide is clear information available to ERs.
 - Q – Does FWO believe offence is effective in encouraging businesses to comply
 - [REDACTED] – as previously noted, and consistent with other evidence, suite of changes \$4.5m, suite of changes work, still to make use of penalties that came in via closing loopholes. CNs at lower end and quicker amount of time to make use of them.
 - Q to DEWR – in second reading speech closing loopholes Min said already a crime for workers to steal but not a crime for ERs to steal from EEs. What measure were included to close loophole?

	• Included to help tackle wage theft. Eg maximum penalties. Informed by committees and MWT report and range of underpayment conduct happening and need to strengthen civil and criminal. Closing loophole 2 implemented max civil penalties for non-small biz, changed serious contravention threshold to knowingly or recklessly. Civil works alongside offence. CN non-compliance brought into line with other penalty units. • Q Sen Pocock – given feeling is too early to evaluate, when would be appropriate and how plan to evaluate? • [REDACTED] – too early even by civil standards from time elapsed to meaningfully make referral. Previous evidence re time to get evidence to court. When look at most comparable regulators know in Vic prior to national offence, was an offence and even that was 17 months before proceedings commenced. Importantly wasn't referral to CDPP or AFP to commence proceedings, WIV could bring in own name. Matters commenced sin.. working as quickly as possible on referrals, confident done work needed as regulator to make referral. • Closing loopholes review underway so might have additional observations. As regulator difficult to make observation on time. • Q – of \$49.5 million over 4 years is evenly spaced over 4 years. • Yes approx. 11m per year ongoing. • How compares to overall FWO budget? • Approx \$180m • Any spend on external consultants? • Only external funding is engagement of SA who provide forensics support and AFP re warrant support • Q – 3 ongoing and others in assessment phase. Explain each stage • [REDACTED] – matters move around. 39 assessed, 4 full investigations, 35 did not progress, further 7 matters in assessment phase may or may not progress to full investigation • Q – heard lots about bar too high, comment in general terms? • [REDACTED] – offence provision provides intent must be established beyond reasonable doubt to criminal threshold. Whether to high no on us to comment as what parl enacted. Serious offence, attract serious penalties. Take time. To prove intent is high bar but understanding is intentionally so because it doesn't capture inadvertent or mistakes, is where engages in conduct to deliberately underpay and that's what investigating and building brief to refer to CDPP • Q – comment on culture in org that creates intention, that culture and practices can be influential and intended to have that result, including comment on larger and more simple structure ERs • [REDACTED] – re how attribute fault elements, how prove companies have done intentionally and provides attribution elements that must prove beyond reasonable doubt that company has undertaken conduct. One
--	--

	way is through consider corporate but difficult to consider in abstract because will depend on particular facts in each matter. Legislature has provided mechanism that corporate culture can be used to capture intent. • Re smaller and more complex orgs – can’t comment on what have found re investigations because would risk prejudicing investigations on foot. Observe the more complex the structure is the more complex the investigation. Where small and individuals less distant might be easier to prove, but doesn’t mean can’t prove offence with more distance, just more distance. • Q – any comment on evidence re dual track super and wage theft, ATO and FWO and argument for more simplicity. • [REDACTED] – echo that tax legislation is complex and what would make difference to us is don’t have access to STP that would give us real time ability to see EEs being underpaid. Complicated qtn because super different to other entitlements and operates in different ways but certainly changes could be made. • Q Sen Kovacic – p2 sub talks about wage theft being undefined in FW Act, heard from others too, and [REDACTED] article citation, as regulator, accept that term used in public debate is now routinely capturing what 327 criminalises and does it cause more difficulties. • [REDACTED] – when matters come through door test against act and avoid term. Focus on significant education and comms campaign to ensure large and small biz doing best to pay correctly. Try and publicise through advisory groups and more broadly take graduated approach • Q – OF 2.6 BILLION 1.9 were self reports. Consistent with widespread wage theft or education piece working and businesses coming forward in good faith • [REDACTED] – bit of both, Only started recording stats at start of 2020 and some lits eg coles and ww working way through courts atm, about trying to get clarity on legitimate use of annualised salaries. • QoNs due Monday 18 may

Committee Members:

- Chair: Senator Maria Kovacic (LP)
- Deputy Chair: Senator Marielle Smith (ALP)
- Senator Josh Dolega (ALP)
- Senator Barbara Pocock (GRN) – substitute for Senator Mehreen Faruqi
- Senator Jacinta Nampijinpa Price (CLP)
- Senator Matt O'Sullivan (LP)

QONs due COB Monday 18 May 2026

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information
Subject: RE: FYI only - FW: E&E References Committee - Wage Theft Inquiry - Written Questions on Notice [SEC=OFFICIAL]
Date: Thursday, 7 May 2026 9:57:30

Wow that is a long list!

From: [REDACTED]@fwo.gov.au
Sent: Thursday, 7 May 2026 9:21 AM
To: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information
 s.22 Irrelevant Information fwo.gov.au
Subject: FYI only - FW: E&E References Committee - Wage Theft Inquiry - Written Questions on Notice [SEC=OFFICIAL]

Hi [REDACTED] and [REDACTED]

FYI below – the FWO received yesterday Senator Payman’s written questions on notice below following Monday’s inquiry appearance. I’ll pass on updates as me and [REDACTED] starting work through the response process with Policy and CIB.

s.22 Irrelevant Information

From: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Sent: Wednesday, 6 May 2026 10:53 AM
To: DEWR - Committee Inquiries <CommitteeInquiries@dewr.gov.au>
Cc: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Subject: E&E References Committee - Wage Theft Inquiry - Written Questions on Notice [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning team,

Thank you again to the FWO and DEWR representatives that gave evidence on Monday. Senator Payman has some addition written questions on notice, as follows.

For FWO:

1. From the FWO’s submission: “Matters not considered appropriate for criminal investigation may be referred internally within the FWO, with the Criminal Investigations Branch providing relevant evidence and analysis to assist with potential civil enforcement options.” Have civil proceedings been informed by

investigations undertaken by the criminal wage theft investigations office?

- a. If YES: A lot of resources are being put into trying to gather enough evidence to meet the very high level of proof required to secure a criminal wage theft conviction. Wouldn't letting the people in the criminal investigations office work on civil cases lead to more wages being returned to workers?
2. From the submission again: "it has been the FWO's experience that new civil provisions can also take time to reach the courts. For example, while provisions for serious contraventions under the Fair Work Act took effect on 15 September 2017, the first matter the FWO filed alleging serious contraventions was on 20 May 2019."
 - a. Am I correct in my reading of section 557A of the Fair Work Act that the serious contraventions provision applies to all civil remedy provisions of the Act? How many provisions does it apply to?
 - b. According to the FWO, it had an average staffing level of 996.3 at the start of this year. How many FWO employees would investigate matters which section 557A may apply to? It would be more than the 16 who work solely on criminal wage theft, right?
 - c. Notwithstanding the possible false equivalence of the two examples, the example of the serious contraventions provisions shows that in a case where a greater variety of offences and greater resourcing is at the disposal of the FWO, this work still takes years to bring to a courtroom. As the criminal wage theft offence is a single offence with a higher standard of proof and has a smaller, if solely-focused, team working on investigations, does it not follow logically that it is likely to take longer for the criminal wage theft provisions to be used than it did for the serious contraventions provisions?
3. On the 'safe harbor' provisions, the FWO submitted that "The safe harbour mechanisms only operate in relation to possible criminal prosecution. The FWO is not prevented from taking other enforcement action..." Given the FWO may not become aware of non-payment of wages unless a business declares under the safe harbor provisions, doesn't allowing this good-faith disclosure to potentially become subject to civil litigation disincentivise businesses from using the safe harbor provisions?
4. Additionally, is there not a further disincentive for a business that has identified wage theft as having occurred that, if the FWO does not agree to enter into a cooperation agreement, it may become subject to criminal investigation under 327A(1) and have incriminated itself when attempting to make a good-faith disclosure?
5. What recourse do employees in the higher education sector have against wage theft under the Fair Work Act where wage theft is perpetrated indirectly through a culture of normalised unpaid labour?
6. How many cooperation agreements has the FWO entered into with businesses under the 'safe harbour' provisions?
7. Provide a breakdown of all expenditure by the FWO in undertaking investigatory

functions for the offence, grouped by the categories listed at the start of page 5 of the FWO's submission, or in greater detail if available.

8. Has the ASL of the criminal wage theft investigations office changed since 31 December 2025? If so, what is it now?
9. In relation to the 39 wage theft matters assessed by the FWO, for each matter that the FWO decided to no longer pursue, identify the sector/s of the workforce which the matter relates to.
10. Provide a breakdown of the expenditure on the promotional campaign for the criminal wage theft offence.
11. Has the FWO got a sense of the effectiveness of the promotional campaign? Do businesses raise it when making disclosures under the safe harbour provisions?
12. Would it be fair to suggest that more businesses have reviewed their policies as a result of the promotional campaign than as a result of the laws the campaign was promoting?
13. Was there a promotional campaign for the introduction of the corrupting benefit offence introduced by the Fair Work Amendment (Corrupting Benefits) Act 2017? If not, why was there a promotional campaign for the introduction of the criminal wage theft offence and not this one? If there was, identify the total expenditure.
14. What statistics and other information can you offer on the prevalence on wage theft in Australia?
15. How many offices exist with the FWO whose sole task is to investigate a single specific offence/civil remedy provision? For each such office, identify the ASL.
16. For FY2024-25, break down wages recovered (in dollars) by the FWO by industry sector.
17. For FY2025-26 to date, break down wages recovered (in dollars) by the FWO by industry sector.
18. In the Law Council's submission, they note "Section 323 of the FW Act has been held to require the payment of entitlements (including entitlements to bonuses and commissions) under, among other things, a contract of employment. Thus, pursuant to section 323, the wage theft offence would appear to apply to a failure to pay contractual entitlements." Notwithstanding that such a theory has not yet been tested in court, does the FWO operate under the assumption the criminal wage theft offence would apply to a failure to pay contractual entitlements?
19. Does the FWO believe that subsection 327C(2) limits the commencement of proceedings from the day that the offence is committed, or the day that the amount is paid? (see Law Council submission, p2)
20. Per page 3 of the Law Council's submission, could a person other than the FWO refer a matter under 327A(1), even if the FWO had entered into a cooperation agreement with the relevant employer? Further, could the AFP or CDPP commence proceedings against an employer who had entered into a cooperation agreement with the FWO?
21. In February, a spokesman for the Minister for Employment and Workplace Relations

was quoted in the Australian as saying “Clearly, Labor’s strong new laws are having the intended effect.” How many complaints of wage theft or underpayment has the FWO received in FY2025-26 to date, as well as in the 3 previous financial years?

22. On how many occasions has the FWO sought preliminary advice from the CDPP as to the likelihood of the CDPP accepting a brief from the FWO in relation to a specific wage theft case?
23. Has the independent statutory review into the operation of the Fair Work Legislation Amendment (Closing Loopholes) Act 2023 and the Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024 sought information from the FWO about its enforcement of the criminalisation of wage theft?
24. Provide all correspondence between the FWO and the independent statutory review into the operation of the Fair Work Legislation Amendment (Closing Loopholes) Act 2023 and the Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024 in relation to its enforcement of the criminalisation of wage theft.
25. The FWO submitted that it has assessed 39 wage theft matters, commenced 4 investigations, have 3 ongoing operations and have 7 matters under assessment for potential criminal investigation. Of the 39 matters assessed, how many were not progressed with further, and on notice, if you could group these by the reason or reasons they weren’t proceeded with, please?
26. Of the matters that went beyond assessment and were proceeded with further, what is the status of all of those matters?
27. What is the FWO’s view on claims made in submissions to this inquiry that the investment of both time and money required for a person to make a claim about underpayments in court, particularly for small claims, is dissuading victims of wage theft from coming forward? What can be done about this?
28. In what situations would the FWO refer a matter to the CDPP rather than the AFP, and vice versa?
29. What was the outcome of *Fair Work Ombudsman v Sergey Stanislavovich Navasardyan*? If a penalty was imposed, identify what the penalty was.
30. The FWO’s submission notes, in relation to reporting of wage theft cases in the media in recent years, that “in most instances the conduct pre-dates the new criminal offence and would not meet the requisite level of criminal intent”. Are you aware of a case of wage theft where, had these laws been in place at the time, there would have been enough evidence to satisfy the requirement for criminal intent?
 - a. If NO: Prior to their commencement, was any assessment made of whether these laws would ever be used?

For DEWR:

1. What statistics and other information can you offer on the prevalence on wage theft in Australia?
2. In answer to SQ25-000001 of AE24-25, DEWR gave evidence regarding wage theft that "Funding measures include: - 2023–24 Budget - \$49.5 million over four years (\$11.0 million per year ongoing) to implement the new criminal investigation function

and enforce the wage theft offence." In answer to SQ26-000005 of AE25-26, the FWO gave evidence that "[t]he FWO did not receive \$49.5 million in the 2023-24 Budget to implement the new criminal investigation function and enforce the wage theft offence. Rather, as part of the 2023-2024 Mid-year Economic and Fiscal Outlook (MYEFO)...\$49.5 million over four years (\$11.0 million per year ongoing) [was allocated] for the FWO to take on its new role as the investigatory agency for the Offence." Is the FWO's evidence correct?

- a. If YES: Why did DEWR give incorrect information to the Senate about the origin of budget allocations? When did DEWR become aware of this mistake? Are there any other errors in DEWR's evidence given in SQ25-000001 of AE24-25 that it would like to correct?
- b. IF NO: Why do DEWR and the FWO not agree on where this funding came from?

Grateful if responses could please be provided by 20 May 2026. That said, given the questions are quite extensive, please let us know if extra time is required to respond.

Kind regards,

s.22 Irrelevant Information

s.22 Irrelevant Information

Senior Research Officer

Senate Standing Committees on Education and Employment
Committee Office | Department of the Senate

Phone: s.22 Irrelevant Information

www.aph.gov.au/senate

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

Minutes – 5 May 2026 – Enforcement Board Paper

Agenda Item: 1.2

Date: 10 June 2026

SES Lead: N/A

Additional Attendees: Nil

Paper For: Accountable Authority Approval

Distribution: None

PART 1 - ADMINISTRATION

s.22 - irrelevant information

s.22 Irrelevant Information

s.22 Irrelevant Information

1.4	Fair Work Ombudsman Update	• [REDACTED] provided an update on the Wage Theft Inquiry hearing held on 4 May 2026, noting that discussion focused on the FWO's administration of our underpayment recovery function more broadly – so the existing civil regime as well as the criminal function. The inquiry also traversed the absence of referrals to date, the treatment of genuine mistakes, the role of unions in workplace compliance, possible further review of the FWO, and whether unpaid superannuation should be treated consistently with other unpaid wages. [REDACTED] noted the hearing reflected strong interest in the FWO's strategic enforcement approach, the use of the agency's expanded enforcement toolkit, and the importance of continuing to secure substantive enforcement outcomes to demonstrate ongoing effectiveness of the strategic enforcement model. [REDACTED] thanked staff who had assisted in preparation for the hearing.
-----	----------------------------------	---

s.22 Irrelevant Information

s.22 Irrelevant Information

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information
Subject: FW: E&E References Committee - Wage Theft Inquiry - Written Questions on Notice [SEC=OFFICIAL]
Date: Thursday, 7 May 2026 10:00:20 AM
Attachments: [image002.gif](#)
[image001.jpg](#)
[image003.png](#)
[image004.png](#)

Sorry looks like s.22 Irrelevant Information was on this email chain – see below

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Sent: Wednesday, 6 May 2026 1:38 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.42 Legal Professional Privilege <s.42 Legal Professional Privilege@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Subject: FW: E&E References Committee - Wage Theft Inquiry - Written Questions on Notice [SEC=OFFICIAL]

For info and further discussion.

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Sent: Wednesday, 6 May 2026 11:04 AM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.42 Legal Professional Privilege <s.42 Legal Professional Privilege@fwo.gov.au>
Subject: FW: E&E References Committee - Wage Theft Inquiry - Written Questions on Notice [SEC=OFFICIAL]

Hey s.22 Irrelevant Information and s.22 Irrelevant Information – DEWR's Committee team has just sent through a (pretty long!) list of wage theft inquiry QONs for the FWO from Senator Payman. They've asked us to group up some of the Qs so they can submit them through PDMS, which I'll do now – but just wanted to give you a head-up.

s.22 Irrelevant Information I'll give you a buzz a bit later to chat through how we tackle them. s.22 Irrelevant Information in the office too, so I'll see if she has any advice for us on approach!

We have until 20 May, and it looks like there is scope for an extension if needed.



s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN
 T s.42 Legal Professional Privilege
 s.42 Legal Professional Privilege @fwo.gov.au

From: DEWR - Committee Inquiries <CommitteeInquiries@dewr.gov.au>
Sent: Wednesday, 6 May 2026 10:57 AM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.42 Legal Professional Privilege <s.42 Legal Professional Privilege@dewr.gov.au>
Cc: DEWR - Committee Inquiries <CommitteeInquiries@dewr.gov.au>
Subject: FW: E&E References Committee - Wage Theft Inquiry - Written Questions on Notice [SEC=OFFICIAL]

Hi s.22 Irrelevant Information and s.42 Legal Professional Privilege

Senator Payman was true to her word this time! See written QoNs below.

s.22 Irrelevant Information – I will call you.

s.42 Legal Professional Privilege – Yours will be register and assigned in PDMS shortly.

Thanks, s.42 Legal Professional Privilege

Committee Inquiries Team

s.42 Legal Professional Privilege

committeeinquiries@dewr.gov.au

Parliamentary Services | Parliamentary and Governance Branch
 Finance Governance and Enterprise Services | Corporate and Enabling Services Group
 Australian Government Department of Employment and Workplace Relations

From: [REDACTED]
Sent: Monday, 11 May 2026 4:22 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Crim comms campaign spend for QoN [SEC=OFFICIAL]

Hi [REDACTED]

Impressions are probably the most important measure for us. I know we can't frame it this way, but I would convey that nearly 15 mill impressions from a \$50k outlay is an exceptional result. Unheard of.

The text you've drafted is accurate. I have added a few words in red which you could take or leave pending your thoughts on the web stats:

The FWO measures the impact of a communications campaign in a variety of ways including by the number of impressions a campaign has generated - being the total number of times digital content is displayed on a user's screen. As outlined in the FWO's submission to the inquiry, the FWO's communications campaign to raise awareness of the criminal offence and the FWO's associated educational materials was launched on 1 January 2025 and generated significant coverage with a total 15.47 million impressions. The FWO saw an increase in the number of visits to the relevant FWO webpages in the months surrounding the campaign.

I just had a look at the campaign report to see what the impact of the comms was on our webpages – a snippet is below:

Paid activity results: FWO website visits

	Website page views		
Page	Feb-25	Jan-25	Dec-24
Criminal prosecution page	1,643	30,815	900
Voluntary small biz compliance code	5,461	15,552	9,449
Total	7,104	46,367	10,349

- The campaign had a positive impact on FWO website page visits.
- The Criminal prosecution page (fairwork.gov.au/criminal) was the landing page for all campaign material.
- The VSBCC page was used in one social execution and for organic social media posts.

You can see the uptick in the web hits as a direct result of the campaign – though I would want to check these numbers again with DES if you want to use them.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Monday, 11 May 2026 3:58 PM
To: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: RE: Crim comms campaign spend for QoN [SEC=OFFICIAL]

Hi [REDACTED]

Many thanks for providing us with the figure for the criminal offence campaign. We've also received a QoN relating to that campaign, which asks:

Has the FWO got a sense of the effectiveness of the promotional campaign?

In response, we're proposing to say:

The FWO measures the impact of a communications campaign by impressions, being the total number of times digital content is displayed on a user's screen. As outlined in the FWO's submission to the inquiry, the FWO's communications campaign to raise awareness of the criminal offence and the FWO's associated educational materials was launched on 1 January 2025 and generated significant coverage with a total 15.47 million impressions.

The above proposed response is based on existing materials, but we appreciate you might have more nuanced information that speaks to the effectiveness of the campaign. If there's anything you can add we'd appreciate it, noting to the extent possible we're trying to keep our answers very succinct. If you could come back to us by COB Thursday that would be ideal.

Thanks again

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Thursday, 7 May 2026 4:55 PM
To: [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: RE: Crim comms campaign spend for QoN [SEC=OFFICIAL]

Hi [REDACTED]

That particular campaign spend was \$49,166.24.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Thursday, 7 May 2026 4:01 PM
To: [REDACTED] <[REDACTED]@fwo.gov.au>

Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: Crim comms campaign spend for QoN [SEC=OFFICIAL]

IA-2925 117

Hi [REDACTED]

We're after some input from the team to assist our response to a written QoN from Senator Payman following the Wage Theft Inquiry hearing please.

The QoN asks us to 'provide a breakdown of expenditure on the promotional campaign for the criminal wage theft offence' (it's been specifically requested alongside other crim function expenditure). The campaign being referenced is the one that started on 1 Jan 2025 to coincide with the offence's commencement.

Could you let us know the advertising spend associated with that campaign?

For background, we'd mentioned the campaign in our submission (from SE content): *On 1 January 2025, the FWO launched a communications campaign to raise awareness of the new laws and promote its educational materials. The campaign ran across audio streaming platforms and social media channels (that is, Facebook, Instagram and LinkedIn) and generated significant coverage with a total 15.47 million impressions. While it targeted all workplace participants, there was a particular focus on small business in relation to the Code and the FWO's educational guidance materials.*

If it's possible to let us know by cob next Thursday 14 May we'd really appreciate it, and happy of course to discuss!

Many thanks

[REDACTED] (she/her) | Assistant Director – Government Policy

Policy Branch
FAIR WORK OMBUDSMAN

E [REDACTED]@fwo.gov.au

GPO Box 9887 Adelaide SA 5001 | **Kaurna Country** - Level 2, 148 Frome St, Adelaide SA 5000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

<http://www.fairwork.gov.au> | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



From: s.22 Irrelevant Information
To: s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
Cc: s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
Subject: Wage theft inquiry - QONs approach [SEC=OFFICIAL]
Attachments: [FWO S Payman QoNs - grouped by theme.docx](#)

Hi All,

Thanks again for your continued work on the wage theft inquiry – can't believe it's been a week since the hearing!

Policy has made a start on drafting responses to QONs (list attached) but thought it worth discussing approach to some of the questions as a group. FWO's cleared responses are due to DEWR in PDMS on 25 May, who will share the responses with the MO before tabling by 29 May.

Looking forward to catching up tomorrow.

s.22 Irrelevant Information

Documents released

From: [REDACTED]
To: [REDACTED] s.22 Irrelevant Information [REDACTED] s.22 Irrelevant Information [REDACTED] s.22 Irrelevant Information
Cc: [REDACTED] s.22 Irrelevant Information [REDACTED] s.22 Irrelevant Information
Subject: [For action by COB Monday 18 May] Wage theft inquiry QONs [SEC=OFFICIAL]
Date: Wednesday, 13 May 2026 11:59:19 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Hi all,

Thanks again for everyone's time yesterday afternoon, it was helpful to chat through our approach to responding to Senator Payman's written wage theft inquiry QoNs. Here's a link to the working doc that was shared during the meeting: [QoNs Clearance Table - Wage Theft Inquiry.docx](#)

Questions have been allocated for actioning per the discussion - see the 'action' column. Noting there wasn't an opportunity to share the document for consideration before the meeting, the drafted content is still very much a first pass so please amend/start fresh to align with your preferred approach.

We ask that you please finalise input / clearance by COB Monday 18 May, so we can share the responses with Anna as soon as possible for her review. We've been discussing Anna's availability with her office and her calendar is jam packed next week, so we expects AB will have to dip in and out of the doc to clear it. Finalised responses are due to DEWR in PDMS by 2pm Monday 25 May and will be tabled by Friday 29 May.

Please reach out to [REDACTED] or I if you have any questions or would like to discuss further. Thanks again all!

Cheers,

[REDACTED] s.22 Irrelevant Information

[REDACTED] s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: [REDACTED] s.22 Irrelevant Information

E: [REDACTED]@fwo.gov.au

GPO Box 9887 Melbourne VIC 3000 | **Kulin Nation** - Level 14, 414 La Trobe Street, Melbourne VIC 3000

From: [REDACTED]
To: s.22 Irrelevant Information [REDACTED]
Cc: s.22 Irrelevant Information [REDACTED]
Subject: Seeking AB clearance of wage theft inquiry QONs [SEC=OFFICIAL]
Date: Wednesday, 13 May 2026 11:08:50 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Hi [REDACTED] and [REDACTED]

Thanks, [REDACTED] for your time over teams. As mentioned, we were looking to put the list of written QONs arising from the wage theft inquiry through Anna next week for her clearance. The inquiry is high-profile and will feed into Senate Estimates questioning, so [REDACTED] and [REDACTED] imagined that AB would be keen to take a look at the responses before they are tabled in parliament.

The content will be relatively technical and about 5 pages long, so AB might need a bit of time with the doc. We think we can get responses cleared through [REDACTED] and [REDACTED] and up to AB first thing Wednesday morning, and are hoping for AB's clearance by the end of next week. We have to put the final responses through PDMS to DEWR the following Monday 18 May at the very latest.

Very happy to discuss at any point!

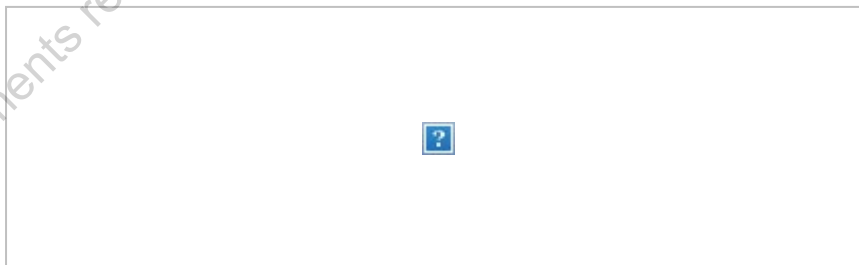
[REDACTED]

s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: [REDACTED]
E: [REDACTED]@fwo.gov.au

GPO Box 9887 Melbourne VIC 3000 | **Kulin Nation** - Level 14, 414 La Trobe Street, Melbourne VIC 3000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and community. We pay our respect to them, their cultures, and Elders past, present and future.

Wednesday, 13 May

13/05 9:46 am



99

...

Hello hello! Hope you are having a nice morning. We are looking for a time to clear FWO responses to QONs from the wage theft inquiry through AB next week.

We will need to finalise them by Friday 22 May, so any time AB has on the Wednesday or Thursday would be awesome - we know she will be flat out, so wanted to make sure we are working with her calendar

13/05 9:52 am

Hi [redacted] next week is very tricky for Anna as her calendar is already jam packed. How much time will Anna need to review the QoNs and what's the earliest she can do so?

13/05 9:56 am

I can imagine! It's just over 5 pages (but a bit technical on wage theft - and issues that will no doubt lead into SE lines of questioning) so maybe 45 mins to an hour to be safe? I reckon the earliest we can get it to her would be by Tuesday COB or first thing Wednesday - there's content being drafted by CIB, Legal Enforcement and Policy so it's a bit slow moving



13/05 9:58 am

That's helpful, thanks. Can I be a pain please and ask you to pop the request into an email and send it through to both [redacted] and myself?



s.22 Irrelevant Information

Microsoft Teams messages

Wednesday, 13 May

s.22 Irrelevant Information

13/05 10:28 am

hi there! [redacted] has asked that we send you the QON table we are working on - we are about to come out with a tasking email so I'll make sure you are on that / have access!

👍 ❤️ 😄 😮 😬 99 ...

Here is the link in the meantime: [QoNs Clearance Table - Wage Theft Inquiry .docx](#)

s.22 Irrelevant Information

13/05 11:13 am

Thanks [redacted] I'll keep an eye out for the tasking email then 😊

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

Meeting Brief

To: Anna Booth

Contact: s.22 Irrelevant Information

From: WR Policy

Phone: s.22 Irrelevant Information

Date: 18 May 2026

Branch: Policy

Copy: s.22 Irrelevant Information s.22 Irrelevant Information

Required action: For noting

Purpose:

1. You are attending a meeting with Department of Employment and Workplace Relations (DEWR) Secretary s.22 Irrelevant Information at 3.30pm on Thursday 21 May.
2. s.22 Irrelevant Information commenced as DEWR Secretary on 16 February 2026 for a five-year period. The Secretary intends to meet with portfolio agency heads on an ongoing basis (noting the cadence of meetings is TBC).
3. This brief contains background information on the following topics which DEWR have indicated they will cover off in briefing to the Secretary for your meeting: s.22 Irrelevant Information s.22 Irrelevant Information ongoing parliamentary inquiries (NES and Wage Theft), s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

Wage Theft Inquiry

10. The Education and Employment References Committee was referred an inquiry into Wage theft on 24 March 2026, with a reporting date of 18 June 2026.
11. The broad terms of reference cover the extent to which the wage theft framework and its operation has led to a decrease in the incidence of wage theft in Australia, and any other related matter.
12. The inquiry follows continued parliamentary interest in the criminal offence, including a Senate Order for the production of documents and Senate estimates questioning by Senator Payman, and reporting from the Australian.
13. The FWO made a detailed submission to the inquiry on 23 April 2026. It outlines the agency's role in relation to the criminal offence, including efforts undertaken to implement the new criminal jurisdiction to date, and an overview of the FWO's work in addressing underpayments more broadly since the agency's establishment.
14. DEWR also made a submission that provides information on the operation of the criminal offence and the role of the FWO.
15. The FWO appeared at a public hearing with DEWR on 4 May 2026. FWO's evidence highlighted that it is too early to assess the impact of the Offence, noting that:

- while there have been no referrals to the CDPP to date, a significant amount of work has been undertaken to shift the FWO to a dual-track enforcement, and
- the offence forms part of a broader compliance framework that includes education, voluntary compliance and civil enforcement, with criminal enforcement reserved for the most egregious and serious conduct.

16. The FWO is working on responses to a large number of written Questions on Notice from Senator Payman, which are due to DEWR on 25 May 2026 for tabling on 29 May 2026.

s.22 Irrelevant Information

From: FWO - Reporting and Data Management
Sent: Tuesday, 19 May 2026 11:49 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QoN data for Wage Theft Inquiry [SEC=OFFICIAL]

Hi [REDACTED]

Please find below breakdown as requested for ALL recoveries by ANZSIC division.

Cheers

ANZSIC division	2024-25	2025-26 to 31 Mar
Accommodation and Food Services	19,304,067	25,223,175
Administrative and Support Services	5,786,712	11,536,251
Agriculture, Forestry and Fishing	617,845	291,450
Arts and Recreation Services	3,897,214	3,073,598
Construction	9,821,768	4,833,708
Education and Training	68,796,211	50,581,148
Electricity, Gas, Water and Waste Services	1,751,220	3,913,501
Financial and Insurance Services	21,765,457	28,085,062
Health Care and Social Assistance	36,120,453	44,595,194
Information Media and Telecommunications	657,491	368,178
Manufacturing	5,952,878	2,989,139
Mining	54,859,759	18,082,233
NULL	3,442,237	1,813,833
Other	2,300	11,815
Other Services	14,124,840	14,472,311
Professional, Scientific and Technical Services	27,401,117	3,154,770
Public Administration and Safety	5,892,056	26,080,805
Rental, Hiring and Real Estate Services	1,467,170	744,021
Retail Trade	59,884,819	45,356,147
Transport, Postal and Warehousing	3,920,838	2,634,554
Wholesale Trade	12,548,040	10,093,843
Grand Total	358,014,493	297,934,734

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Thursday, 14 May 2026 4:42 PM
To: FWO - Reporting and Data Management [REDACTED]
Cc: [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]
Subject: RE: QoN data for Wage Theft Inquiry [SEC=OFFICIAL]

Hello again

I optimistically jinxed us with those pre-emptively crossed fingers.

With the recoveries by industry, we were after all recoveries (RFAs, proactive, self reports etc) sorry, not just RFAs.

Could we get those total figure breakdowns please?

We've been able to get an extension on all the QoNs so if early next week is better we can definitely work with that.

Thanks

From: [REDACTED]
Sent: Thursday, 14 May 2026 3:38 PM
To: FWO - Reporting and Data Management [REDACTED]
Cc: [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]
Subject: RE: QoN data for Wage Theft Inquiry [SEC=OFFICIAL]

Hi [REDACTED]

Thanks so much, we really appreciate it! Will let you know if we need to clarify anything but fingers crossed not.

Cheers

From: FWO - Reporting and Data Management <[REDACTED]>
Sent: Thursday, 14 May 2026 3:30 PM
To: [REDACTED]@fwo.gov.au
Cc: [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]@fwo.gov.au; [REDACTED]

Subject: RE: QoN data for Wage Theft Inquiry [SEC=OFFICIAL]

Good afternoon, s.22 Irrelevant Information

Please see below the data in response to your request. Please let me know if there are any issues.

RfAs by ANZSIC Division	
1 July 2025 to 31 March 2026	Amount Recovered
Accommodation and Food Services	\$1,507,726
Administrative and Support Services	\$592,778
Agriculture, Forestry and Fishing	\$127,274
Arts and Recreation Services	\$108,357
Construction	\$952,940
Education and Training	\$1,681,580
Electricity, Gas, Water and Waste Services	\$78,283
Financial and Insurance Services	\$133,119
Health Care and Social Assistance	\$980,791
Information Media and Telecommunications	\$368,178
Manufacturing	\$1,718,643
Mining	\$140,036
Other	\$6,630
Other Services	\$597,386
Professional, Scientific and Technical Services	\$632,598
Public Administration and Safety	\$107,993
Rental, Hiring and Real Estate Services	\$475,839
Retail Trade	\$672,620
Transport, Postal and Warehousing	\$330,083
Wholesale Trade	\$440,805
Grand Total	\$11,653,660

1 July 2024 to 30 June 2025	Amount Recovered
Accommodation and Food Services	\$1,991,001
Administrative and Support Services	\$1,038,229
Agriculture, Forestry and Fishing	\$390,623
Arts and Recreation Services	\$55,789
Construction	\$1,575,085
Education and Training	\$2,108,649
Electricity, Gas, Water and Waste Services	\$165,904
Financial and Insurance Services	\$710,136
Health Care and Social Assistance	\$1,500,857
Information Media and Telecommunications	\$49,447
Manufacturing	\$866,731
Mining	\$98,105
Other	\$2,300
Other Services	\$895,013
Professional, Scientific and Technical Services	\$705,895
Public Administration and Safety	\$303,916
Rental, Hiring and Real Estate Services	\$412,070
Retail Trade	\$1,065,679
Transport, Postal and Warehousing	\$624,581
Wholesale Trade	\$839,229
Grand Total	\$15,399,240

		RfAs with at least 1 monetary contravention	Total RfAs	Percentage of total RfAs with a monetary contravention
1 July 2025 to 31 March 2026	Completed	12330	14338	86%
	Commenced	12570	14603	86%
1 July 2024 to 30 June 2025	Completed	16164	18570	87%
	Commenced	15435	17900	86%
1 July 2023 to 30 June 2024	Completed	15281	17504	87%
	Commenced	13994	16431	85%
1 July 2022 to 30 June 2023	Completed	11967	15770	76%
	Commenced	12059	16349	74%

GPO Box 9887 Canberra ACT 2600 | Level 10 224 Bunda St, Canberra ACT 2601

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.



The Fair Work Ombudsman and Registered Organisations Commission Entity acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders, past, present and future.

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>

Sent: Monday, 11 May 2026 2:19 PM

To: FWO - Reporting and Data Management s.47E(d) Certain Operations of an Agency>

Cc: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au

Subject: RE: QoN data for Wage Theft Inquiry [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

Sorry for the delayed response, we're conscious that the preference is always to provide completed but that particular question actually asks for received so we were considering.

To assist determine the best approach with as much context as possible, can we get breakdowns for both received and completed to consider please?

Thanks

From: FWO - Reporting and Data Management s.47E(d) Certain Operations of an Agency

Sent: Monday, 11 May 2026 9:23 AM

To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>

Cc: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au

Subject: RE: QoN data for Wage Theft Inquiry [SEC=OFFICIAL]

Morning, s.22 Irrelevant Information

There should be no issues in getting the data to you by 14/5/26.

Just in relation to the 2nd question, our preference would be to provide rfa figures for completed matters rather than received matters in this instance. Considering you want data till the 31 March completed matters would be more accurate. Would this be fine with you? Happy to discuss further

Regards

 s.22 Irrelevant Information | Senior Analyst – Strategic Research, Analysis and Reporting

Policy,
FAIR WORK OMBUDSMAN

E: s.22 Irrelevant Information@fwo.gov.au

GPO Box 9887 Canberra ACT 2600 | Level 10 224 Bunda St, Canberra ACT 2601

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.



The Fair Work Ombudsman and Registered Organisations Commission Entity acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders, past, present and future.

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>

Sent: Thursday, 7 May 2026 2:50 PM

To: FWO - Reporting and Data Management s.47E(d) Certain Operations of an Agency

Cc: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information@fwo.gov.au

Subject: QoN data for Wage Theft Inquiry [SEC=OFFICIAL]

We’re seeking the below data to help us respond to some written QoNs received after our Wage Theft Inquiry hearing appearance please.

1. Total recoveries broken down into industry (ANZSIC Division) for the following periods:
- 2024-25

• 2025-26 to 31 March 2026
2. Total number of RFAs received that included at least one monetary allegation in the following periods. Could we also get those totals shown as a % of total RFAs received in each period please.
- 2022-23

• 2023-24

• 2024-25

• 2025-26 to 31 March 2026

If it’s possible to get the figures by cob next Thursday 14 May that would be wonderful.

Happy to chat about or better clarify any of the above.

Many thanks

s.22 Irrelevant Information

(she/her) | Assistant Director – Government Policy

Policy Branch
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

s.22 Irrelevant Information

@fwo.gov.au

GPO Box 9887 Adelaide SA 5001 | **Kaurna Country** - Level 2, 148 Frome St, Adelaide SA 5000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

 The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

<http://www.fairwork.gov.au> | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



From: s.22 Irrelevant Information
Sent: Friday, 15 May 2026 3:25 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: RE: Funding query - Wage Theft Inquiry QoNs [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

We have the following measures on record from around the time of the legislative amendment.

Digital Transformation Agenda
Enterprise Resource Planning Systems
PSSAP Administration Fees
Standardisation of Superannuation Rates
Shared and Common Services
Abolition of Road Safety Remuneration Tribunal
2016-17 PBS
Increased Protection for Vulnerable Workers
Backpacker Tax
2017-18 PBS
Pacific Labour Scheme
2018-19 PBS
FES
Property Savings
Working & Holiday Visas
Seasonal Labour Program
2019-20 PBS

As discussed, the costing agreements do not consistently reference the associated legislative changes. Of these measures, only the highlighted item appears potentially relevant. However, based on further research, this measure relates to the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017*.

On this basis, it appears that the FWO did not receive any specific funding associated with the *Fair Work Amendment (Corrupting Benefits) Act 2017*.

Happy to discuss if you have any further questions.

Kind regards,

s.22 Irrelevant Information
 Assistant Director, Financial Services
 Services | Corporate and Engagement
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E: s.22 Irrelevant Information@fwo.gov.au
 GPO Box 9887 Canberra ACT 2600 | Level 10, 224 Bunda Street (CNR Akuna Street), Canberra ACT 2600

From: s.22 Irrelevant Information; s.22 Irrelevant Information@fwo.gov.au
Sent: Friday, 15 May 2026 1:27 PM
To: s.22 Irrelevant Information@fwo.gov.au
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information; s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information; s.22 Irrelevant Information@fwo.gov.au
Subject: Funding query - Wage Theft Inquiry QoNs [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

I hope you are well.

We are in the process of responding to a number of Questions on Notice (QoNs) received after the FWO's appearance at the Senate Inquiry into Wage Theft last Monday. One of the QoNs relates to historical funding measures for the FWO.

I am wondering if you could please confirm whether the FWO received any specific funding relating to the *Fair Work Amendment (Corrupting Benefits) Act 2017*? We believe the answer is no, but we'd appreciate if you could confirm this for us 😊

Please feel free to give me a call if you'd like to discuss further, more than happy to chat!

Cheers,

s.22 Irrelevant Information
 Assistant Director – Workplace Relations policy

Legal and Policy Group
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E: s.22 Irrelevant Information@fwo.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders, past, present and future.

www.fairwork.gov.au | Fair Work Infoline: 13 13 94

s.22 Irrelevant Information Chat Shared Recap

Monday, 18 May

Hi s.22 info I tried to use that link to the Inquiry notes to help with drafting QoNs over the weekend but the link isn't working any more. Could you please send me the final version that we were working on on the day of the Inquiry? thanks

18/05 10:56 am

Hey s.22 info Not sure what happened to our poor link! Here is: [Inquiry Appearance brief - Wage Theft Inquiry 2026 final.docx](#)

s.22 Irrelevant Information

Let me know if you're any issues accessing it!

18/05 10:57 am

thank you!

all good now, thank you 😊

From: s.22 Irrelevant
 To: s.22 Irrelevant
 Subject: RE: QoN Draft Answer [SEC=OFFICIAL]
 Date: Tuesday, 19 May 2026 4:21:00 PM
 Attachments: image001.png
 image003.png
 image004.png
 image005.png
 image006.png
 image007.png
 image009.png

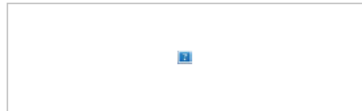
Roger that, thank you.

No urgency – as I indicated, it's more to satisfy my curiosity.

s.22 Irrelevant

-

s.22 Irrelevant | Group Manager – Corporate and Engagement & Chief Operating Officer
 FAIR WORK OMBUDSMAN
 T: s.22 Irrelevant
 E: s.22 Irrelevant@fwo.gov.au



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past and present.

"Please consider the environment before printing this message"

From: s.22 Irrelevant
 Sent: Tuesday, 19 May 2026 3:51 PM
 To: s.22 Irrelevant Information@fwo.gov.au
 Subject: Re: QoN Draft Answer [SEC=OFFICIAL]

I have the agreement. Anna asked me for it last year, I can forward it. There was a sizeable chunk for technology operating costs after the capex phase. Will dig it out.

s.22 Irrelevant
 Group Manager - Regulatory Transformation Group
 FAIR WORK OMBUDSMAN
 T: s.22 Irrelevant
 X: s.22 Irrelevant
 M: s.22 Irrelevant
 E: s.22 Irrelevant@fwo.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000

From: s.22 Irrelevant Information@fwo.gov.au
 Sent: Tuesday, May 19, 2026 4:19:31 PM
 To: s.22 Irrelevant Information@fwo.gov.au
 Subject: RE: QoN Draft Answer [SEC=OFFICIAL]

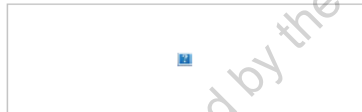
Thanks – agreed.

I will see if s.22 has any detail re what was in the NPP – not intending to offer this, but more to satisfy my curiosity.

s.22 Irrelevant

62

s.22 Irrelevant Information | Group Manager – Corporate and Engagement & Chief Operating Officer
 FAIR WORK OMBUDSMAN
 T: s.22 Irrelevant Information
 E: s.22 Irrelevant Information@fwo.gov.au



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past and present.

"Please consider the environment before printing this message"

From: s.22 Irrelevant
 Sent: Tuesday, 19 May 2026 3:46 PM
 To: s.22 Irrelevant Information@fwo.gov.au
 Subject: Re: QoN Draft Answer [SEC=OFFICIAL]

I can have the Technology OpEx that can be directly attributed to Crim but that's not very much of the gap. I don't know the answer... well I do in that it's essentially been absorbed but that's why I think we need to lead with the departmental line and not disaggregating where work occurs across the agency but isn't separately costed against crim activities - a bit like the ABCC transfer funding.

s.22 Irrelevant
 Group Manager - Regulatory Transformation Group
 FAIR WORK OMBUDSMAN
 T: s.22 Irrelevant
 X: s.22 Irrelevant
 M: s.22 Irrelevant
 E: s.22 Irrelevant@fwo.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000

From: s.22 Irrelevant Information@fwo.gov.au
 Sent: Tuesday, May 19, 2026 4:08:52 PM
 To: s.22 Irrelevant Information@fwo.gov.au
 Subject: RE: QoN Draft Answer [SEC=OFFICIAL]

Thank you – that looks fine to me.

Do you know/ of will you have with you the break up of the \$10.922 million operating funding for 2025-26? The gap between this and the \$2.7 million spent so far by your team is the obvious next question.

s.22 Irrelevant

s.22

s.22 Irrelevant Info Group Manager – Corporate and Engagement & Chief Operating Officer

FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E: s.22 Irrelevant@fwo.gov.au



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past and present.

"Please consider the environment before printing this message"

From: s.22 Irrelevant Info <s.22 Irrelevant Info@fwo.gov.au>
 Sent: Tuesday, 19 May 2026 1:24 PM
 To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Subject: QoN Draft Answer [SEC=OFFICIAL]

Hi

I thought I would send you the draft QoN response on how funding is being framed (in relation to the wage theft inquiry).

Can you let me know if you are comfortable with the framing about not being able to breakdown all the activity based costs outside of the crim team budget allocation?

Thanks

s.22 Irrelevant Information

 s.22 Irrelevant (s.22 Irrelevant Info) Group Manager
 Regulatory Transformation Group
 FAIR WORK OMBUDSMAN
 T: s.22 Irrelevant
 X: s.22 Irrelevant
 M: s.22 Irrelevant
 E: s.22 Irrelevant@fwo.gov.au
 GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000

I work flexibly and may send emails at times which suit me. Unless clearly marked, I do not expect you to read or respond to my email outside your own working hours.



"Please consider the environment before printing this message"

Documents released by the Fair Work Ombudsman

Freedom of Information Act

From: s.22 Irrelevant Info
To: s.22 Irrelevant Info
Subject: RE: QoN Draft Answer [SEC=OFFICIAL]
Date: Tuesday, 19 May 2026 5:41:00 PM
Attachments: [image001.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image003.png](#)

Excellent, thank you very much s.22 Ir

s.22 Irrelevant Info

-

s.22 Irrelevant Info Group Manager – Corporate and Engagement & Chief Operating Officer

FAIR WORK OMBUDSMAN

s.22 Irrelevant Info

Hi s.22 Irrelevant Info

E: s.22 Irrelevant Info@fwo.gov.au



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past and present.

"Please consider the environment before printing this message"

From: s.22 Irrelevant Information@fwo.gov.au>
Sent: Tuesday, 19 May 2026 4:38 PM
To: s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information@fwo.gov.au>
Subject: RE: QoN Draft Answer [SEC=OFFICIAL]

Hi s.22 Ir

I did the breakdown based on the initial NPP costing template:

Labour	Number of FTE
APS 5	4
APS 6	2
EL 1	7
EL 2	3
SES Band 1	2
	<u>18</u>
Total labour costs including on-costs and indexation	<u>\$3,472,802</u>
Non-labour	
Education resources research & development and user testing	\$22,500
External communications, media, online content development	\$25,000
External Legal advice - operating phase	\$250,000
External data and forensics expertise	\$2,874,000
Investigation related travel and prosecution Incidentals	\$225,000
Technology OPEX	\$3,880,291
Indexation adjustment	\$172,337
Total non-labour	<u>\$7,449,128</u>
Total NPP measure	<u>\$10,921,930</u>

Let me know if you have further questions.

Regards

s.22 Irrelevant Info

From: s.22 Irrelevant Information@fwo.gov.au>
Sent: Tuesday, 19 May 2026 4:21 PM
To: s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information@fwo.gov.au>
Subject: FW: QoN Draft Answer [SEC=OFFICIAL]

Hi s.22 Ir

Not an urgent one, but when you get a moment, can you please tell me what was in the NPP as the basis of the \$10.922 million allocation in 2025-26 for Criminalisation?

s.22 Irrelevant Info

-

s.22 Irrelevant Info Group Manager – Corporate and Engagement & Chief Operating Officer

FAIR WORK OMBUDSMAN

s.22 Irrelevant Info

Hi s.22 Irrelevant Info

E: s.22 Irrelevant Info@fwo.gov.au



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past and present.

"Please consider the environment before printing this message"

s.22 - irrelevant information

s.22 Irrelevant Information

From: s.22 Irrelevant Information
 Sent: Thursday, 21 May 2026 12:33 PM
 To: s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information
 Subject: RE: [For review] Wage theft inquiry QoNs [SEC=OFFICIAL]

Sorry s.22 Irrelevant Information I hadn't clocked it was still there. I have reversed the deletion of that para. Thanks!

From: s.22 - irrelevant information @fwo.gov.au
 Sent: Thursday, 21 May 2026 11:05 AM
 To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au
 Subject: RE: [For review] Wage theft inquiry QoNs [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

Many thanks for your review, I think the content is still there but tracked for deletion, is this it?

s.22 Irrelevant Information

If that's it, I'll accept the other deletions, and reject deletion of the above.

Thanks again

From: s.22 - irrelevant information @fwo.gov.au
 Sent: Thursday, 21 May 2026 10:57 AM
 To: s.22 - irrelevant information @fwo.gov.au; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au
 Subject: RE: [For review] Wage theft inquiry QoNs [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

I have reviewed and added a couple of comments – in the tidy up the answer to the second part of the Qon on the 323 section was deleted. Can you please put it back in from the earlier version otherwise we won't have a response to that qon. I'm happy to check that if you need me to once it is back in. I'm otherwise fine with the shorter 323 content.

Thanks

From: s.22 Irrelevant Information @fwo.gov.au
 Sent: Thursday, 21 May 2026 8:24 AM
 To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
 Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information @fwo.gov.au; s.22 - irrelevant information @fwo.gov.au; s.22 Irrelevant Information @fwo.gov.au
 Subject: [For review] Wage theft inquiry QoNs [SEC=OFFICIAL]

Good morning s.22 Irrelevant Information and s.22 Irrelevant Information

With many thanks for your input into the wage theft inquiry QoNs, s.22 Irrelevant Information has now completed her review and there are just a couple of responses where s.22 Irrelevant Information has asked for you to please take a look at a few suggested changes, before the QoNs go up to Anna today.

The QoNs can be accessed here: [QoNs Clearance Table - Wage Theft Inquiry .docx](#)

If you could please take a look and let us know if you're comfortable that would be very much appreciated.

We've also very happy to chat.

Thanks again, almost there!

s.22 Irrelevant Information

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information
Subject: RE: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]
Date: Friday, 22 May 2026 4:07:00 PM
Attachments: [image001.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[image020.png](#)
[image021.png](#)
[image022.png](#)
[image023.png](#)
[image002.png](#)

Expensing TRACE expenditure will help!!

s.22 Irrelevant information

-

s.22 Irrelevant Information | Group Manager – Corporate and Engagement & Chief Operating Officer

FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

M: s.22 Irrelevant Information

E: s.22 Irrelevant Information @fwo.gov.au



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past and present.

~Please consider the environment before printing this message~

From: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>

Sent: Friday, 22 May 2026 3:34 PM

To: s.22 Irrelevant Information@fwo.gov.au; s.22 Irrelevant Information

<s.22 Irrelevant Information@fwo.gov.au>

Subject: RE: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

She is. But I am not sure what else can be said. The reality is that it was put in the overall budget pot and not allocated according to the NPP – she knows this, it has been ventilated.

From: s.22 Irrelevant Information@fwo.gov.au>
Sent: Friday, 22 May 2026 3:24 PM
To: <fwo.gov.au>; <fwo.gov.au>
Subject: RE: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

Hi

I think the Boss is correct on this one - subject to views.

The capital funding is separate from the \$10.922 million operating funding received for Criminalisation in 2025-26. Spending on capital would not be included in \$3.7 million.

I wonder if we need a similar explanation to that provided for Building and Construction to explain how the funding has been allocated across the agency.

-

Group Manager – Corporate and Engagement & Chief Operating Officer

FAIR WORK OMBUDSMAN

T:

M:

@fwo.gov.au



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past and present.

~Please consider the environment before printing this message~

From: <fwo.gov.au>
Sent: Friday, 22 May 2026 2:42 PM
To: <fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>
Cc: <fwo.gov.au>

Subject: FW: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

In relation to AB's comment in the chain below, I'm correct aren't I that she hasn't factored in the \$8.184 systems/capex costs which are included as part of the funding?

This is the current response for reference:

As part of the 2023-2024 Mid-Year Economic and Fiscal Outlook, the FWO received \$49.5 million (including capital funding of \$8.3 million) over four years (\$11.0 million per year ongoing) to support the introduction of the new criminal offence and for the FWO to undertake investigatory functions and operate technology systems to undertake investigations to a criminal standard.

The \$11.0 million per year ongoing is departmental funding and forms part of the FWO's overall appropriation. Allocation of the funding across the agency allows the FWO to draw on the agency's existing expertise and functions rather than duplicating capability including across legal, enforcement, engagement, communications, media, advice and education functions. A component of the funding is directed to the newly created Criminal Investigations Branch for specialist capability that is segregated from other parts of the agency that also contribute to and support the delivery of the criminal investigation function. It is not possible to fully disaggregate the departmental funding for the measure, which covers employee expenses, supplier costs, ICT costs and indirect on-costs.

In relation to the specialist capability in the Criminal Investigations Branch, from 1 July 2025 to 30 April 2026, the Criminal Investigations Branch spent \$2.7 million on labour and investigation related costs. The budgeted ASL allocation of the Criminal Investigations Branch remains 16.7.

Other discrete costs related to the implementation of the new criminal offence include approximately:

- *\$8.184 million to progress development, building and maintenance of a case management system and secure platform (incurs ongoing costs)*
- *\$257,000 to build evidence storage facilities in accordance with Commonwealth criminal investigation standards*
- *\$49,100 for external advertising to promote FWO's communications campaign for the new criminal offence*
- *\$126,000 to establish arrangements for forensic services with Services Australia (incurs ongoing costs)*

The expenditure is expected to shift across the forward estimates as implementation matures. Expenditure in the early years was weighted toward systems uplift, training, education and communications. Expenditure in later years is expected to be more heavily weighted toward ongoing operational activity.

s.22 - irrelevant information

s.22 - irrelevant information

From: [REDACTED] <[REDACTED]@fwo.gov.au>

Sent: Monday, 25 May 2026 10:44 AM

To: s.22 Irrelevant Information [REDACTED]@fwo.gov.au; [REDACTED]

s.22 Irrelevant Information [REDACTED]@fwo.gov.au>

Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information [REDACTED]

<[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>;

[REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]@fwo.gov.au>;

s.22 Irrelevant Information fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>

Subject: RE: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

Hi all,

With thanks to s.22 Irrelevant Information some additions and amendments have been made to question 1 (mostly to enhance the content related to other areas across the FWO with some involvement in crim – noting that we can't disaggregate this from an ASL or costing perspective): [QoNs Clearance Table - Wage Theft Inquiry.docx](#)

These need to be uploaded into the system by 2pm, so if anyone has any further amendments, please let us know by 1pm today if possible.

Happy to chat further.



s.22 - irrelevant information

From: s.22 Irrelevant Information
Sent: Tuesday, 26 May 2026 12:47 PM
To: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: RE: FOR REVIEW: EEC Refs—Wage theft Inquiry—Hansard transcript—Public hearing Canberra, 4 May 2025 [SEC=OFFICIAL]
Attachments: Education and Employment References Committee_2026_05_04.docx

Hi all,

With thanks to s.22 Irrelevant Information, we've undertaken a close review of the FWO's evidence in the wage theft inquiry transcript and have not identified any corrections that need to be sought.

We will look to close the loop with DEWR's Committee team by the end of the week. Please feel free to reach out in the meantime if you have any questions or concerns!

Thanks,

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
E: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

From: s.22 Irrelevant Information
Sent: Friday, 15 May 2026 4:10 PM
To: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: FW: FOR REVIEW: EEC Refs—Wage theft Inquiry—Hansard transcript—Public hearing Canberra, 4 May 2025 [SEC=OFFICIAL]

Hi all,

Happy Friday! You may have received this separately already, but FYI the transcript for FWO / DEWR's wage theft inquiry hearing has been sent through by the Committee. Policy will have a detailed read and coordinate any corrections with DEWR - we will keep this group posted.

Note that DEWR have assigned the one additional spoken QON around a breakdown of how much of the FWO's funding has been spent to date (on p37 of the transcript) – though I imagine we can link the answer to Payman's written QON seeking a breakdown of costs.

Have a great weekend all!

Cheers,

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
E: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

From: DEWR, Committee Inquiries <CommitteeInquiries@dewr.gov.au>
Sent: Friday, 15 May 2026 4:01 PM
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information <s.22 Irrelevant Information@dewr.gov.au>
Cc: DEWR - Committee Inquiries <CommitteeInquiries@dewr.gov.au>
Subject: FW: FOR REVIEW: EEC Refs—Wage theft Inquiry—Hansard transcript—Public hearing Canberra, 4 May 2025 [SEC=OFFICIAL]

Hi s.22 Irrelevant Information and s.22 Irrelevant Information

Hansard finally in!

As I'm caught up with SE business this afternoon, I have only skimmed this.

s.22 Irrelevant Information – I have registered and assigned **IQ26-000028 - FWO to investigate allegations of criminal wage theft** (page 37 of Hansard).

Can you both please let me know if I have missed any other questions taken.

For corrections to evidence and Hansard edits, please have this back to out team by 12 noon 29 May to submit also. Attached is the template for corrections (known to the committee as a ‘supplementary submission’). Attachment B is for Hansard Edits only.

Many thanks,
Committee Inquiries Team

s.22 Irrelevant Information

committeeinquiries@dewr.gov.au

Parliamentary Services | Parliamentary and Governance Branch
Finance Governance and Enterprise Services | Corporate and Enabling Services Group
Australian Government Department of Employment and Workplace Relations
For more information on Estimates, please visit our [Intranet Page](#)

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them and their cultures, and Elders past, present and emerging.

From: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Sent: Friday, 15 May 2026 3:11 PM
Cc: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Subject: FOR REVIEW: EEC Refs—Wage theft Inquiry—Hansard transcript—Public hearing Canberra, 4 May 2025

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good afternoon,

Inquiry into Wage theft

Please find attached the proof Hansard transcript for evidence given at the committee’s public hearing in Canberra on **Monday, 4 May 2026**. A copy will also be available shortly on the committee’s [website](#).

Hansard corrections

Please read the proof transcript and note any corrections. Corrections should be restricted to typographical and transcription errors. Suggested changes which alter the sense of the evidence or which are designed to improve style are not permitted. Should you wish to vary what you said to the committee or provide additional information, this can be done by letter or supplementary submission.

Any corrections should be clearly shown on the transcript in red text and returned to the committee secretariat via email by **Friday, 29 May 2026**.

Questions on notice

If you took any questions on notice during the hearing, the committee requests that you return your answers by **Friday, 22 May 2026**.

If you require an extension of time to answer questions taken on notice at the public hearing, please provide your request to the committee secretariat via email.

Please note it is the committee’s preference to receive answers to questions on notice in public and the committee’s usual practice is to publish the answers on the committee’s webpage. If you would like to request that the committee receive an answer in-confidence, please make this request when providing the answer along with a written rationale for the request. Your request and rationale will then be considered by the committee.

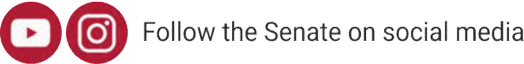
Answers should be provided by email to the committee secretariat at eec.sen@aph.gov.au.

On behalf of the committee, thank you for participating in the inquiry.

Kind regards,

s.22 Irrelevant Information

s.22 Irrelevant Information | Administrative Officer



The Department of the Senate acknowledges the Ngunnawal and Ngambri people, who are the traditional custodians of the land which Parliament House is situated – an area where people have met for thousands of years.

*The painting **Possum and Wallaby Dreaming** was used as the design for the Forecourt Mosaic of Parliament House, created by the late Michael Nelson Jagamara AM, Warlpiri Elder, in 1985. His design depicts the tracks of the ancestral peoples of the red kangaroo, rock wallaby, bush-tail possum, and goanna. Their tracks lead to a central meeting place, as they gather to talk about and enact ceremonial obligations, in the same way that Parliament House is a gathering place.*

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

From: s.22 Irrelevant Information
Sent: Thursday, 21 May 2026 8:53 AM
To: s.22 Irrelevant Information
Subject: RE: Wage Theft QoN re universities [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

11 is correct s.22 Irrelevant Information and s.22 Irrelevant Information

Cheers

s.22 Irrelevant Information (he/him) | Director (a/g)
 Enforcement
FAIR WORK OMBUDSMAN

s.42 Legal Professional Privilege

E: s.22 Irrelevant Information @fwo.gov.au
 PO Box 1036 Wagga Wagga NSW 2650 | **Wiradjuri Country** - Level 1, 2 O'Reilly Street Wagga Wagga NSW 2650



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.



The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

Record my hours – available now



<http://www.fairwork.gov.au> | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)

OFFICIAL: Sensitive

From: s.22 Irrelevant Information @fwo.gov.au>
Sent: Thursday, 21 May 2026 8:50 AM
To: s.22 Irrelevant Information s.22 - irrelevant information @fwo.gov.au>
Cc: s.22 Irrelevant Information @fwo.gov.au>
Subject: RE: Wage Theft QoN re universities [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s.22 Irrelevant Information yes 11 EU's to date by my count.

s.22 Irrelevant Information Is confirm

s.22 Irrelevant Information | Executive Director – Operations

FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

s.22 Irrelevant Information

E: s.22 Irrelevant Information @fwo.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street Melbourne VIC 3000

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)

OFFICIAL: Sensitive

From: s.22 Irrelevant Information @fwo.gov.au>
Sent: Thursday, 21 May 2026 7:53 AM

To: s.22 Irrelevant Information@fwo.gov.au>

IA-2925 150

Subject: RE: Wage Theft QoN re universities [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Good morning s.22 Irrelevant Information

I think looking at SE briefs muddled me up! Just looking at our November 2025 QoN as part of the inquiry into the quality of governance at Australian higher education providers, we advised that as at **20 November 2025** we'd **accepted 8** Enforceable Undertakings.

Since that time, based on our website, we've accepted EUs from:

- s.22 - irrelevant information – signed by FWO on 24 November 2026
- s.22 - irrelevant information – signed by FWO on 5 December 2025
- s.22 - irrelevant information – signed by FWO on 11 December 2025

So I think our response to the current QoN should use the language of 'accepted' and state that we've **accepted 11** Enforceable Undertakings, but hopefully you can confirm either way 😊

Many thanks

s.22 Irrelevant Information

OFFICIAL: Sensitive

From: s.22 Irrelevant Information

Sent: Wednesday, 20 May 2026 5:08 PM

To: s.22 Irrelevant Information@fwo.gov.au> s.22 Irrelevant Information@fwo.gov.au>; FWO - Legal Reporting s.47E(d) Certain Operations of an Agency

Cc: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>

Subject: Wage Theft QoN re universities

Hi s.22 Irrelevant Information and s.22 Irrelevant Information

We're currently working on QoNs received as part of the Wage Theft Inquiry and are seeking your assistance with a QoN related to the university sector.

The QoN is:

What recourse do employees in the higher education sector have against wage theft under the Fair Work Act where wage theft is perpetrated indirectly through a culture of normalised unpaid labour?

Our proposed response is:

The FWO has tailored information for the higher education sector on our website at www.fairwork.gov.au/find-help-for/higher-education and we encourage all employees who believe they have been underpaid to contact us for advice and assistance.

The FWO's work in the higher education sector has resulted in significant recoveries and enforcement outcomes. The FWO recovered over \$259 million for over 122,000 employees in higher education sector from 1 July 2019 to 31 March 2026. The FWO has **accepted 12** Enforceable Undertakings with universities, and has **commenced civil litigation proceedings against 2 universities**

As outlined in the FWO's [Compliance and Enforcement Policy](#), unions, community justice centres, worker advocates, and small claims courts and tribunals also have important roles in education, deterrence and compliance – as well as providing a direct, (and at times), more appropriate, service for parties to address their workplace disputes.

I'd be grateful if you could let me know whether the above is correct, particularly the highlighted data:

- The FWO has **accepted 12** Enforceable Undertakings with universities (I couldn't work out based on SE briefs whether this should be 12 accepted or 11 active)
- The FWO has **commenced civil litigation proceedings against 2** universities (presumably this is University of Melbourne and UNSW, noting we didn't commence the Torrens University matter)

Our preferred approach is to keep our response as succinct as possible, but if you have any feedback on how we could enhance it please let me know.

Unfortunately we are working to very tight timeframes to get our responses up to Anna for clearance, if you could come back to me by **10am tomorrow** that would be very much appreciated.

Many thanks

s.22 Irrelevant Information

From:

Sent:

To:

Subject:

Attachments:

s.22 Irrelevant Information

Thursday, 21 May 2026 7:12 PM

BOOTH,Anna; s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information

FW: Wage theft inquiry public hearing, Senate Education and Employment References Committee [SEC=OFFICIAL:Sensitive]

Senate Inquiry into Wage Theft - Question on Notice - 20 May 2026.pdf

OFFICIAL: Sensitive

FYI s.22 Irrelevant Information response to a QoN on banning powers

s.22 Irrelevant Information s.22 Irrelevant Information

(she/her) | Group Manager

Regulatory Transformation Group

FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

X: s.22 Irrelevant Information

M: s.22 Irrelevant Information

E: s.22 Irrelevant Information fwo.gov.au

GPO Box 9887 Melbourne VIC 3001 | 414 La Trobe Street, Melbourne VIC 3000

I work flexibly and may send emails at times which suit me. Unless clearly marked, I do not expect you to read or respond to my email outside your own working hours.

Australian Government

Fair Work

OMBUDSMAN

Fair Work Infoline

13 13 94

www.fairwork.gov.au

@fairwork_gov_au

/fairwork.gov.au

~Please consider the environment before printing this message~

OFFICIAL: Sensitive

From:

Sent:

To:

Subject:

s.22 Irrelevant Information

Thursday, 21 May 2026 1:26 PM

s.22 Irrelevant Information

FW: Wage theft inquiry public hearing, Senate Education and Employment References Committee

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

FYI

s.22 Irrelevant Information

Associate Professor

Melbourne Law School

s.22 Irrelevant Information

From:

Sent:

To:

Subject:

s.22 Irrelevant Information

Wednesday, 20 May 2026 3:47 PM

'Committee, EEC (SEN)' <eec.sen@aph.gov.au>

RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee

Dear Secretariat,

Please find attached my response to the Question on Notice from Senator Payman.

Kind regards,

s.22 Irrelevant Information

s.22 Irrelevant Information

Associate Professor

Melbourne Law School

s.22 - irrelevant information

From:

Sent:

To:

Cc:

Subject:

Committee, EEC (SEN) <eec.sen@aph.gov.au>

Wednesday, 6 May 2026 10:48 AM

s.22 Irrelevant Information s.22 Irrelevant Information; Committee, EEC (SEN) <eec.sen@aph.gov.au>

s.22 Irrelevant Information s.22 Irrelevant Information

[EXT] RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee

External email: Please exercise caution

Hi s.22 Irrelevant Information

Thanks again for your evidence on Monday., Senator Payman has one further question, as follows:

1. The Victorian Trades Hall Council's submission recommended that individuals convicted of wage theft should be prevented from managing corporations. How would you regard such a proposal, and might there be constitutional pitfalls in enacting such a change as a consequence of the separation of powers prohibiting Parliament from encroaching on the role of the judiciary by enacting laws which have a punitive effect?

IA 2025-152

At the hearing the Chair mentioned Monday, 18 May for the return of answers to questions on notice but given this extra written question grateful if you could please provide a response by Wednesday, 20 May.

Kind regards,

From: s.22 Irrelevant Information
Sent: Tuesday, 5 May 2026 3:39 PM
To: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Cc: s.22 Irrelevant Information
Subject: RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee

Many thanks – that is helpful. Appreciate that the question will be formalised shortly.

Associate Professor
Melbourne Law School

From: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Sent: Tuesday, 5 May 2026 3:35 PM
To: s.22 Irrelevant Information Committee, EEC (SEN) <eec.sen@aph.gov.au>
Cc: s.22 Irrelevant Information
Subject: [EXT] RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee

External email: Please exercise caution

Hi

Thank you for your evidence yesterday. The question, asked by Senator Dolega at 4:38:34, was, if I have understood it correctly, a request for an overview of the findings on the prevalence of wage theft as documented in Professor s.22 Irrelevant Information report *Underpaid and overlooked: the wage crisis facing young workers in Australia*.

Once we receive the Hansard transcript of the hearing (typically within 5–7 business days), we will circulate a formal request for responses to questions on notice and for any corrections to the transcript.

Thanks again.

Kind regards,

From: s.22 Irrelevant Information
Sent: Monday, 4 May 2026 3:24 PM
To: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Cc: s.22 Irrelevant Information
Subject: RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee

Dear

Thanks for providing this information. Further to the hearing this afternoon, would it be possible to send through the question that I took on notice (so that s.22 Irrelevant Information can review and respond in due course)?

Kind regards,

Associate Professor
Melbourne Law School

From: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Sent: Monday, 4 May 2026 9:31 AM
To: s.22 Irrelevant Information Committee, EEC (SEN) <eec.sen@aph.gov.au>
Cc: s.22 Irrelevant Information
Subject: [EXT] RE: Wage theft inquiry public hearing, Senate Education and Employment References Committee

External email: Please exercise caution

s22. irrelevant information

From: [BOOTH, Anna](#)
To: s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
Cc: s.22 Irrelevant Information s.22 Irrelevant Information
Subject: Meeting with s.22 Irrelevant Information [SEC=OFFICIAL]
Date: Thursday, 21 May 2026 4:28:51 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Hi

I just met with s.22 Irrelevant Information. Thanks, s.22 Irrelevant Information for the terrific brief. It was on point to his issues raised with me. In particular he raised:

s.22 Irrelevant Information

2. What did we expect to come out of the Wage Theft Inquiry, specifically any proposed legislative change? I said I was not aware of any likely proposal for legislative change and went on to explain why we were investigating a small number of cases and had not yet referred one (although we are likely to before the end of the FY) I mentioned the date of commencement of the jurisdiction, the intensive setup, the small team, the use immunity and inability to have a straightforward pipeline from civil investigations to criminal investigations with all inspectors able to investigate.

s.22 Irrelevant Information

He was happy with my responses to 1 – 3. If you have anything to correct, please let me know. On 4 I will include s.22 Irrelevant Information and s.22 Irrelevant Information in the COO meeting.

Anna



Anna Booth (she/her) | Fair Work Ombudsman

FAIR WORK OMBUDSMAN

s.47E(d) - agency operations

From: s.22 Irrelevant Information
 To: s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information, s.22 Irrelevant Information
 Subject: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]
 Date: Thursday, 21 May 2026 4:36:38 PM
 Attachments: [image001.png](#), [image002.png](#), [image003.png](#), [image004.png](#), [image005.png](#), [image006.png](#), [IQ26-000026 - Attachment - Response Document.pdf](#)

Hi s.22 Irrelevant Information and s.22 Irrelevant Information

With thanks to everyone for their tireless work on the wage theft inquiry over the last few weeks, please find for Anna's clearance:

- Draft responses to QONs put to the FWO by Senator Payman: [QoNs Clearance Table - Wage Theft Inquiry.docx](#)
- A response document which will be enclosed as an attachment to Q12 in the table (**attached**).

The FWO's finalised responses are due to DEWR in PDMS by 2pm on Monday 25 May and will be tabled by Friday 29 May.

We are happy to discuss at any point.

Thanks again all – what a group effort!

s.22 Irrelevant Information

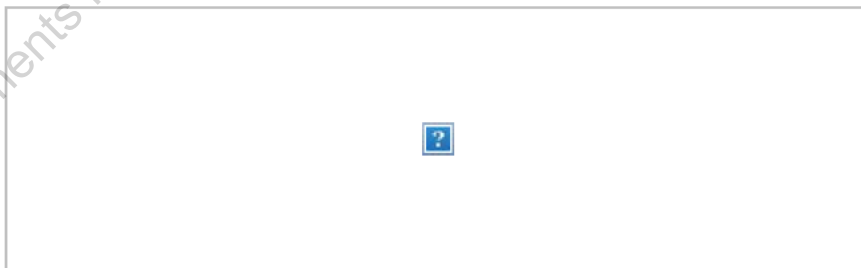
s.22 Irrelevant Information she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information

E: [@fwo.gov.au](#)

GPO Box 9887 Melbourne VIC 3000 | **Kulin Nation** - Level 14, 414 La Trobe Street, Melbourne VIC 3000



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and community. We pay our respect to them, their cultures, and Elders past, present and future.

From: [BOOTH,Anna](#)
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information
Subject: RE: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]
Date: Friday, 22 May 2026 2:56:28 PM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)

Hi

I have cleared these QoNs including the attachment.

Can you convey to [REDACTED] and [REDACTED] only that I think we are exposed in the answer to Q1. (taken up again in the last part of Q 14) because it is implausible that the agency spent around \$7m (approximate allocation of \$10m less \$3m spent in CIB) in 2025-26 outside of the CIB but on activities associated with criminal investigations. And we can't say what they are! Perhaps I have misunderstood the figures, so I didn't want to disturb others with this concern just yet.

Ta.

A



Anna Booth (she/her) | Fair Work Ombudsman



The Fair Work Ombudsman is a place where people of LGBTQIA+ communities are welcomed and supported.

From: s.22 Irrelevant Information @fwo.gov.au>
Sent: Friday, 22 May 2026 11:05 AM
To: BOOTH,Anna s.47E(d) - agency operations
Subject: FW: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

s.22 Irrelevant Information (she/her) | Executive Assistant to the Fair Work Ombudsman | A/g Board Secretariat

s.22 Irrelevant Information

E: [REDACTED]@fwo.gov.au

s.22 - irrelevant information

BRIEF

TO: Meeting Attendees

CONTACT:

s.22 Irrelevant Information

FROM: WR Policy

PHONE:

s.22 Irrelevant Information

DATE: 25 May 2026

BRANCH:

Policy

REQUIRED ACTION: For noting

SUBJECT: FWO and DEWR SES Meeting Brief

Purpose

1. You are meeting with the Department of Employment and Workplace Relations (DEWR) Workplace Relations Group from 2.30pm to 3pm AEST on Tuesday 26 May 2026.

Invitees:

Fair Work Ombudsman (FWO):

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

s.22 Irrelevant Information

DEWR: s.22 Irrelevant Information (chair),

s.22 Irrelevant Information

s.22 Irrelevant Information

Apologies: TBC.

2. The agenda for the meeting is at Attachment A.

s.22 Irrelevant Information

s.22 Irrelevant Information

Wage theft Inquiry

Lead: FWO/DEWR

12. The Education and Employment References Committee was referred an inquiry into Wage theft on 24 March 2026, with a reporting date of 18 June 2026.
13. The FWO made a detailed submission to the inquiry on 23 April 2026 outlining our role in relation to the criminal offence, including efforts undertaken to implement the new criminal jurisdiction, and an overview of our work addressing underpayments more broadly since the agency's establishment. DEWR also made a submission providing information on the criminal offence's operation and role of the FWO.
14. The FWO appeared at a public hearing with DEWR on 4 May 2026. FWO's evidence highlighted that it is too early to assess the impact of the criminal offence and noted that while no referrals have been made, significant work has been undertaken to shift FWO to a dual-track regulator and the offence forms part of a broader compliance framework.
15. The FWO provided responses to several Questions on Notice from Senator Payman to DEWR on 25 May 2026 for tabling on 29 May 2026.



DEWR/FWO Meeting

Agenda

Date: Tuesday, 26 May 2026
Time: 2:30pm-3:00pm (AEST)
Venue: via TEAMS

Title

Lead

s.22 Irrelevant Information

Wage theft inquiry

FWO/DEWR

s.22 Irrelevant Information

From: s.22 Irrelevant Information
To: BOOTH,Anna
Cc: s.22 Irrelevant Information
Subject: FW: Amendment to QON 1 - : [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]
Date: Monday, 25 May 2026 11:58:35 AM
Attachments: [image006.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)

Hi Anna

s.22 Irrelevant Information response below.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Monday, 25 May 2026 11:57 AM
To: s.22 Irrelevant Information@fwo.gov.au; [REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
s.22 Irrelevant Information@fwo.gov.au>
Subject: RE: Amendment to QON 1 - : [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

All good – thanks s.22 Irrelevant Information I think we're using the term 'departmental funding' as per the finance term from the portfolio budget statements, but I take AB's point – it does confuse things. We'll amend that so it reads 'FWO funding' rather than 'departmental funding'.

Thanks

[REDACTED]

From: [REDACTED]@fwo.gov.au>
Sent: Monday, 25 May 2026 11:50 AM
To: [REDACTED] <[REDACTED]@fwo.gov.au> [REDACTED]
s.22 Irrelevant Information@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au> s.22 Irrelevant Information
s.22 Irrelevant Information@fwo.gov.au>
Subject: FW: Amendment to QON 1 - : [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

For consideration please

From: BOOTH,Anna [s.47E(d) - agency operations]
Sent: Monday, 25 May 2026 11:41 AM
To: [REDACTED]@fwo.gov.au>
Cc: [REDACTED]@fwo.gov.au>
Subject: Re: Amendment to QON 1 - : [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

Hi. I don't have any comment except that I thought the amount that included departmental allocations was \$55 million and the \$49.5m was ours. A line in the answer suggests that the \$49.5m is inclusive of the department allocation. I'm probably wrong but worthwhile checking. Regards, Anna.

From: [s.22 Irrelevant Information]@fwo.gov.au>
Sent: Monday, May 25, 2026 11:21:30 AM
To: BOOTH,Anna [s.47E(d) - agency operations]
Cc: [REDACTED]@fwo.gov.au>
Subject: Amendment to QON 1 - : [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

Hi Anna

If you have any comments they need them by 1:00 please.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Monday, 25 May 2026 11:14 AM
To: [REDACTED]@fwo.gov.au>; [REDACTED]
 [s.22 Irrelevant Information]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>;
 [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]@fwo.gov.au>;
 [s.22 Irrelevant Information]@fwo.gov.au>; [s.22 Irrelevant Information]@fwo.gov.au>
Subject: RE: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

Hi all,

With thanks to [s.22 Irrelevant Information] some additions and amendments have been made to question 1 (mostly to enhance the content related to other areas across the FWO with some involvement in crim – noting that we can't disaggregate this from an ASL or costing perspective): [QoNs Clearance Table - Wage Theft Inquiry .docx](#)

These need to be uploaded into the system by 2pm, so if anyone has any further amendments, please let us know by 1pm today if possible.

Happy to chat further.

From: [REDACTED]@fwo.gov.au>

Sent: Friday, 22 May 2026 3:02 PM

To: [REDACTED]@fwo.gov.au>

Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 <[REDACTED]@fwo.gov.au>; s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>;
 [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED]
 s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>

Subject: FW: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]

Hi [REDACTED]

Anna has cleared the QoNs. Please see Anna's comment below.

Thanks

s.22 Irrelevant Information

s.22 Irrelevant Information

(she/her) | Executive Assistant to the Fair Work Ombudsman | A/g Board Secretariat

s.22 Irrelevant Information

[REDACTED]@fwo.gov.au

s.22 - irrelevant information

[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Mon, 25 May 2026 09:33:10 +1000

hi, s.22 Irrelevant Information said you would like the legal costings on crim for the QoNs - I will start pulling some info but would be good to confirm what you want as there is the more obvious part re s.22 Irrelevant Information and her team/ELP but also potentially a portion of LAT for implementation/Code work and some of my civil peeps who worked on the crim work as well? perhaps we can chat after the SES meeting today

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Mon, 25 May 2026 12:03:25 +1000

do you want me to put the specific ELP cost for legal expenses for crim/code? that is the only specific potential disaggregated cost that could be included potentially

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Mon, 25 May 2026 12:03:40 +1000

Nah

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

[No Subject]

From: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
To: "s.22 Irrelevant Information" <s.22 Irrelevant Information@fwo.gov.au>
Date: Mon, 25 May 2026 12:26:54 +1000

I have suggested two small tweaks to that QoN - I don't think much else I can put in without it looking out of pace with the rest of the content

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

From: [REDACTED]
To: [REDACTED] s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
Cc: s.22 Irrelevant Information SCULLY, Mark s.22 Irrelevant Information s.22 Irrelevant Information
Subject: RE: [For Anna's Review] Wage theft inquiry QONs [SEC=OFFICIAL]
Date: Tuesday, 26 May 2026 9:48:24 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

Hi everyone,

To close the loop, confirming that QONs were submitted through PDMS yesterday (just before the 2pm deadline!). Thank you everyone for the push to get them there - we really appreciate it.

The QONs are due to be tabled this Friday, 29 May. We will keep you all posted.

Thanks again for everyone's efforts!

s.22 Irrelevant Information

s.22 Irrelevant Information he / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

E: [REDACTED]@fwo.gov.au

s.22 - irrelevant information

From: [REDACTED]
Sent: Friday, 29 May 2026 10:28 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: For review: Updates for Wage Theft QoNs [SEC=OFFICIAL]

Hi [REDACTED]

Further to our chat, IQ26-000024 is now back through PDMS with the additional information re self-reports included.

That will leave just IQ26-000026 with us. We have some wiggle room on the timing - the QoNs need to go to Parliamentary Services, then through the MO, before Parliamentary Services can then send them to the table office, which all needs to happen before 4pm today, if not they will be tabled on Tuesday (as the ACT has a public holiday on Monday).

[REDACTED] (Parliamentary Services) has also let [REDACTED] (DLO) know that we are discussing IQ26-000026 with the MO.

Thanks

From: [REDACTED]
Sent: Friday, 29 May 2026 9:47 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: For review: Updates for Wage Theft QoNs [SEC=OFFICIAL]

Thanks [REDACTED] Will let you know asap.

From: [REDACTED] <[REDACTED]@fwo.gov.au>
Sent: Friday, 29 May 2026 9:44 AM
To: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: RE: For review: Updates for Wage Theft QoNs [SEC=OFFICIAL]

Hi [REDACTED] and [REDACTED]

Happy Friday, we made it to the end of another week!

DEWR let us know late yesterday that they need our QoNs back through PDMS by 11.30am today, sorry! Please let us know if we can assist to progress them in any way.

From: [REDACTED]
Sent: Thursday, 28 May 2026 5:04 PM
To: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Cc: [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>; [REDACTED] <[REDACTED]@fwo.gov.au>
Subject: For review: Updates for Wage Theft QoNs [SEC=OFFICIAL]

Hi [REDACTED] and [REDACTED]

The MO has suggested changes to the following QoNs from the wage theft inquiry, which have been tracked into the attached answer sheets for your review.

- IQ26-000024 – Prevalence of wage theft
 - MO has suggested that additional information on number of self-reports is added to our answer (tracked into the attached answer sheet based on self-report data in our submission).
- IQ26-000026 – Closing Loopholes review
 - MO has suggested deletion of the first sentence in our answer.

In terms of timeframes, the QoNs are due to be tabled tomorrow, so we think that if we re-submit in PDMS early tomorrow that should be okay.

Many thanks to [REDACTED] for working on this.

Very happy to discuss.

Thanks



Is this doc still the most up to date version of what went to DEWR?
[Wage Theft Inquiry .docx](#)

[QoNs Clearance Table -](#)

s.22 Irrelevant Information

s.22 Irrelevant Information

1/06 1:07 pm

s.22 Irrelevant Information

s.22 Irrelevant Information

is about to send you the final versions

Also, from what we can see, they haven't been tabled

1/06 1:18 pm

Thank you!

s.22 Irrelevant Information

1/06 1:20 pm

s.22 Irrelevant Information

No worries, i'll let you know once we can confirm tabling of the QoNs, we can't see it in the system, so unfortunately it's a bit of a waiting game.

1/06 1:21 pm

All good, thank you 😊



[No Subject]

From: s.22 Irrelevant Information @fwo.gov.au>
To: s.22 Irrelevant Information <s.22 Irrelevant Information@fwo.gov.au>
Date: Tue, 02 Jun 2026 10:58:13 +1000

FYI - from s.22 Irrelevant Information FYI - have been chatting to s.22 Irrelevant Information and it sounds like wage theft inquiry QONs will likely be tabled soon. s.22 Irrelevant Information is in the Committee room and said it looks like s.22 Irrelevant Information is getting sign off from the Min on those two FWO QONs we were talking about on Friday currently and one DEWR QON. The rest are back with DEWR parliamentary

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

From: s.22 Irrelevant Information
Sent: Thursday, 18 June 2026 2:57 PM
To: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: RE: FYI - EEC Refs—Wage theft Inquiry—Hansard transcript—Public hearing Canberra, 4 May 2025 [SEC=OFFICIAL]
Attachments: Progressreport.pdf

Hi everyone,

We have just seen that the Committee has [requested an extension](#) to 25 June (next Thursday) to hand down it's wage theft inquiry report. We will keep an eye out for the report itself next week!

Thanks,

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
E: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

From: s.22 Irrelevant Information
Sent: Tuesday, 9 June 2026 9:22 AM
To: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: FYI - EEC Refs—Wage theft Inquiry—Hansard transcript—Public hearing Canberra, 4 May 2025 [SEC=OFFICIAL]
Importance: High

Good morning all,

The FWO and DEWR's responses to QONs coming out of the wage theft inquiry hearing have now been returned to the Committee (see below).

Answers have not yet been published on the Committee's webpage, but we expect this will happen relatively quickly over the coming days given the Committee is due to report next Thursday, 18 June.

Thanks again for everyone's efforts!

 s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
E: s.22 Irrelevant Information [@fwo.gov.au](mailto:s.22 Irrelevant Information@fwo.gov.au)

From: DEWR - Committee Inquiries <CommitteeInquiries@dewr.gov.au>
Sent: Monday, 8 June 2026 9:07 AM
To: Committee, EEC (SEN) <eec.sen@aph.gov.au>
Cc: s.22 Irrelevant Information [@dewr.gov.au](mailto:s.22 Irrelevant Information@dewr.gov.au); DEWR - Committee Inquiries <CommitteeInquiries@dewr.gov.au>
Subject: RE: FOR REVIEW: EEC Refs—Wage theft Inquiry—Hansard transcript—Public hearing Canberra, 4 May 2025 [SEC=OFFICIAL]
Importance: High

Good afternoon s.22 Irrelevant Information and team,

Please see attached questions on notice from the Department of Employment and Workplace Relations and the Fair Work Ombudsman for the 4 May 2026 hearing.

Kind regards, s.22 Irrelevant Information

Committee Inquiries Team

s.22 Irrelevant Information

From: [REDACTED]
Sent: Thursday, 25 June 2026 6:22 PM
To: [REDACTED]
Cc: [REDACTED]; FWO - Parliamentary Policy; [REDACTED]
Subject: FW: Wage theft inquiry - New Green's submission [SEC=OFFICIAL]
Attachments: Sub30_ [REDACTED] MP.pdf

s.22 Irrelevant Information Attached is a late submission from the Greens to the Wage Theft Inquiry (I note the [report](#) was released today and WRP/Gov Policy are in the process of pulling together a summary) **s.22 Irrelevant Information**

Further, below is a quick snapshot of my team's interaction with the MPs office.

Very happy to discuss.

Thanks

s.22 Irrelevant Information (she/her) | Director – Parliamentary and International

Office of the Fair Work Ombudsman
FAIR WORK OMBUDSMAN

s.22 Irrelevant Information

s.22 Irrelevant Information

From: [REDACTED]
Sent: Thursday, 25 June 2026 11:14 AM
To: [REDACTED]
Cc: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]
Subject: FW: Wage theft inquiry - New Green's submission [SEC=OFFICIAL]

Hi [REDACTED] and directors

With thanks to [REDACTED], just wanted to put on your radar that Ellen Sandell (Greens State MP for Melbourne) has made a late submission to the wage theft inquiry which includes a case study about her office's attempts to raise a constituent underpayment matter with the FWO. **s.22 Irrelevant Information**

Ms Sandell recommends increased funding and staffing for the Fair Work Ombudsman to reduce barriers to reporting and improve response times; and allowing people to report wage theft other than by phone to the Fair Work Ombudsman, to make it more accessible.

A copy of the submission is attached. Let us know if there's anything further with this.

Cheers

From: s.22 Irrelevant Information
To: s.22 Irrelevant Information s.22 Irrelevant Information s.22 Irrelevant Information
Cc: s.22 Irrelevant Information s.22 Irrelevant Information
Subject: Final report published - wage theft inquiry [SEC=OFFICIAL]
Date: Thursday, 25 June 2026 5:13:09 PM
Attachments: [Wage theft inquiry report.pdf](#)

Hi all,

The final report of the [Wage Theft Inquiry](#) has now been published. A copy of the final report is attached.

The report contains 3 recommendations which reflect the views of the Committee. All 3 recommendations are of relevance to the work of the FWO and include:

- **Recommendation 1:** that the Australian Government make modern awards clearer and easier to apply through clearer classification structures, plain-language drafting and more accessible guidance on coverage, to reduce inadvertent underpayment, and lower the prohibitive cost of compliance for smaller businesses.
- **Recommendation 2:** that the Australian Government provide further clarity on the interaction of the criminal wage underpayment offence with the Criminal Code, specifically the availability of a due diligence defence where intention is attributed to a corporate employer through its culture
- **Recommendation 3:** that the Australian Government, as part of the targeted early review of the wage underpayment offence recommended by the review of the Closing Loopholes Acts, assess whether the balance of the Fair Work Ombudsman's resourcing across its criminal and civil enforcement functions is delivering the fastest possible repayment for underpaid workers and the most effective response to employers who deliberately underpay.

The report also contains 2 dissenting recommendations from the Australian Greens and a further 11 additional recommendations from Senator Payman. The Policy Branch will circulate a more fulsome summary of the report in the coming days, covering the Committee's views, additional recommendations and the accompanying dissenting reports.

Thanks

s.22 Irrelevant Information

Summary of submissions to the Wage Theft Inquiry

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
1	Mr [REDACTED] [REDACTED]	No mentions	Assesses whether the wage theft framework has reduced the incidence of wage theft and argues that criminalisation alone is insufficient without structural and preventative labour-market reforms.
2	Auctioneers and Valuers Association of Australia (AVAA)	Refers broadly to civil compliance pathways and voluntary compliance mechanisms that involve the FWO, but does not directly analyse or critique the FWO's enforcement, investigations, or guidance.	Argues criminalisation is disproportionate for small and medium businesses and that underpayments usually arise from award complexity rather than intentional conduct on behalf of an employer.
3	Senator Fatima Payman	Contains extensive references to the Fair Work Ombudsman, including evidence from Estimates on investigation numbers, staffing of the criminal investigations branch, absence of referrals, complaint volumes, and concerns about prosecutorial thresholds. Contains excerpts of transcript from Feb 2026 SE where the FWO was questioned about resourcing for criminal jurisdiction. Is critical of the FWO having made no referrals to CDPP or AFP given the resourcing it has been provided	Examines whether criminal wage theft provisions are being enforced in practice and questions the absence of referrals or prosecutions since commencement. Suggests that one possible issue is that the bar for criminal prosecution is set too high and reforms to the offence should be considered to ensure it is working as intended.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		to investigate intentional wage theft, however believes FWO is capable of carrying out investigations.	
4	Western NSW Community Legal Centre	FWO not named but recommendations include wage theft info provision in FWIS.	Suggests relatively recent commencement means not yet possible to meaningfully assess reduction in wage theft but service experience indicates underpayments continue. Suggests practical effectiveness dependent on ability of workers to identify, report, access legal advice & enforcement processes. Notes additional structural barriers for regional/remote communities. Recs: public monitoring of lits, improved free legal assistance access esp regionally
5	Mr s.22 Irrelevant Information	FWO named in attachment – author's sub to 2018 Qld wage theft inquiry: frustration with and countless complaints to FWO and Qld Office of Fair Trading, FWO taking years to bring to justice, references multiple FWO security sector litigations. States FWO is 'pretty much useless' for EEs seeking assistance and steps out FWO failed mediation then unsuccessful, lengthy personal court action and ER liquidation. Also attached: 2016 opinion piece on security industry by FWO s.22 Irrelevant Information, 2018 FWO Inquiry into procurement of security services by local government report, and 2018 Qld Inquiry into wage theft final report that mentions FWO.	Director of Executive Security Group Pty Ltd, a security provider in Qld. Suggests wage theft 'out of control', is a business model in Security and Cleaning industry, migrant worker wage theft mostly unreported. Suggests dedicated Minister or Ombudsman, Immigration enforcement of student working hours, and fixing phoenixing and Director ID management. Main attachment (2018 sub) discusses impact of ABN use, phoenixing and zombie agreements (naming some Qld businesses using them) as ways of avoiding employee payments and gaining a commercial advantage through businesses paying under the award losing tenders. Other attachments: MUA April 2026 media release on wage theft in cruise industry; United Voice 2017 sub to Inquiry, United Voice 2017 media release, 2020 media article on hotel quarantine and security.
6	Dr s.22 Irrelevant Information (Uni NSW), Ass Prof s.22 Irrelevant Information Prof s.22 Irrelevant Information	No mentions	Suggests 327(A)(1) is relatively recent and too early to draw effectiveness conclusions and creates a high evidentiary threshold that may limit application.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
	s.22 - Irrelevant Information and Mr s.22 - Irrelevant Information h (Uni Newcastle), Dr s.22 - Irrelevant Information s.22 - Irrelevant Information (Charels Sturt)		Uses higher education as example of underpayments arising through institutionalised practices instead of clearly identifiable and deliberate acts. Suggests wage theft in HE sector persists not only because of admin/payroll complexity but enabling structural incentives (eg career progression) and institutional arrangements (eg increased workloads incl. research, grant applications, development) that normalise unpaid labour and reduce likelihood of reporting.
7	Portable	No mentions	(Digital product agency, developed 'Sweep' a 'wage compliance platform' app that allows workers covered by the Retail Award to upload payslips to confirm if they've been correctly paid. States Sweep supported by DEWR through Business Research and Innovation Initiative) Suggests wage underpayment mostly a compliance problem. Avoids using 'wage theft' because underpayments found by Sweep from award interpretation complexity, not bad faith, and framing as theft hardens relationships needed to resolve issue. Portable observed that criminal liability for wage theft can only operate as a deterrent or as a remedy if underpayment is first detected, documented, and capable of being attributed to conduct. Portable suggested that s327A(1) made the assumption that workers can identify underpayment and that evidence can be assembled to support a prosecution. Portable believes workers have no practical mechanism/ tools to verify their pay against their entitlements, which confines the criminal framework to having a meaningful reach.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
			Portable submits that a safe harbour or evidentiary presumption could be introduced for employers who can demonstrate they have taken reasonable, documented steps toward compliance. E.g. by using a certified compliance platform or by actively encouraging their employees to use a payslip verification tool. [Policy note: Portable were a recipient of the Business Research and Innovation Initiative - Workplace Relations Usability Challenge. According to Portable, a beta version of the app is available before its public launch in May 2026.]
8	FWO		
9	United Firefighters Union of Australia	Refers to evidence provided by FWO in our appearance at Senate Estimates that FWO has two active investigations in the criminal jurisdiction, and that no referrals have been made. Submits that these figures do not demonstrate the significance of the issue, nor do they reflect a monumental reduction in wage theft.	Supports principles that underpinned the Closing Loopholes amendments but raises concern of the effectiveness of the provision in the past year, while acknowledging the ongoing Closing Loopholes Review. Suggests possible reforms to the wage theft provisions in the Act, with a specific focus on whether the high standard for prosecution is a determinative factor in limiting the law's effectiveness.
10	National Tertiary Education Union	Provides an overview of the wage theft framework, which includes reference to the FWO being responsible for referring matters to the DPP or AFP and not referring employers who are party to a cooperation agreement with the FWO. Considers that the enforcement action of the NTEU and FWO have also contributed to a reduction in the	Considers that wage theft is built-in to the operating models of most universities, with large-scale documented underpayments. Observes little to no utilisation of s327A since commencement, and while there likely has been a deterrence effect insofar as decreases in reported wage theft have been detected, systemic underpayments remain endemic to the sector. Makes several recommendations, including:

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		occurrence of wage theft alongside the deterrence of the Offence. Notes the NTEU met with the FWO on a number of occasions to provide an understanding on the operation of casual academic rates in the industry, and also lists some of the EUs entered into by public universities with the FWO and other legal proceedings initiated by FWO. Considers that employers would be unlikely to self-disclose non-compliance with s327A and enter into a cooperation agreement with FWO, but also that FWO will only refer matters for criminal prosecution if they are 'most serious', resulting in an inherent tension in the framework preventing s327A fulfilling its legislative purpose.	- the creation of a stand-alone avenue for unions to investigate and refer matters of wage theft under s327A to the DPP or AFP in order to address the funding and resource constraints of the FWO - a statutory presumption that penalties for non-compliance with civil remedy provisions of the FW Act will automatically be paid to an applicant employee organisation - an increased civil penalties regime in the FW Act
11	DEWR	Outlines the FWO as the responsible statutory agency to promote and monitor compliance with workplace laws and investigate breaches/take action through the graduated C&E framework in the FW Act, including in relation to wage theft. Outlines the circumstances under which the FWO may not refer employers for criminal prosecution (EUs, the Code), and the process for referral to the CDPP or AFP.	Notes that an independent statutory review of the Closing Loopholes Act is currently underway, which includes the wage theft offence. Summarises the operation and application of the Offence, noting it was implemented alongside other amendments to strengthen the civil remedy provisions of the FW Act.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
12	SDA	Reliance on a regulator-only enforcement model carried out by the FWO is incapable of policing wage theft at the current scale, being predominantly complaints-based, limited by resourcing (limited inspectors making proactive work difficult) and structurally mismatched to the nature of modern labour markets, with those most at risk most unlikely to engage regulators and the majority of complaints not reaching the enforcement stage. Non-payment of superannuation should be treated as explicitly as wage-theft and the current split arrangements between the FWO and the ATO create enforcement gaps that enable non-compliance. Notes that the FWO's reported recoveries do not demonstrate deterrence or compliance, rather only reflect the scale of non-compliance after detection and recoveries achieved through FWO investigations only account for a small fraction of estimated overall underpayments. Submits that the issue is not whether the FWO is effective within its constraints, but whether a regulator-only model can meaningfully deter or remedy wage theft at the current scale, with smaller breaches that accumulate into large-scale wage theft	Submits that it is too early to assess the effectiveness of the criminal wage provisions in reducing and deterring wage theft. Submits that wage theft (including the deliberate underpayment of wages, unpaid overtime, penalty rates and superannuation, unpaid trials and the falsification of time and wages records) continues to occur on a large and entrenched scale. Notes that the criminalisation of wage theft has not yet led to a material reduction in underpayment, especially in sectors characterised by insecure work, franchising, labour hire and low union density, with young workers the most exposed, referring to the [REDACTED] and [REDACTED] Melbourne Law School <i>Fair Day's Work Report 2025</i>. Submits that it does not address the drivers of wage theft. Acknowledges that the provisions are relatively new and have a high evidentiary threshold due to the intentional or reckless conduct requirement. Proposes the restoration of enforcement rights of registered organisations to address the enforcement gap, such as 'spot check' access of records, to strengthen deterrence. Supports the establishment of an accessible small claims jurisdiction with simplified processes and explicit standing for registered organisations as representatives.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		remaining effectively invisible to enforcement mechanisms that prioritise the most serious breaches.	
13	Australian Nursing and Midwifery Federation	The submission is critical of the FWO for having not referred any matters for criminal prosecution and hopes the FWO's 2025-26 Annual Report will indicate whether the new laws have a deterrence effect. Also hopes that the inquiry will shed light on FWO's failure to make referrals since 1 January. Acknowledges the FWO's proactive work in identifying and rectifying underpayments in the aged care sector, i.e., EU with Southern Cross Care. Observes that powers conferred by s715 of the FW Act combined with the risk of wage theft prosecution appears to be an effective motivator for employers to cooperate with FWO.	Discusses the circumstances under which the Closing Loopholes legislation was introduced, the role of the FWO in relation to the Offence, the role of the FWC, the proposition that a dedicated 'Fair Work Court' be established, unlawful deductions applied to vulnerable workers in the care industry (such as PALM scheme workers(?)), amendments to s327A to list criteria that can elevate an offence to an aggravated offence.
14	Association for Good Government	No mention.	Submission relates to the implications of WFH policies on wage theft (rather than underpayments). "Wage Theft's Hidden Architecture: How CPI, Speculation, and Land Monopoly Strip Value from Australian Workers" attached. Submits that the exclusion of land values from standard inflation measures may obscure the extent to which worker incomes are eroded through rising rents, mortgages and other land-related costs (amounting to 'wage theft'). These issues are directly relevant to the development of WFH policy, where WFH arrangements

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
			deliver flexibility and efficiency but also create new risks for workers as costs are shifted into the home and impacted by postcode-based wage discrimination.
15	Law Council of Australia	Notes the FWO is prohibited from making a referral for criminal prosecution where a cooperation agreement is in force, or where a small business employer complies with the Code.	Comments relate to their 2023 submission relating to the Closing Loopholes Bill that remain outstanding, seeking clarification on the operation of the FW Act on stated provisions: • The application of s327A (the Offence) to an intentional failure to pay contractual entitlements, as implied by s323. • The limitation under s327C(2) that proceedings are to commence within 6 years be clarified due to a body of case law considering whether the continued failure to pay an amount owed postpones the commencement of the limitation period. • Whether the provisions prohibiting referral for criminal proceedings for a cooperation agreement is in place with the FWO or whether a small business employer complied with the Voluntary Small Business Wage Compliance Code also apply to individuals and entities outside the FWO.
16	Australian National Audit Office	Attaches the performance audit report, <i>Effectiveness of the Office of the Fair Work Ombudsman's Regulatory Functions (Report)</i>. The report summarises the implementation of the Offence, but does not consider the criminal jurisdiction beyond the following: • whether the Corporate Board exercises its functions in overseeing the implementation of the new criminal responsibilities	Submission is solely to provide the two performance audits conducted by the Auditor-General's office that the ANAO believes may be relevant to the inquiry: <i>Addressing Superannuation Guarantee Non-Compliance</i> in relation to the ATO and the Report. The submission does not specifically relate to the wage theft provisions.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		- the then-updated C&E Policy which includes the criminal jurisdiction - the FWO's establishment of a working group in 2022 to determine alignment with AGIS (which includes criminal investigations), noting that the criminal jurisdiction was not considered in the 2024 findings but will be considered separately by the FWO The Report is dated 2024-25 and was provided to Parliament on 14 April 2025 and found that the FWO is largely effective in its regulatory functions, with fit-for-purpose governance arrangements, effective arrangements to encourage voluntary compliance, detect non-compliance and enforce compliance with the FW Act. The Report makes 3 recommendations that were accepted by the FWO: delivering a framework for the implementation and monitoring of regulatory priority areas, ensuring governance bodies perform strategic oversight and ensuring adequate documentation, review and quality assurance of investigations.	
17	Associate Professor s.22 Irrelevant Information and Professor s.22 Irrelevant Information	Authors are currently undertaking a research project investigating the impact of the FWO's use of administrative sanctions and civil litigation. s.22 Irrelevant Information also engaged in an Australian Research Council Linkage	- Notes authors have previously written on deterrence and the criminalisation of wage theft via submissions and articles with several referenced. <i>Inquiry scope</i> - Discusses the lack of a settled meaning and definition for the term 'wage theft'.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
	(of the University of Melbourne)	Grant with the FWO in relation to the FWO's current tripartite initiative. Undertook a survey in 2025 to investigate business awareness of, and responses to, FWO enforcement activities in horticulture and FRAC industries, which indicated that many respondents reviewed their systems to ensure compliance (with some updating them or seeking professional advice) upon becoming aware of FWO's campaigns. Also discusses factors identified as important to businesses in encouraging process changes/compliance, with one factor being the perceived likelihood of the FWO discovering breaches. States that the FWO's approach (combining complementary practices in a graduated manner) is largely in-line with best practice models of enforcement. Discusses the practical issues to be navigated by the FWO and prosecuting authorities to bring a successful prosecution under s327A. FWO's C&E Policy states that criminal sanctions are reserved for the most serious conduct, including the need for specific/general deterrence greater than	- Notes the lack of clarity in the TOR of the inquiry (whether its deliberate/dishonest underpayment or underpayments more generally), with the flow on effect being it is unclear whether the inquiry is interested in the operation of the criminal wage theft offence as part of Closing Loopholes or more broad underpayment frameworks. States clarity is important, as s327A of the FW Act does not operate in isolation from other civil powers and provisions in the Act or the broader socio-economic environment. Impact - Important to recognise that the legislative changes introduced more than just the criminal offence, with significant reforms to the C&E framework (including revising 'serious contraventions' and increased maximum penalties) making it impossible to measure the impacts of s327A in isolation from other reforms. - There is a data deficit preventing the measurement of the 'incidence of wage theft', with intent and knowledge not covered by complaint data and a lack of studies undertaken after the legislative change. Drivers and Deterrence - The potential for deterrence via criminal sanctions or otherwise is often overstated and understood with studies questioning deterrence theory assumptions, such compliance/non-compliance being driven by rational or calculated decision-making, rather than a broader range of drivers (including lack of awareness/resources, and reputational concerns). - Notes that rather than severity of sanctions, empirical studies of deterrence suggest that the perception and belief duty-holders have of the likelihood of punishment is more likely to shape compliance decisions. The Offence - States s327A was drafted to ensure criminal liability is only ascribed where it can be proved there was the requisite intent, in line with s5.2 of the Criminal Code. - Submits that amending the offence now would be premature and unjustified.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		civil, in line with the use of criminal sanctions only where warranted. Speculates that FWO will be stepping carefully in determining which contraventions warrant criminal sanctions over civil proceedings (given the factors outlined to the right), and that a small number of criminal investigations and prosecutions is not necessarily inappropriate as long as it is complementary to the agency's overall regulatory mix.	<i>Obstacles to investigation and prosecution</i> - Given that s327A commenced 1 January 2025 and had no retrospective effect, it is to be expected that some time must pass following its introduction before an underpayment of sufficient significance to warrant a criminal investigation and prosecution occurs. - Use of criminal sanctions where civil would suffice has shown to have a counterproductive effect. - Criminal investigations are complex and extremely resource-intensive, bound by the evidentiary rules for admissibility and requiring sensitive navigation of evidence produced by often vulnerable and CALD employees. - FWO is not authorised to initiate criminal proceedings and those cases referred to the CDPP must be strong enough (and meeting the criminal burden of proof) to be accepted under their prosecution performance indicators, which require a target of 90% in finding guilt. - There is a general public perception that 'wage theft' is not a matter of criminal significance worthy of public resources in comparison to the other types of criminal matters handled by the prosecuting entities (CDPP and AFP).
18	Australian Industry Group (Ai Group)	- FWO is the key enforcement and policy actor in the wage theft framework, and notes compliance settings were already being strengthened pre-Closing Loopholes through stronger FWO powers, increased funding, and improved effectiveness. - Relies on the FWO's messaging that the offence targets intentional underpayment and excludes honest mistakes, to argue the regime should not capture inadvertent errors. - Uses the scale of FWO civil enforcement and recoveries to support a "complexity not	criminalisation in a complex system, risks blurring deliberate wage theft and mistake-based underpayment, undermining an offence framed around "intentionality", and Ai Group asks both the Closing Loopholes Review and the Committee to recommend repeal; corporate attribution under <i>Criminal Code</i> s 12.3 is said to be inconsistent with an intention-based offence because "intention" can be imputed via systems and "corporate culture" pathways in a way that operates like a negligence standard, with Ai Group proposing tighter authorisation tests and/or broader due diligence defences; late payment is said to be captured by the drafting, which (Ai Group argues) misaligns with criminal law concepts anchored in larceny-style permanent

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		criminality” argument (many underpayments arise from complex rules and payroll error). - Emphasises the FWO’s “gatekeeper” role in access to prosecution through referrals to the AFP/CDPP, including via cooperation agreements and the small business code. - Criticises aspects of the FWO’s interpretation and enforcement impacts, citing claims of “misguided” interpretations and using the SCHADS sleepover dispute as an example where courts rejected the FWO’s interpretation and employers allegedly followed it to avoid penalties. - Raises a transparency concern: says the FWO had not publicly reported (as at April 2026) on cooperation agreements or use of the code, while acknowledging publication of guidance and forms.	deprivation and could treat timing failures as criminal conduct, creating a risk of “inappropriately” jailing employers; and evaluation is said to be premature because (as at April 2026) Ai Group understands there have been no referrals/prosecutions and limited public reporting on cooperation agreements and the small business code, though it still argues repeal is necessary and recommends monitoring late payment issues if the offence remains.
19	Australian Retail Council	No mention.	Rejects any suggestion that deprivation of lawful entitlements is a feature of employment in the retail sector, and states the deliberate underpayment of employees is harmful to the sector, undermines trust and creates an illegitimate competitive advantage over compliant employers. Notes the increasing complexity of workplace regulations, and calls for a reduction and a focus on measures that support compliance. Submits that the inquiry is premature and has potential to duplicate or conflict with the Booth review into Closing Loopholes. Maintains the inclusion of ‘intention’ in s327 of the FW Act is appropriate, does not support any changes to the cooperation agreement provisions, and notes that the criminal framework does not resolve the structural drivers on payroll non-

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
			compliance (which includes complexity in awards, uncertainty in classification, payroll system limitations, etc.) and as such cannot be assessed solely by reference to prosecutions or the availability of criminal penalties but rather by reference to the effectiveness of the overall compliance and enforcement framework.
20	Victorian Trades Hall Council and the Young Workers Centre	States FWO commonly underestimates the value of wage theft because it doesn't consider the whole employment period or full sum of entitlements withheld, and YWC struggles to persuade employers they continue to owe money despite complying with FWO. Suggests the FWO's history of light-touch enforcement approach will limit the law's use - Victorian unions would prefer to see all incidents of wage theft addressed.	Recommends the fault element be either lowered to dishonesty or a new recklessness-based offence be introduced, and that the Corporations Act be amended to disqualify those convicted of wage theft from managing corporations. References Fair Day's Work Project report and notes the majority of enquiries received by YWC are wage theft cases. Suggests co-enforcement with unions is necessary. Suggests FW Act too limited to be a deterrent esp in comparison to Vic's criminal offence and draws attention to several WIV convictions used as examples of WIV being capable of imposing a meaningful deterrent [we note these examples weren't issued by the WIV under the wage theft provisions, rather under their original functions as state-based enforcers of Isl under the LSL Act 2018 (Vic) etc].
21	Australian Chamber of Commerce and Industry (ACCI)	A critical view of FWO, focusing on its limited enforcement activity to date. It notes that the FWO has commenced only two investigations into alleged criminal underpayments and has made no referrals for prosecution, despite receiving \$49.5 million in funding and establishing a dedicated criminal investigations unit.	Questions the need for, and early effectiveness of, the criminal wage theft framework. ACCI argues there is currently insufficient evidence to assess whether the laws are working, noting that only two investigations have commenced and no prosecutions have been referred despite substantial government resourcing. Suggests that earlier claims about the scale of wage theft were overstated and that the legislation may have been driven by exaggerated rhetoric. ACCI also raises concerns about potential overreach, including the risk that minor or one-off errors

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		While it acknowledges mechanisms such as cooperation agreements and the small business compliance code administered by the FWO, ACCI argues these may not provide meaningful additional protection or clarity for employers.	could attract criminal liability, and questions whether the small business code provides meaningful protection. It concludes that the framework requires further review and refinement to better target deliberate misconduct while avoiding unintended impacts on businesses.
22	The Australian Council of Trade Unions (ACTU)	Argues that while it is too early to assess the effectiveness of the new criminal wage theft powers and the lack of prosecutions to date should not be overinterpreted - the FWO is structurally limited in its ability to address wage theft at scale. It notes that the FWO will only pursue the most serious cases due to evidentiary and public interest thresholds, meaning criminal enforcement will necessarily be narrow in scope, and acknowledges recent investments in capability such as the establishment of a Criminal Investigations Branch. The ACTU contends that the FWO is a <i>generalist regulator</i> without the deep, industry-specific knowledge required to detect complex underpayment practices and is not equipped to deal with the widespread and systemic nature of wage theft on its own.	Argues that wage theft remains widespread and entrenched despite the new criminal offence for intentional underpayment and that it is too early to assess the law's impact given the lack of prosecutions. It points to strong evidence of ongoing underpayment, particularly among young, casual and migrant workers, and rejects claims that low enforcement activity means the problem is limited. While the Fair Work Ombudsman can investigate and refer serious cases, the ACTU notes its role will be inherently narrow and recommends an independent review of its effectiveness. It emphasises that unions play a critical complementary role due to their industry expertise and direct access to workers, but highlights persistent barriers to justice, including fear of retaliation, cost, complexity and long delays in court processes. The ACTU therefore argues that criminal enforcement alone is insufficient and calls for broader reforms, including empowering the Fair Work Commission to resolve underpayment claims earlier and simplifying legal processes to improve access to recovery.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		Recommends an independent review of the FWO in 6 to 12 months with a particular focus on its efforts to combat wage theft.	
23	Working Women's Centre Victoria	Notes the FWO provides tools and guidance, but the burden of substantiating claims lies largely with workers which undermines the framework in practice. Recommendation 1 calls for stronger enforcement and deterrence through increased resourcing and proactive, regulator-led investigations in high-risk industries. Recommendation 3 calls for the strengthening of regulator support for wage assessment and underpayment calculations, including increased resourcing for the FWO to assist workers to identify, verify and quantify entitlements.	Submits that wage theft is widespread and often normalised within certain industries, embedded in workplace practices and particularly prevalent where work is insecure and low-paid. Argues wage theft has a gendered and intersectional impact due to concentration in feminised industries, such as retail, hospitality and care sector. Notes the criminal provisions recognise the seriousness of deliberate underpayment and have contributed to increase awareness and improved compliance but cannot operate in isolation with a reliance on worker reporting and high evidentiary threshold. Submits that a key limitation of the current framework is the absence of an accessible and effective wage recovery pathway. Makes 8 recommendations including the 2 relating to the FWO. The other recommendations relate to the aforementioned pathway, increased record-keeping obligations, improved data collection, investment in prevention and early intervention (such as education through community-based organisations), targeted protections for workers in insecure and high-risk employment and improved reporting mechanisms and accessibility for migrant workers.
24	Working Women's Centre NSW (Women's Legal Service NSW)	Mentions the FWO by drawing comparison between the volume of our proactive investigations in 2025 and the number of potential migrant worker exploitation claims. However, notes that industry-	Refers to reports that underpayments are one of the most common employment law issues across the country, especially for women (including increased risks with intersectionality) who are disproportionately likely to experience workplace exploitation, be employed in insecure work and encounter barriers to reporting.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		specific proactive strategies have demonstrated effectiveness, i.e., FWO prioritising hospitality a focus in 2017-18 leading to a 56% increase in court ordered penalties. Notes the FWO's C&E Policy appropriately identified the aged care and disability sectors as priority targets, but raises that although these sectors are highly feminised, gender is not expressly considered a vulnerability. Recommends FWO revise C&E Policy to include gender as a vulnerability. States that the FWO's assistance can be effective where an employer was genuinely unaware of an underpayment, however FWO has limited power to guarantee the recovery of wages where an employer intentionally withholds them or refuses to engage. The Wage Theft Survey found that for every 100 unpaid migrant workers surveyed between Nov 2015 and Feb 2017, only 3 went to the FWO and of those over half recovered nothing. Recommends stronger enforcement powers for the FWO that operate alongside the wage theft provisions, such as cost consequences for employers who unreasonably refuse to participate in a matter,	Welcomes and supports the introduction of the Offence as an effective deterrence, however no single reform can eliminate a broad scale problem. Data collected on call numbers seeking underpayment related assistance shows the volume has not decreased since the Offence was implemented. Observed employers structuring their operation to avoid the payment of penalty rates, overtime and the provision of breaks. Notes structural barriers to reporting significantly higher for migrant workers, with stronger protections required to encourage reporting. Recommends including Community Legal Centres as an Accredited Third Party to certify matters falling under the Workplace Justice Visa and Strengthening Reporting Protection pilots. Supports the need for an affordable, timely and accessible pathway to recover entitlements, noting small claims can be complex, time consuming and costly, especially for migrant workers where the proceedings may take longer than their stay. Supports the expansion of the FEG to include migrant workers.

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		and increased resourcing to assist with underpayment calculations.	
25	Victorian Women Lawyers	Refers to FWO's response to Senator Payman in estimates that there have been no wage theft prosecutions. Currently no gendered lens to regulatory responses, and FWO could leverage WGEA data in conjunction with other indicators to prioritise proactive compliance activities in sectors where complaints are less likely to be made, such as feminised high-risk industries. Recommends FWO consider collection and reporting of gendered data in reports and investigations. Recommends simplification of the processing of civil underpayments claims, including free advice by the FWO on what to do to recover unpaid wages and receive assistance.	Notes that prior to commencing criminal proceedings, the CDPP needs to determine whether there's sufficient evidence to prosecute an employer and consider the public interest. VWL considers that a more proactive, risk-based approach appropriate to C&E is required (such as proactive work and multiple sources of intelligence), as complaints-based responses do not take into account barriers to reporting. Small claims complexities and filing fees a barrier to those affected seeking their own actions, especially women who are experiencing other conditions of vulnerability (family and domestic violence, precarious migration status, family and caring responsibilities). Recommends further support for women and gender diverse people seeking recovery of wages.
26	Australian Higher Education Industrial Association	AHEIA works with members and the FWO to achieve highest degree of wage compliance possible in the higher education sector. Rejects 'inflammatory' claim by the NTEU that underpayments identified in the sector amount to wage theft as defined in the FW Act, with the vast	Welcomed the criminal wage theft provisions, which are constructed to target intentional and dishonest conduct, and submits they should not be expanded or diluted. Rejects the characterisation of unintentional underpayments as 'wage theft', citing examples from the media as well as in submissions to the inquiry, especially in

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		majority of universities self-reporting wage compliance issues to the FWO and worked cooperatively with FWO and NTEU to rectify underpayments and implement new systems. Provides further details on how the sector engages with the FWO. Believes the current model for investigating and referring matters, as stated in FWO's submission, to be appropriate and should be preserved. Unions can provide information to the FWO and support members, however they are not independent regulators, and such referrals would bypass the FWO's role in assessing evidence, seriousness and the public interest. States that the FWO properly applies the statutory threshold, assesses evidence objectively and provides clear guidance to all parties regarding referral expectations. Preserving the FWO's primarily responsibility in referrals is essential to good governance and the principles of natural justice and procedural fairness, and is in the public interest.	relation to assertions by the NTEU that 'wage theft' is 'build-in' to university operating models. Opposes the NTEU's proposal to allow unions to investigate and refer alleged wage theft matters directly to the CDPP and AFP. Opposes the automatic award of civil penalties to be paid to unions, as this should be at the discretion of the Court and based on the merits of each case. Notes the root cause of underpayments in the sector lies in the complexity and ambiguity in enterprise agreements and awards, not deliberate conduct. Proposes addressing complexity and ambiguity through enterprise bargaining, and recommends the repeal of s270A of the FW Act which limits the FWC's arbitral powers in making intractable bargaining workplace determinations.
27	Confidential		
28	Confidential		

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
29	Mr s.22 Irrelevant Information	FWO criticised for lack of enforcement: “Regulatory and Institutional Failure,” which states that the FWO has not conducted targeted investigations into e-fulfilment misclassification and has not issued compliance notices or pursued litigation to test the issue.	The submission argues that Australian retailers have systematically misclassified e-fulfilment workers, who perform logistics, warehousing and distribution functions, under the Retail Award instead of the more appropriate Storage Services and Wholesale Award or Road Transport Award, resulting in lower pay and entitlements. It distinguishes e-commerce as a sales channel from e-fulfilment as a logistics function, contending the latter aligns with distribution centre work. It presents evidence of inconsistent industry practice and finds that court and Fair Work Commission decisions, including a 2014 Federal Circuit Court case and a 2023 FWC ruling, have entrenched misclassification despite operational realities. The submission concludes this reflects systemic regulatory and institutional failure across the FWC, Fair Work Ombudsman, courts, unions and legislation. It recommends defining e-fulfilment in legislation, mandating appropriate award coverage, introducing penalties for intentional misclassification and requiring decisions to reflect operational reality, alongside reviewing past decisions, strengthening oversight of enterprise agreements, improving FWC transparency, and broader measures such as a royal commission into wage theft, longer claim periods, addressing conflicts of interest, and stronger enforcement and sanctions.
30	Ellen Sandell (Greens State)	The submission states that workers experienced significant difficulty accessing the Fair Work Ombudsman (FWO), including waits of over an hour on multiple occasions and inability to report matters through third parties such as an MP’s office, requiring workers to contact the FWO directly. It reports that one worker who did reach the FWO was referred to a legal representative, but remained unpaid after further action would have required court proceedings	This submission argues that Australia’s wage theft framework is failing to protect vulnerable workers, particularly international students and migrants, as illustrated by a case where multiple workers were allegedly left unpaid after a business closure. It highlights systemic barriers in accessing enforcement and support, with the Fair Work Ombudsman (FWO) identified as difficult to reach due to long wait times, limited reporting channels, and an inability for third parties to lodge complaints, which collectively restrict timely assistance. The submission also points to underfunded legal services and visa-related fears that deter reporting. Overall, it concludes that the FWO is not adequately resourced or accessible, enforcement

	Submission	Views on the Fair Work Ombudsman (FWO)	Overall focus of submission / views on the criminal provisions
		they could not afford, while others were unable to obtain assistance or gave up trying. The submission concludes that the FWO may not be adequately resourced or accessible to respond effectively to wage theft complaints.	mechanisms are weak, and current processes do not effectively recover unpaid wages or deter non-compliance, and recommends increased resourcing, more accessible reporting pathways, and stronger protections for affected workers.

The [Final Report](#) of the [Wage Theft Inquiry](#) (the **Inquiry**) was released by the Education and Employment References Committee (the **Committee**) on Thursday 25 June.

The Inquiry was established in March 2025 to examine the extent to which the wage theft framework under the *Fair Work Act 2009 (Cth)* (**FW Act**), and the operation of subsection 327A(1), has led to a decrease in the incidence of wage theft in Australia, and any other related matter.

The Report draws on views provided in the 30 submissions it received and evidence provided in its one public hearing in May, including the [FWO's submission](#), the FWO's evidence at the hearing and answers the FWO subsequently provided to a number of Questions on Notice (**QoN**) (see [summary](#) for more hearing details).

The short, 66-page Report comprises three chapters that:

1. provide an overview of the criminal wage underpayment regulatory system
2. outline key issues raised in evidence, and
3. provide the Committee's recommendations as well as dissenting reports and recommendations.

The Report's 3 core recommendations go to:

1. making modern awards clearer and easier to apply
2. providing clarity on the interaction of the criminal wage underpayment offence with the Criminal Code, and
3. assessing the balance of FWO's criminal and civil enforcement resourcing as part of the review of the wage underpayment offence as recommended by the review of the Closing Loopholes Acts.

Dissenting reports carried 2 additional recommendations from the Australian Greens, 11 standalone recommendations from Senator Payman (who instigated the Inquiry) with none from Government Senators, who instead reaffirmed the Government's support of the regulatory compliance framework and reiterated the work of the independent Closing Loopholes review.

A number of the recommendations in the Report closely align to recommendations made by s.22 Irrelevant Information in the draft report of the [Closing Loopholes Review](#).

In relation to the FWO's overall work, it is notable that the Report publishes FWO data breakdowns provided in QoN responses to Senator Payman relating to:

- The number of disputes relating to allegations of monetary underpayments received by the FWO each year from 2022-23 onwards, and
- A breakdown of FWO's total recoveries by industry in 2024-25 and 2025-25 to 31 March.

A fulsome summary of the Report with all recommendations is below.

Overview and key themes

The Report provides a broad overview of the operation of the criminal offence, the actions undertaken by the FWO since the criminal offence was legislated as well as a summary of stakeholder views received through written submissions and at a public hearing held on 4 May 2026 in Canberra.

The FWO is mentioned extensively throughout the Report with most mentions relating to the following topics:

- Whether funding provided to the FWO to conduct criminal investigations is having the intended effect and whether larger investment in civil investigations would lead to the timelier recovery of unpaid wages and entitlements for workers.
- Whether additional resourcing is needed to ensure the FWO is able to adequately address wage underpayments.
- The effectiveness of the criminal offence as a deterrent and what data exists to establish this.

Other key themes discussed in the Report include:

- Challenges with measuring the effectiveness of the criminal wage underpayment framework.
- Regulatory burden, the general complexity of the workplace relations system and the cost of compliance for small business.
- Concerns about the interaction between subsection 327A(1) of the FW Act, the attribution of conduct to a body corporate employer and the *Criminal Code Act 1995*.
- Concerns around establishing intentional conduct versus unintentional conduct and whether late or delayed payments would be captured under the criminal wage underpayment framework.
- Broader concerns around the effectiveness of existing pathways to recover wages and how this specifically impacts vulnerable cohorts who are underpaid.

Committee views and recommendations

In outlining the Committee's views, the Report makes a number of general observations about the effectiveness of the criminal offence and the broader prevalence of wage theft including that:

- The term 'wage theft' is not defined in the FW Act and is commonly applied to conduct that does not include any deliberate intent, which is both inaccurate and unhelpful.
- The offence is not having the anticipated impact on the small number of businesses who deliberately underpay workers, which raises the question of whether the provision is correctly calibrated.
- Smaller sanctions coupled with a greater perceived risk of detection are likely to be more effective at encouraging compliance than the existence of the criminal offence.
- The complexity of the Fair Work system is a significant factor contributing to underpayment and having an offence that is narrowly confined to deliberate conduct does not address this, which is the 'structural driver' of most underpayment.
- Additional clarity is required on the intention threshold, corporate culture and the interaction between the criminal offence and the Criminal Code because the current way that intention may be attributed to corporate employers is having a 'chill effect' on businesses trying to comply.
- A more proportional approach could include refining how the offence operates and directing resources away from criminal investigations toward civil enforcement pathways.

In relation to the FWO specifically, the Committee notes that:

- It accepted the FWO's view that there has not been sufficient time to commence criminal proceedings while noting that evidence from other stakeholders brings into question whether the offence has had a deterrence effect or led to a decrease in the instances of wage theft.

- It is not convinced that the funding provided to FWO to administer and investigate the criminal offence is an effective use of public funds noting that evidence provided to the Inquiry highlighted that:
 - many employees are unable to launch court proceedings due to prohibitive costs; and,
 - some employees, having raised concerns with the FWO, were advised there is little the FWO can do to assist with their allegations.
- Enabling Fair Work Inspectors to levy penalties where there is a failure to comply with a compliance notice may be a more efficient means to addressing non-compliance that avoids recourse to litigation.

The Committee made 3 recommendations for Government to consider:

Number	Recommendation
1	making modern awards clearer and easier to apply through clearer classification structures, plain-language drafting and more accessible guidance on coverage, to reduce inadvertent underpayment, and lower the prohibitive cost of compliance for smaller businesses.
2	providing further clarity on the interaction of the criminal wage underpayment offence with the Criminal Code, specifically the availability of a due diligence defence where intention is attributed to a corporate employer through its culture.
3	as part of the targeted early review of the wage underpayment offence recommended by the review of the Closing Loopholes Acts, assessing whether the balance of the Fair Work Ombudsman's resourcing across its criminal and civil enforcement functions is delivering the fastest possible repayment for underpaid workers and the most effective response to employers who deliberately underpay.

Additional comments and recommendations from Senator Payman

Senator Payman made 11 additional recommendations, most of which go directly to the work of the FWO and, if implemented, would impact the FWO's compliance and enforcement functions:

Number	Recommendation
1	That the recommendations of the draft report of the statutory review of the Closing Loopholes Acts relating to the wage theft offence be adopted and implemented by the Australian Government, particularly recommendation 25.
2	That the Australian Government investigate ways in which it can improve data collection, bearing in mind the difficulties inherent in collecting such data, on wage theft and underpayment of employees in Australia which provide granularity on victims' gender, nationality, disability status, English language ability and any other factors which increase vulnerability to wage theft.
3	That the Australian Government consider whether the funding of the Fair Work Ombudsman's criminal wage theft office might be more effective at returning wages to workers if it were partially or entirely directed towards civil wage theft investigations.
4	That the Australian Government empower registered organisations to inspect time and wages records and conduct spot checks.
5	That the FW Act be amended to expand the wage theft framework to include the underpayment of superannuation.

6	That the Australian Government make it easier for employees who have experienced underpayments to seek remedy in the courts, including the consideration of the establishment of a small claims jurisdiction where unions can initiate proceedings on behalf of their members.
7	That the Australian Government consider allocating greater resources to reducing the incidence of underpayment and wage theft against workers who are particularly vulnerable to wage theft.
8	That the Australian Government consider, following a targeted early review of the operation of the wage theft offence, in line with Recommendation 25 of the draft report of the statutory review of the Closing Loopholes Acts, whether changes to the fault elements of section 327A of the Fair Work Act might enable the wage theft framework to act as a more effective deterrent against wage theft.
9	That the Fair Work Ombudsman be empowered to, where an individual has been convicted under subsection 327A(1), seek a court order disqualifying the individual from being able to manage corporations for a period of time.
10	That the FW Act be amended to further increase civil penalties for underpayment of wages and entitlements.
11	That the compliance notice regime under the FW Act be amended to introduce penalties for employers who fail to respond to or deliberately delay in responding to compliance notices.

Senator Payman also made a number of additional observations that build on the broader views of the Committee, including:

- Noting that none of the submissions provided to the Committee stated, without qualification, that the existence of the criminal offence has reduced the incidences of wage theft in Australia.
- Reemphasising that the FWO has not made any referrals to the CDPP for potential criminal prosecution, that the FWO is resource constrained while highlighting evidence provided by unions that asserts the FWO has taken a 'light touch' to enforcement.
- Noting that data provided by the FWO in response to IQ26-000026 highlights wage theft continues to be a problem, undercutting government claims that wage theft laws are having the intended effect.
- Specifically calling on business organisations to clarify with their members that the criminal offence only applies to intentional conduct that results in an underpayment.
- That wage theft disproportionately affects women, international students, young people and migrants.

Dissenting report and recommendations from the Australian Greens

The Australian Greens noted their support for the criminalisation of wage and superannuation underpayments during the Closing Loopholes reforms, and their dissenting report argues that:

- The complexity of the industrial relations system is not the 'structural driver' of wage underpayments.
- 'Wage theft' is widespread and systemic, and causes the most harm to vulnerable workers with low bargaining power.
- The views of multiple stakeholders that it is too early to determine the effectiveness of the criminal offence, means the issue warrants further review in the future.

The Australian Greens made two additional recommendations for Government to consider:

Number	Recommendation
1	In line with Recommendation 25 from the Draft Closing Loopholes review, the Australian Government should undertake a targeted early review of the operation of the wage theft offence and changes to the civil penalties framework within 1 year of the publication of that report.
2	That the Australian Government should consider increased funding and staffing for the Fair Work Ombudsman to reduce barriers to reporting and improve response times.

Dissenting report from Government Senators

The dissenting report from Government Senators outlines their support for the criminal offence, arguing that the Committee's report failed to engage with evidence about the purpose, impact and support for the criminal offence, and notes that the Inquiry duplicates the Closing Loopholes statutory review. As noted, the dissenting report makes no recommendations.

Of relevance to the FWO, the dissenting report considers:

- The budget allocation to establish the criminal jurisdiction, which Government Senators view as necessary to undertake the significant uplift in systems, processes and capability.
- Evidence from Associate Professor [REDACTED] that the staffing arrangements of the FWO were appropriate to undertake the work to establish a dual track system.
- While no referrals have been made to the AFP or CDPP, evidence from the FWO noted the complexity, available evidence and legal considerations all influence the duration of investigation, and the FWO is 'ensuring that factors are appropriately handled through careful and thorough investigations underpinned by robust investigative processes.'

Government Senators also highlighted the strong deterrent effect of the provision, including:

- The policy intent of the provision, which was to establish a stronger enforcement approach in response to longstanding evidence of widespread underpayment, particularly affecting vulnerable groups such as migrants and young workers.
- Data showing increased employer self-reporting to the FWO indicates the criminal offence is encouraging a more proactive compliance approach from businesses.
- Strong support from unions and community legal centres including the Shop, Distributive and Allied Employees' Association, National Tertiary Education Union, Victorian Trades Hall Council, Young Workers Centre, and the NSW and Victorian Working Women's Centres.

Overall, the dissenting report views the criminal offence as 'an important part of a broader compliance framework' but concludes that it is still too early to assess the effectiveness of the provision. It also points to similar findings in the draft report of Closing Loopholes review which held that it is too early to assess the offence, and that the absence of referrals from the FWO reflects the complexity of the provision rather than its ineffectiveness.

Hi [REDACTED],

We take your point and will consider the reference to derivative use immunity – noting that it’s not the easiest concept to explain!

Thanks

Thanks for sharing your draft submission with us, 4.22 irrelevant and sincere apologies for missing your deadline!

Confirming that we have reviewed your submission and identified no red lines.

As a very minor comment, you may wish to consider whether reference to 'statutory use and derivative use immunities' on page 8 could be accompanied by a point explaining these terms.

One observation from your submission is that we're likely to be asked at any hearings about the challenges with quantifying the extent of wage theft. It'd be great to chat through a handling strategy. Perhaps we could organise a chat next week?

We very much appreciate the FWO's ongoing engagement with us across a number of issues, including wage theft and labour hire reform.

Always happy to chat.

Cheers

Director (a/g) | Workplace Justice Reform
Entitlements Safeguards Division

Hi [REDACTED] and [REDACTED]

Attached is the current working draft of the FWO's submission to the Wage Theft Inquiry.

Noting that this is still going through internal review processes and is subject to further change (as well as for proofing and editing), we were keen to share this version with you for any red-line issues.

If you could let us know if you see any red-line issues by 10am tomorrow, that would be great.

Happy to chat further.

Thanks

s.22 Irrelevant Information

Executive Director of Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
M: s.22 Irrelevant Information

GPO Box 9887 Melbourne, VIC, 3001 | 414 La Trobe Street, Melbourne, Victoria, 3000

www.fairwork.gov.au | Fair Work Infoline: 13 13 94 | [subscribe to email updates](#)



The Fair Work Ombudsman acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters, skies and communities. We pay our respects to them, their Cultures, and Elders past, present and future.

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

FWO - FOI Requests

From: s.22 Irrelevant Information
Sent: Friday, 17 April 2026 4:13 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: RE: For FWO info/red lines by Mon 20 Apr: Wage Theft Inquiry Submission [SEC=OFFICIAL]

Thanks s.22 Irrelevant Information hope you have a great weekend too!

We're looking forward to seeing the FWO's submission once finalised, and happy to discuss any other issues that arise in the meantime.

Cheers

From: s.22 Irrelevant Information
Sent: Friday, 17 April 2026 3:31 PM
To: s.22 Irrelevant Information
Cc: s.22 Irrelevant Information; s.22 Irrelevant Information; s.22 Irrelevant Information
Subject: RE: For FWO info/red lines by Mon 20 Apr: Wage Theft Inquiry Submission [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

Thanks for the chat this morning, and for looping us in on the final version of DEWR's submission.

I have forwarded your submission to the FWO SES who are likely to be appearing at an inquiry hearing if/when it goes ahead. We don't anticipate any red-lines but will let you know if I hear anything back from that group.

Have a lovely weekend!

s.22 Irrelevant Information (she / her) | A/g Director

Workplace Relations Policy
FAIR WORK OMBUDSMAN

T: s.22 Irrelevant Information
E: s.22 Irrelevant Information@fwo.gov.au

From: s.22 Irrelevant Information@dewr.gov.au>
Sent: Friday, 17 April 2026 9:27 AM
To: s.22 Irrelevant Information@fwo.gov.au>
Cc: s.22 Irrelevant Information@dewr.gov.au>; s.22 Irrelevant Information@dewr.gov.au>; s.22 Irrelevant Information@dewr.gov.au>; s.22 Irrelevant Information@dewr.gov.au>; s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>; s.22 Irrelevant Information@fwo.gov.au>
Subject: For FWO info/red lines by Mon 20 Apr: Wage Theft Inquiry Submission [SEC=OFFICIAL]

Hi s.22 Irrelevant Information

Thanks again for your team's advice on the FWO-related aspects of our submission!

Please find attached our final submission which is with the Minister for noting prior to lodgement with the Committee next week.

As discussed yesterday, the submission now includes:

- less detail on the FWO's role (per your advice) – this is now combined at the end of the submission with a section that also covers the civil remedy framework
- an extra sentence on how the FWO assesses compliance with the Voluntary Small Business Wage Compliance Code
- 2024-25 FWO performance data and a reference to FWO performance reporting via annual reports.

That said, if you identify any red line concerns with any of the content of the submission, please let us know by Monday 20 April.

Always happy to chat, and thanks again for your quick review of previous drafts!

Cheers

s.22 Irrelevant Information (he/him)
 Workplace Justice Reform
 s.22 Irrelevant Information

s.22 Irrelevant Information

FWO - FOI Requests

From: s.22 Irrelevant Information
 Sent: Tuesday, 21 April 2026 2:02 PM
 To: s.22 Irrelevant Information
 Cc: s.22 Irrelevant Information
 Subject: RE: Seeking FWO advice by 12pm Tue 21 Apr: FWO investigation data [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi

Thanks for reaching out to us on this request and apologies for the delay in getting back to you. We have set out a proposed response to the MO's query below:

- Noting that the FWO's criminal jurisdiction is relatively new and applies prospectively, to date no small businesses employers have requested access to protection under the Voluntary Small Business Wage Compliance Code and no employers have sought to enter into a cooperation agreement with the FWO.
- Of interest, the FWO continues to see a high-volume of self-reports (where businesses and/or their representatives willingly report non-compliance issues to the FWO) which is increasing year-on-year. For example, the FWO received 92 self-reports in the first half of FY25-26 (tracking towards double the rate of self-reports received by the FWO in FY21-22) and 162 self-reports for the whole of FY24-25, compared with 127 self-reports in FY23-24. These increases in self-reports could indicate that the commentary around and implementation of the criminal wage theft amendments (and the communication and education activities undertaken by the FWO) are having a deterrent effect and that businesses are actively seeking to identify and fix workplace relations issues.

For DEWR's background only at this point (we are verifying / finalising the numbers), the working draft of FWO's submission to the wage theft inquiry that Anthony sent through earlier today provides a snapshot of investigative work underway in the FWO's criminal jurisdiction which contextualises the above.

We hope this information is of assistance. Please feel free to give me a call to discuss further if you'd like.

Kind regards,

s.22 Irrelevant Information

s.22 Irrelevant Information she / her) | A/g Director

Workplace Relations Policy
 FAIR WORK OMBUDSMAN

s.22 Irrelevant Information
 s.22 Irrelevant Information @fwo.gov.au

OFFICIAL: Sensitive

s.22 Irrelevant Information

s.22 Irrelevant Information @dewr.gov.au> 4/15/2026 10:49 PM

Hi **s.22 Irrelevant Information**, do you have time to chat? We've had another bit of a shift in our sub and I have a couple of questions to test with you

s.22 Irrelevant Information @fwo.gov.au> 4/15/2026 10:53 PM

Hey **s.22 Irrelevant Information**! No worries - I've got a couple of meetings this morning but will give you a bell in between them

s.22 Irrelevant Information @dewr.gov.au> 4/15/2026 10:54 PM

Thanks! What time suits you best? We're in a bit of a crunch trying to get our sub to our Secretary

s.22 Irrelevant Information @fwo.gov.au> 4/15/2026 10:55 PM

I can buzz you at 9.30 if that suits?

s.22 Irrelevant Information @dewr.gov.au> 4/15/2026 10:55 PM

that'd be great! thanks so much

s.22 Irrelevant Information @fwo.gov.au> +like 4/15/2026 10:55 PM

s.22 Irrelevant Information @fwo.gov.au> +heart 4/15/2026 10:55 PM

s.22 Irrelevant Information @fwo.gov.au> -like 4/15/2026 10:55 PM

s.22 Irrelevant Information @fwo.gov.au> 4/15/2026 11:38 PM

Since its establishment in 2009, the FWO has recovered in excess of \$2.6 billion in unpaid wages and entitlements for more than 1.4 million workers nationwide. Over this period the FWO has used the civil compliance framework in the Fair Work Act extensively to address wage underpayments and deter non-compliance. As at 31 December 2025 the FWO has filed over 950 litigations, executed more than 280 enforceable undertakings,

issued over 13,500 compliance notices and secured in excess of \$92 million in court ordered penalties. IA-2025 203

s.22 Irrelevant Information

dewr.gov.au> 4/15/2026 11:46 PM

"The FWO was provided \$49.5 million over 4 years from 2023-24 to undertake its new role as the investigatory agency for the wage theft offence. **The FWO has established a new dedicated unit to undertake its criminal investigations, and has advised it has 2 investigations underway. As an independent regulator, the FWO is best placed to provide advice to the Committee on its operational matters as appropriate, and without jeopardising active or future investigations.**"

s.22 Irrelevant Information

@dewr.gov.au> 4/15/2026 11:49 PM

- Compliance with the **Voluntary Small Business Wage Compliance Code**. If a small business employer can satisfy the FWO that they have complied with the Code by evidencing that an underpayment was not intentional, the FWO must not refer that underpayment for criminal prosecution. **This will be assessed by the FWO by looking at several factors such as the small business taking reasonable steps to work out correct pay rates and entitlements or making a reasonable effort to stay up to date with changes to their obligations, including in workplace laws.**

s.22 Irrelevant Information @dewr.gov.au> 5/24/2026 11:28 PM

The department has information that is relevant to understanding the prevalence of wage underpayment from reports, parliamentary inquiries, and information published by the Fair Work Ombudsman (FWO). Determining the full extent of wage underpayments in Australia is challenging for a variety of reasons, including because these underpayments are not consistently reported by the offending businesses or impacted workers.

The FWO publishes a range of information and data on wage underpayment, and reports annually on its compliance and enforcement activities, including its activities in priority industries and high-risk sectors. In its 2024-25 annual report, the FWO reported recovery of more than \$358 million in unpaid wages for more than 249,000 workers under its civil regime.

As noted in the department's submission to this inquiry, several inquiries including the Migrant Workers' Taskforce[1] and the Senate inquiry into Unlawful Underpayment of Employees' Remuneration[2] (UUER inquiry) have highlighted significant underpayment cases across a broad range of industries, and the extent of non-compliance with the *Fair Work Act 2009* in making their recommendations. The UUER inquiry cited various sources to indicate underpayments affected thousands of workers, costing them billions of dollars every year.[3]

The department also notes recent surveys regarding wage underpayment. For example, a University of Melbourne survey of young workers (2025) reported that 33% of respondents were likely underpaid.[4] In 2026, the Migrant Justice Institute reported two-thirds of surveyed migrant workers were paid less than they were entitled to under Australian law.[5]

The department has also produced estimates of the number of workers paid below the National Minimum Wage (NMW), using Household, Income and Labour Dynamics in Australia (HILDA), a household survey. These estimates show that 11.5% of employees appeared to be being paid less than the NMW in 2024-25. Data limitations and differences across sources mean that estimates of below-NMW pay should not be taken as evidence of legal non-compliance and may underestimate the prevalence of underpayments more broadly.

[1] Migrant Workers' Taskforce, *Report of the Migrant Workers' Taskforce*, March 2019, p 32-38, 49.

[2] Economic References Committee (ERC), *Systemic, sustained and shameful*, March 2022, p 8. ^{IA-2025-205}

[3] ERC, *Systemic, sustained and shameful*, March 2022, p 8. See: PwC Australia, *Australia matters: navigating Australia's industrial relations*, 2020; McKell Institute Victoria, *Ending wage theft: eradicating underpayment in the Australian workplace*, March 2019.

[4] John Howe and Tom Dillon, University of Melbourne, *Underpaid and overlooked: the wage crisis facing young workers in Australia*, July 2025, p 3.

[5] Laurie Berg and Bassina Farenblum, Migrant Justice Institute, *Off the books: inside Australia's hidden system of migrant worker exploitation*, May 2026, p 10.

Documents released by the Fair Work Ombudsman under the Freedom of Information Act

RE: For FWO info/red lines by Mon 20 Apr: Wage Theft Inquiry Submission [SEC=OFFICIAL]

From: "s.22 Irrelevant Information" <[REDACTED]@dewr.gov.au>
To: s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>
Cc: s.22 Irrelevant Information <[REDACTED]@dewr.gov.au>, s.22 Irrelevant Information <[REDACTED]@dewr.gov.au>, s.22 Irrelevant Information <[REDACTED]@dewr.gov.au>, s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>, s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>, s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>, s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>, s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>, s.22 Irrelevant Information <[REDACTED]@fwo.gov.au>
Date: Fri, 17 Apr 2026 16:13:29 +1000

Thanks [REDACTED], hope you have a great weekend too!

We're looking forward to seeing the FWO's submission once finalised, and happy to discuss any other issues that arise in the meantime.

Cheers

s.22 irrelevant informa

s.22 Irrelevant Information

RE: Seeking FWO review by 3pm Wed 8 Apr: Wage Theft Inquiry Submissions [SEC=OFFICIAL]

From: s.22 Irrelevant Information @dewr.gov.au>
To: s.22 Irrelevant Information @fwo.gov.au>, s.22 Irrelevant Information @dewr.gov.au>
Cc: s.22 Irrelevant Information @dewr.gov.au>, s.22 Irrelevant Information @dewr.gov.au>, s.22 Irrelevant Information @dewr.gov.au>, s.22 Irrelevant Information @fwo.gov.au>, s.22 Irrelevant Information @fwo.gov.au>, s.22 Irrelevant Information @fwo.gov.au>, s.22 Irrelevant Information @fwo.gov.au>, s.22 Irrelevant Information @fwo.gov.au>
Date: Mon, 13 Apr 2026 17:34:02 +1000

Thanks s.22 Irrelevant Information, we very much appreciate your quick review and your feedback!

We'll flag this with our SES and suggest pairing back the content on the FWO's role to avoid being too duplicative of your submission.

Cheers

s.22 Irrelevant Information

Wage Theft Inquiry Hearing - FWO Appearance

To: s.22 - irrelevant information
s.22 - irrelevant information

Contact: s.22 - irrelevant information

From: s.22 - irrelevant information

Phone: s.22 - irrelevant information

Date: 1 May 2026

Branch: Policy

Copy: s.22 - irrelevant information

Required action: For input and noting

When	Monday 4 May 2026, 3.10– 3.50 pm (panel appearance with DEWR)
Where	Committee Room 2R1, Parliament House, Canberra, and via video conference
Meeting Link	Join from the meeting link: https://aph.webex.com/aph/j.php?MTID=m717049a3ef0bf3affd9352cf20168d0a Webex instruction manual: Instructions for testing WebEx meetings
Committee Secretariat Contact Details	
Name	s.22 - irrelevant information
Phone / Email	s.22 - irrelevant information / eec.sen@aph.gov.au

Purpose:

1. To support your appearance before the Senate Education and Employment References Committee's Inquiry into Wage Theft. The appearance is likely to be a panel with the Department of Employment and Workplace Relations (s.22 - irrelevant information).
2. This brief includes background information and talking points including 'If asked' style talking points on the FWO's work establishing and implementing the criminal jurisdiction and broader underpayment work and outcomes across the FWO's education and compliance and enforcement roles.

Background information

3. The Inquiry is due to report by 18 June 2026. It was moved by Senator Payman (Ind) and supported by Coalition and Greens senators. The Government, while supporting the intent, opposed the motion on the basis that an independent review of the provisions is already underway as part of the legislated review into the Closing Loopholes amendments.
4. The Senate Standing Committee on Education and Employment comprises Chair Senator Kovacic (LP) and Deputy Chair Senator Smith (ALP) with Senators Dolega (ALP), Nampijinpa Price (LP), and O'Sullivan (LP). Greens Senator Barbara Pocock will be a substitute Committee member for this inquiry, replacing Senator Faruqi.

Terms of Reference

- The Inquiry's Terms of Reference are to inquire into the extent to which the wage theft framework under the Fair Work Act 2009, and the operation of subsection 327A(1), has led to a decrease in the incidence of wage theft in Australia, and any other related matter.

Submissions

- To date, the Inquiry has published 20 submissions, including the FWO's, DEWR's and the ANAO's (made solely to provide its 2024-25 report into the FWO's effectiveness and its 2021-22 report addressing super guarantee non-compliance).
- A list of submissions made to the inquiry to date and a list of submissions to the Closing Loopholes Review that reference criminalisation and wage theft are provided in separate documents to this brief.

Contents

Purpose:	1
Background information	1
Terms of Reference	2
Submissions.....	2
Attachment A: 'If Asked' Talking Points.....	4
How much has the FWO recovered for workers? [REDACTED]	4
What is the prevalence of 'wage theft'? [REDACTED]	4
Challenges with the term 'wage theft' [REDACTED]	5
Are more people seeking help for wage theft? [REDACTED]	6
Impact of the introduction of a criminal offence on the incidence of wage theft [REDACTED]	6
FWO's activities across the spectrum of underpayments and examples of outcomes [REDACTED]	7
How does the FWO decide how to treat an underpayment matter? [REDACTED]	9
Young worker underpayments [REDACTED]	11
Migrant worker underpayments [REDACTED]	13
Regtech to identify underpayments [REDACTED]	14
Does the increase in self-reports mean the system is too complex? [REDACTED]	14
Time taken by comparable bodies to bring criminal matters [REDACTED]	15
Are the other recent changes to the civil penalty regime having more of an impact? [REDACTED] ..	16
Does the regulated community know about the offence? [REDACTED]	18
FWO's contribution/role re the Closing Loopholes Review [REDACTED]	20

Why does the FWO's submission to the inquiry provide more detail than previous QoN responses? [redacted] will consider handling strategy	20
How many QoNs has the FWO received that relate to the criminal jurisdiction?	21
Does complexity / ambiguity in the workplace relations framework contribute to underpayments? [redacted]	21
Proposal to establish a Fair Work Court to resolve workplace disputes [redacted]	24
Funding – how has it been allocated within the FWO and what is the budget for the Criminal Investigations Branch budget? [redacted]	25
Funding - Why was more funding needed? / why do other areas of the FWO need additional funding? [redacted]	26
Staffing - What do the 16.7 staff do? How many are working on investigations? What are the other staff working on? [redacted]	26
CDPP referrals - Why hasn't the FWO referred a matter and when does the FWO expect to refer a matter? [redacted]	27
What are use and derivative use immunities? [redacted]	28
CDPP referrals - Is the bar for referrals to the CDPP too high? [redacted]	29
Employers - How many businesses are using or have tried to access the safe harbour mechanisms? [redacted]	29
Employers - Can employers avoid criminal investigation by concealing underpayments through no, or false, records? [redacted]	30
Finalised referrals - What action will be taken against employers who were assessed for criminal investigation but didn't make it to investigation? [redacted]	30
Threshold - What kinds of conduct are likely to meet the criminal threshold? How are matters selected for investigation? [redacted]	31
Superannuation – Is superannuation captured by the offence? Will the FWO enforce the offence in relation to intentionally unpaid superannuation? [redacted]	32
Related offence - How do the extensions of liability in the Criminal Code relate to the offence? Is it possible (as suggested by AiG) that the test for intentional conduct is lowered by the corporate criminal responsibility provisions? [redacted]	32
Challenges - Do we think there are any areas that are not working or should be amended [redacted] ..	34
Closing Loopholes - Confidential letter [redacted]	34

Attachment A: 'If Asked' Talking Points

How much has the FWO recovered for workers?

- Since its establishment in 2009, the FWO has recovered in excess of \$2.6 billion in unpaid wages and entitlements for more than 1.4 million workers nationwide.
 - \$1.9 billion to just over 1 million workers has been recovered through self-reported underpayments.
- Over this period, the FWO has used the civil compliance framework in the Fair Work Act extensively to address wage underpayments and deter noncompliance. As of 31 December 2025, the FWO had filed over 950 litigations, entered into more than 280 enforceable undertakings, issued over 13,500 compliance notices and secured more than \$92 million in court ordered penalties.
- Looking at recoveries and compliance and enforcement activity alone is not a great indicator – the ultimate goal is ensuring all workers are paid their entitlements through voluntary compliance.

What is the prevalence of 'wage theft'?

- It's difficult to determine. Previous parliamentary inquiries (Senate Economics Reference Committee inquiry into unlawful underpayment of employees' remuneration; Migrant Workers Taskforce Report) and submissions made to this inquiry (Associate Professor [redacted] and Professor [redacted]), outline the difficulties in accurately measuring the prevalence of underpayments or settling a number.
- In terms of the quantum of underpayments, the FWO is aware of nation-wide estimates. For example, in 2019, PwC's 'Australia Matters' report found wage underpayments to be approximately \$1.35 billion per year.
 - In relation to existing estimates, the FWO was not privy to the methodology used to calculate the estimate and is unable to comment on how these figures were determined.
 - If the FWO's data was used / extrapolated to calculate nation-wide estimates, the estimate would be problematic - we target our work to priority sectors where we expect to find high rates of non-compliance, and our data reflects that.

If pressed on the prevalence of wage theft

- Quantifying the prevalence of wage theft and it's cost to the economy isn't a function of the FWO. Rather, we respond to non-compliance with the Fair Work Act that occurs on a continuum, from inadvertent to systemic and deliberate.
 - Our approach is aligned with the principles of strategic enforcement – being prioritisation, deterrence and system wide effect.
 - Our model is risk-based and proportionate and uses data and intelligence to detect suspected non-compliance, which informs our proactive targeting of serious, significant and systemic non-compliance and its drivers.

- The FWO does not have access to wages and entitlement data from all businesses in Australia. This is something that would assist our work in detecting and proactively preventing underpayments.
 - Our submission to Treasury's review of tax regulator secrecy exceptions outlines our view that access to Single Touch Payroll data held by the ATO would allow us to identify paying entities and what they pay their employees, to identify and recover underpayments.¹

If pressed on how we determine whether we are an effective regulator

- The Australian National Audit Office conducted an independent audit of the FWO, reporting in 2025 that we are largely effective in the exercise of our regulatory functions. That report is attached to ANAO's submission to this inquiry.
 - All three recommendations of the ANAO's Report have been agreed to by the FWO and are completed / underway.
- We are a highly-regarded regulator in the international community – we are a member with the International Association of Labour Inspection, and the FWO's Accountable Authority, Anna Booth, accepted an invitation to speak at the first of the International Labour Organization's Theory to Practice webinar.²
- And it's important to remember that we know that the FWO can't do it alone. Unions and employer organisations have a key role in helping to ensure there is compliance with the Fair Work Act. That's why we have established our tripartite Advisory Group, with representatives from the peak employer organisations and unions, as well as reference groups for our priority industries, also with relevant union and employer group representation.
- As we also flagged in our submission, we also rely on the entire community – the public, the media, employer orgs, unions, not-for-profits and MP's to also assist by referring matters to the FWO.

Challenges with the term 'wage theft'

- As canvassed in our submission, the term 'wage theft', although widely used, doesn't have a settled meaning. It's used to describe a range of underpayment scenarios ranging from genuine mistakes or errors through to serious and deliberate conduct.
- For example, we don't use 'wage theft' ourselves because it's not defined and doesn't give us useful information about the potential breaches of the Fair Work Act to support our compliance and enforcement role.
- Instead, when people come to FWO with concerns about being underpaid, we want to understand what the alleged breaches related to. For example, was it under or non-payment of wages, penalties, allowances or multiple areas.
- It's also worth noting that the majority of underpayment scenarios the term 'wage theft' is applied to would not meet the thresholds of the new criminal offence under the Fair Work Act.

¹ See [DEWR - FWO - Response letter - A Booth Redacted.pdf](#)

² [Tripartism and compliance: The journey of the Fair Work Ombudsman in Australia | International Labour Organization](#)

- This is because to establish a criminal offence there are typically two features that need to be met: establishing that the underpayment conduct was intentional, and doing so to the criminal standard of proof (beyond reasonable doubt) with evidence that is admissible in criminal proceedings
- Having said this, we acknowledged and understand that the term ‘wage theft’ is commonly used in public discourse to represent a broad range of underpayments where there is no need to consider whether they fall in a criminal or civil jurisdiction.
- We approach all underpayment scenarios strategically to have the greatest impact on non-compliance and return the most money to the most people as efficiently as possible.

Are more people seeking help for wage theft?

- Information about pay continues to be one of the main reasons people contact us. When people call our Infoline the most common topics over the last 10 years have consistently related to pay, employment conditions, ending employment and leave. In 2024-25 we answered over 287,000 calls, and helped resolve just over 18,500 workplace disputes.
- Most people are seeking information as demonstrated through engagement with our website. In 2024-25 our website had 28.7 million visits, and our online pay calculator was visited 5.7 million times performing over 5.2 million calculations.
- We also know that the employee cohorts most vulnerable to exploitation, are the least likely to seek FWO’s help, this includes migrant workers, young workers, workers from culturally and linguistically diverse backgrounds and workers who may not speak English as a first language,. That’s why our proactive work is so important to help as many underpaid workers as possible.

Impact of the introduction of a criminal offence on the incidence of wage theft

- It is too early to draw conclusions about the impact of the criminal offence given its recency.
- Measuring ‘wage theft’ is difficult, particularly given the lack of a settled definition.
- Also, criminalisation occurred alongside other significant civil reforms (e.g. increased penalties, lowering of serious contravention threshold), so making an isolated assessment is challenging.
- However, we believe the offence is operating as a useful additional deterrence tool. As we stated in our submission, continued high volume of self-reports indicates that businesses are actively seeking to identify and fix issues. The offence appears to be encouraging some businesses to take active steps to increase compliance (even in the absence of identified concerns), self-report underpayments to the FWO and put practices in place to prevent underpayments from reoccurring.
- Findings of a survey the FWO commissioned about awareness of our enforcement activities, among businesses in the horticulture and cafes and restaurants sectors support this proposition.

- The details of the survey are in the submission to the Inquiry from Associated Professor [redacted] and [redacted] s.22 - irrelevant information³. From 570 responses we note the survey found:
 - 62% of businesses identified criminal penalties as important in prompting changes to their compliance procedures and almost 90% of businesses identified reputational concerns as an important factor.
 - 48% of businesses had reviewed their systems to ensure compliance upon becoming aware of a FWO activity (i.e targeted campaign, enforceable undertaking and/or civil litigation).
- This supports our existing strategy of education and communication activities, including publicising enforced compliance outcomes, like civil litigations and enforceable undertakings, as a means of deterrence.

If pressed on how long deterrence effect will last in absence of prosecutions

- The FWO fully intends to refer matters for criminal prosecution and is undertaking investigations with that intention.
- While we can't speculate on timeframes around prosecutions, the survey data indicates the Offence's existence is having a strong deterrent effect and we think it will continue to be effective in the interim.

FWO's activities across the spectrum of underpayments and examples of outcomes [redacted] s.22 - irrelevant information

- Criminal sanctions are a tool available to address the most egregious breaches that meet the criminal threshold.
- However, all FWO's work across our education and compliance and enforcement roles contributes to returning unpaid money to workers across Australia.
- The graduated and strategic enforcement approach outlined in our submission helps us have the greatest impact and return money to as many workers as we can as quickly as possible. In 2024-25, 92% of requests for assistance were finalised through our dispute assistance service. 93% were finalised within 60 days.
- The range of enforcement tools provided for across the civil and criminal jurisdictions enables us to apply the strategic enforcement model outlined in our Compliance and Enforcement Policy to select the outcome we consider is appropriate for each issue we identify.

FWO's proactive work

- This model also enables us to go beyond resolving individual requests for assistance, and creates capacity for proactive work that is aimed at addressing the root causes of non-compliance.⁴

³ See, <https://www.afp.gov.au/DocumentStore.ashx?id=8ffb8541-1d02-45fd-a5f8-00733b083291&subId=788919>

⁴ Proactive work can also include investigations of large entities who identified underpayments that were reported in the media, but who chose not to self-report to FWO.

- We do this by developing enforcement strategies that are informed by intelligence and evidence and through interventions that deter and target non-compliance and have an ongoing impact.
- Our use of intelligence is continually evolving to help us better target likely non-compliance and our proactive work is increasingly returning money to more employees than our work assisting individuals who come to us.
- For example, in the 6 months to Dec 2025:
 - FWO's work helped return over \$191 million to over 145,000 employees.
 - Our proactive work returned \$26.2 million to nearly 5,500 employees, compared to the \$7.7 million returned to nearly 3,000 employees who sought our assistance.
 - The majority continued to come from self-reports that made up 82% (\$157.2 million) and was repaid to more than 137,000 employees.

CN and EU recoveries

- In line with the FWO's graduated approach to undertaking our regulatory functions, the FWO continues to make use of the full range enforcement tools to ensure unpaid wages and entitlements are returned to employees as efficiently as possible.
- Over the last decade, FWO has used CNs to recover more than \$98 million while enforceable undertakings have returned over \$385 million in unpaid entitlements to employees (2015-16 to 31 Dec 2025).

Litigation and EU examples

- We use civil litigation to address egregious conduct including serious contraventions. Our highest court-ordered penalties are \$15.3 million for Sushi Bay and \$10.34 million for CBA (both referenced in our submission).
 - Sushi Bay's former operators were found to have deliberately exploited vulnerable migrant workers, including underpaying 163 staff more than \$650,000.
 - CBA and CommSec, although they self-reported, were found to have failed to ensure their Enterprise Agreements and Individual Flexibility Agreements were implemented in a lawful manner and underpaid 7,402 employees more than \$16 million.
- Another example is Blue Sky Kids Land that we investigated after an employee requested assistance. In December 2024, we secured just over \$5 million in court penalties after Blue Sky Kids Land exploited four migrant workers and hindered or obstructed Fair Work Inspectors, despite having been put on notice to comply.
- The FWO currently has a range of other significant matters before the courts relating to large scale and egregious conduct, which due to their nature take time to move through the courts. Some of these matters also involve allegations under other amendments to the Fair Work Act, such as our franchising, holding company and other provisions. [Make Dough, SRG, Coles, WW, OTHERS???
- These matters remain before the courts and so I am limited in the nature of information which I should discuss. I would be happy to take any particular queries on notice.

- Enforceable undertakings are valuable tools for returning unpaid entitlements to employees and ensuring future compliance. They avoid high litigation costs and can deliver outcomes not available via other tools (e.g. recovering wages outside statutory limitation periods, independent payroll audits paid for by the employer, public apologies, establishment of mechanisms to achieve ongoing compliance such as new payroll systems, corporate governance changes, workplace consultation, and hotlines to report concerns).
- The EUs referenced in our submission are examples of where EUs have been used following self-report investigations:
 - Westpac signed an EU in 2025 after underpaying nearly 47,000 staff more than \$50 million between 2014 and 2025.
 - Optus signed an EU in 2024 to backpay more than \$7.8 million to more than 3,700 staff.
 - Crown signed an EU in 2023 after underpaying 200 employees about \$1.025 million between 2014 and 2020.

The ANMF submission also refers to a recent EU signed with [Southern Cross Care \(NSW & ACT\)](#), which relates to \$11 million in backpay to 5,500 staff between 2017 and 2024.

If asked whether any of these examples would now be considered to be criminal conduct:

- It would not be appropriate for me to speculate on whether a particular matter may or may not fall within the new criminal jurisdiction.
 - In the examples referred to, the question is a hypothetical because the conduct occurred before the criminal offence existed
 - The investigations were not undertaken to investigate criminal allegations or to a criminal standard of proof
 - Whilst I acknowledge the serious findings against those parties in the civil context, it may expose them to unfair harm if I were to comment on potential criminal conduct in a hypothetical scenario
- I would say that in conduct occurring after 1 January 2025 where there are serious allegations of intentional underpayments, particularly if we are of the view that the conduct is egregious or exploitative, we would consider whether that conduct should be the subject of either criminal investigation or investigation as to whether serious contraventions have occurred.

How does the FWO decide how to treat an underpayment matter?

s.22 - irrelevant information

- When an employee asks for our help, we review the information provided to understand the issue and decide what action, if any, we will take. A good way of describing our work and graduated approach to compliance is as a regulatory triangle with three sections.
- The base tier is voluntary compliance and is the largest section. The vast majority of our work is in this space. It includes advice and free resources to help workers and employers understand their workplace rights and entitlements, as well as our tripartite and collaborative work with

stakeholders. We encourage parties to actively engage in resolving disputes at the workplace level and assist parties to resolve their issues via education or our free dispute assistance services.

- The middle tier is guided compliance where we require employers to undertake actions to demonstrate compliance and assure future compliance (e.g. CNs). This usually follows our decision to conduct an investigation.
- The top tier is the pointy end – enforced compliance. This is where we use stronger enforcement tools where issues can't be resolved through voluntary or guided compliance or where there is egregious non-compliance. Civil litigations and enforceable undertakings make up a very small number of our overall work but send a powerful general and specific deterrence message. The FWO entered into 6 enforceable undertakings and commenced 21 litigations in the 6 months to December 2025. Last year, FWO entered into 8 enforceable undertakings and commenced 73 litigations.
- The new criminal offence provides us with an additional tool and is the absolute tip of the triangle.
- The FWO is responsible for investigating the offence and will refer matters to the CDPP to commence proceedings. The CDPP, as a separate statutory agency and prosecution service, will then independently consider if there is sufficient evidence to prove the offence and it is in the public interest to commence a prosecution. The court will determine any sentencing outcome.
- This approach is outlined in our Compliance and Enforcement Policy available on our website.
- Our Compliance and Enforcement Policy also outlines the FWO's case assessment process, which is the ongoing assessment the FWO applies to our investigation and litigation work, to consider the merits of a particular matter and to consider issues such as sufficiency of evidence and public interest. Features of a matter (summarised in our Policy) will impact where we consider it sits in the regulatory triangle, what type of investigation is appropriate, and what enforcement outcome may be appropriate.
- With the introduction of a dual jurisdiction, the FWO also needs to make strategic decisions about whether allegations are most appropriately investigated (and if appropriate following such an investigation, enforced) via either the civil process or the criminal process. This will impact the way we investigate, what powers are available to us, and what types of enforcement outcomes are available. This decision has some particular considerations related to the very new nature of the jurisdiction, which will reduce over time. Some relevant factors may include:
 - Whether alleged conduct spans before and after the introduction of the criminal jurisdiction. If significant allegations cover both pre and post 1 January 2025, the FWO will need to consider what is in the best interests of the matter, because if we decide to pursue criminal allegations, it is likely that we would need to either not pursue or delay pursuit of any part of the conduct that falls only in the civil jurisdiction (due to procedural fairness considerations related to criminal investigations and prosecutions meaning that civil action would likely be stayed or impacted to ensure fairness in the criminal process). Depending on the nature of the matter we may consider it is more appropriate to investigate such matters as a complete set of allegations in the civil jurisdiction where that would avoid the splitting of the matters (and any recovery of associated entitlements).

That may not be the case in all instances, but does demonstrate a relevant consideration where you move from a solely civil to dual jurisdiction.

- In a similar vein, we need to consider the nature and weight of available/anticipated evidence, and whether we think it is likely that we would be able to gather suitable evidence which would meet the criminal standard of proof (beyond reasonable doubt) or civil standard (balance of probabilities). A vast range of factors can influence this and so it is sensible for us to consider the best avenue for investigation and any potential enforcement outcome.
 - It is important to note that we are fortunate to have a jurisdiction under the Fair Work Act where very serious conduct is able to be dealt with both via the criminal offence (where we consider it is sufficiently egregious) as well as via our civil regime, including via the serious contraventions regime, which provides for some very significant penalties. That decision will in part be related to the seriousness of the alleged conduct but will also involve a consideration of the circumstances of the matter and which investigation avenue will best enable us to identify relevant evidence. One consideration may be where we consider it may be helpful for us to rely on the civil reverse onus provisions, where an employer has not kept appropriate records.

If asked about the Trades Hall submission that we do not investigate the full period of employees' entitlements

- In matters which it pursues via enforcement tools (including litigation, enforceable undertakings and compliance notices), the FWO does in some instances make decisions about what aspects of an employee (or a cohort of employees) entitlements may be included. This may be based on a range of factors, including:
 - Availability of relevant and (where applicable) admissible evidence to establish allegations (that is, FWO may decide not to press all allegations if we do not consider there is a sufficient evidential and legal basis (reasonable belief for CN, balance of probabilities for litigation, etc)
 - The particular aspects of conduct which the FWO may consider appropriate for enforcement in accordance with our strategic enforcement model and in the public interest. This may mean that FWO may if litigating for instance focus on a particular period of time or type of contravention to pursue via litigation, based on our consideration of prospects of success and public interest.

Young worker underpayments

- The FWO is highly aware of the challenges facing young workers. Vulnerable or 'at risk' workers (including young workers) are an enduring priority for us and we prioritise sectors with large numbers of young workers including fast food, restaurants and cafes, agriculture and building and construction.
- Young workers aged 15 – 24 are coming to us for help:

- Young workers make up around 15% of the workforce, but as of 31 Dec 2025 comprised 36% of anonymous reports, and 25% of completed requests for assistance (where age known).
- The top 3 industries that we received requests for assistance from young workers in were accommodation and food services, construction and health care and social assistance.
- In the six months to 31 Dec 2025, FWO's assistance returned \$1.1 million to 474 young workers.
- The FWO is focussed on expanding work to our reach and connecting with younger audiences through our communication and engagement activities:
 - Engagement through social channels is one of the best ways to reach young workers. The FWO recently reached half a million followers. We're using customer insights and ongoing experimentation with different content formats to grow our audience and are seeing an increase in positive engagement with our content.
 - Our webinars also cover information for young workers, and we also attend career expos and other events as ways of reaching young workers in person.

If asked about the Fair Day's Work Project

- The FWO is aware of the Fair Day's Work Project report⁵ by the University of Melbourne's Centre for Employment and Labour Relations Law and the related reference in Senator Payman's submission (quoting ACTU's Sally McManus who referred to Report findings).
- The project included a survey of more than 2,800 workers under 30 to examine the extent of non-compliance with workplace laws.
 - The survey found that 33% of respondents were likely underpaid, receiving \$15 per hour or less, and 43% had been made to perform extra duties without pay beyond their usual responsibilities.
 - The report makes 6 recommendations, including that regulators should direct compliance measures towards 9 industries identified as high-risk, that the FWO further pursue educational and awareness initiatives targeted towards teenaged workers, and investment in further exploration of data science and digital tools to assist in improving compliance by employers of young workers.
- While we cannot verify the findings of the survey, the FWO takes these findings seriously, and young workers are a priority cohort for us. We also note that although the young workers surveyed were reluctant to contact the FWO, those who did reported largely positive experiences.

⁵Howe, J, & Dillon T. (2025) Underpaid and overlooked: The wage crisis facing young workers in Australia, University of Melbourne,
https://law.unimelb.edu.au/data/assets/pdf_file/0007/5331517/Fair-Days-Work-Report_final.pdf.

Visa holder underpayments

- All workers in Australia, regardless of their background or visa status, have the same rights at work under the Fair Work Act. Visa holders are part of our enduring prioritisation of vulnerable or 'at risk' workers.
- We know that workers from culturally and linguistically diverse backgrounds are more likely to experience harm or ill-treatment, have less ability to advocate for themselves in their workplace or may experience barriers when seeking assistance.
- To support and encourage access to our services we do not require people to disclose their cultural background or visa status when engaging with us. As a result, our data likely under reports the proportion of migrant workers who access our services.
 - In January this year we published our Multicultural Access and Equity Action Plan⁶ which includes 28 practical deliverables detailing how the FWO takes a proactive and coordinated approach from all areas of the agency to ensure that we are reaching culturally and linguistically diverse members of the community, including visa holders.
 - We direct our resources to our priority areas, which many skilled migrants work in. At 30 June 2025, 13.8% of all skilled visa holders work in Accommodation and Food Services, 12.9% work in Health Care and Social Assistance, and 8.9% work in Construction.
 - Our website hosts a suite of professionally translated resources and webpages, available in over 30 languages, complemented by an automatic translator tool.
 - A significant proportion of litigations we commence involve migrant workers and this is one of the ways we seek to deliver equitable outcomes for them. Despite temporary visa holders with work rights comprising only 8% of the workforce in 24-25 they made up 34% of all litigations the FWO commenced in that period (25 of 73). During that time we secured over \$16 million in court ordered penalties in matters involving visa holders. In the six months to December 2025, one third of the litigations we commenced continued to relate to visa holders (7 of 21) and \$575,555 in court ordered penalties were secured.
 - In 2024-25 we recovered over \$800,000 for visa holders, and in the six months to December 2025, we recovered \$650,533 for 227 visa holders.

If asked about migrant worker visa protection pilot programs

- The Australian Government has introduced the Strengthening Reporting Protections Pilot and Workplace Justice Visa Pilot to strengthen protections for eligible visa holders experiencing workplace exploitation.
 - The Strengthening Reporting Protections Pilot introduces a formal protection against visa cancellation to give migrant workers the confidence they can report wrongdoing and seek redress for a workplace exploitation matter, primarily where they have breached a work-related visa condition

⁶ [Multicultural Access and Equity Action Plan 2026-2029](#)

- The Workplace Justice Visa Pilot introduces a visa that will enable migrant workers to remain in Australia beyond the cessation of their original visa while they pursue their workplace exploitation claims.
- Both pilots are being administered by the Department of Home Affairs.
- To apply for the protections under these pilots, migrant workers must first have their workplace exploitation matter certified by a government entity or accredited third party.
- The FWO's role is to provide a certificate to visa holders who approach us for assistance with their workplace exploitation matter.
- A Fair Work Inspector or Fair Work Officer may issue a certificate where a visa holder has provided us with information regarding alleged workplace exploitation and we are investigating the matter. They can then apply directly to Home Affairs for consideration of the visa pilot.

Regtech to identify underpayments

- The FWO is aware of various private entities who have developed digital payroll technologies that offer services to automate, manage and streamline compliance with workplace relations law.
- The FWO has not been involved in the development of any private sector tools or models so can't comment on their potential reliability, accuracy or effectiveness in detecting payroll issues.
- We recognise the importance of innovative solutions that support businesses to quickly identify and resolve issues.

Does the increase in self-reports mean the system is too complex?

- There has been an upwards trend in businesses self-reporting underpayments to the FWO, particularly over the last 5 years. The FWO started receiving and recording self-reports in 2019-20 with numbers increasing since.
- We believe there are several factors encouraging businesses to examine their own payroll, and to come forward to report and resolve underpayments.
- In some situations, such as when an underpayment has been happening over a long period or is extensive in quantity, we advise employers to report an underpayment to us.⁷
 - Our approach to self-reported non-compliance is set out in our publicly available Compliance and Enforcement Policy. It typically involves us working with duty holders to ensure the integrity of their remediation, because the cost of remedying contraventions should rest with the duty holder (and not the taxpayer).
- We also proactively engage with businesses and their representatives, to highlight the cost and reputational damage of getting payroll wrong and to encourage entities to work with us to address issues.

⁷ See [fairwork.gov.au](https://www.fairwork.gov.au): [I think I've underpaid my employee](#).

- In May 2025 the FWO published its Payroll Remediation Program Guide⁸ to help employers and their representatives identify and correct large-scale employee underpayments. The guide includes information on diagnosing a problem and designing a large-scale employee-centred Payroll Remediation Program, managing employee communications, finding and paying former employees and what employers should expect if they self-report to us.
- There has also been significant media coverage of self-reports and the FWO's outcomes as well as media coverage about the passage of the criminal Offence. Media exposure puts additional pressure on organisations and leaders to take responsibility.

If pressed on the scale of self-reports and the FWO's involvement

- As stated in our submission, continued high volume of self-reports indicates that businesses are actively seeking to identify and fix issues.
- Of the \$2.6 billion FWO has returned to workers since the agency's establishment in 2009, \$1.9 billion has come from self-reported matters. It is unlikely that the figure would be as high as \$1.9 billion without the FWO's encouragement and involvement.
- Our involvement, which is resource-intensive, seeks a level of assurance that underpayments are accurately calculated, repaid to affected employees in a timely manner and that systems are in place to prevent underpayments occurring again. It's not uncommon for businesses to find further issues with additional cohorts as they work through the process with us.

Time taken by comparable bodies to bring criminal matters

- It is not unusual for new penalty regimes to take time to reach the courts, particularly in the criminal context.
- Corrupting benefits offences contained in the Fair Work Act took effect on 11 September 2017. A father and son were charged 4 years later in September 2021 and sentenced in November 2025..⁹
- The FWO's strategic enforcement model means we continue to use other regulatory responses to address non-compliance with workplace laws including civil litigation, enforceable undertakings and compliance notices. Referrals for potential criminal prosecution remain reserved for the most serious and egregious conduct.

If pressed for other examples:

- Other examples in Australian jurisdictions where it has taken substantial time for new criminal provisions to be used, include.
 - Industrial manslaughter laws in Victoria came into effect on 1 July 2020 with the first sentence for a conviction handed down in February 2024..¹⁰

⁸ See [New Payroll Remediation Program guide - Fair Work Ombudsman](#)

⁹ See [Corrupt union leaders sentenced for accepting bundles of cash in exchange for favours | Australian Federal Police](#).

¹⁰ See, [\\$1.3 million fine for workplace manslaughter | WorkSafe Victoria](#)

- Criminal sanctions and related civil penalties related to requirements for company directors to sign up for a Director ID took effect between 1 November 2021 and November 2022. The first Direct ID prosecution by ASIC resulted in a conviction in May 2024..¹¹
- Criminal cartel provisions were introduced in July 2009 with the first sentence for a conviction handed down in August 2017..¹² (the first-time individuals were sentenced for a criminal cartel offence wasn't until 2022)..¹³
- "Chain of responsibility" laws under the National Heavy Vehicle Law commenced on 1 October 2018. The first prosecution was commenced on 7 February 2020..¹⁴
- Amendments to the Migration Act 1958 which came into effect from 1 July 2024 and made it a criminal offence for persons who unduly influence or coerce a non-citizen to breach work-related conditions of their visa..¹⁵ The FWO understands that to date no proceedings have been commenced relating to these provisions.
- The FWO understands that there have been no prosecutions to date under Queensland's criminal wage theft laws..¹⁶ and it took 17 months to commence the first wage theft proceedings under Victoria's wage theft laws (noting the Victorian offence was broader, and WIV was able to commence / run prosecutions)..¹⁷

Are the other recent changes to the civil penalty regime having more of an impact?

- Given the provisions are still relatively new, the FWO is yet to commence proceedings which invoke the new provisions (barring the increased penalties relating to non-compliance with a compliance notice), so it is too early to tell.
- It is not unusual for it to take some time for matters to be investigated, a litigation to be commenced, and then to reach penalty proceedings, particularly where many investigations span conduct spanning extended periods or multiple different types of contravening conduct.
- The FWO's experience is that even in the civil jurisdiction new provisions can take time, several years even, to reach the courts:

¹¹ See, [Western Australian directors convicted for failing to have director identification numbers | ASIC](#)

¹² See, [NYK convicted of criminal cartel conduct and fined \\$25 million | ACCC](#)

¹³ See, [First individuals are sentenced for criminal cartel conduct | ACCC](#)

¹⁴ See, [NHVR commences first prosecution under new Chain of Responsibility laws](#)

¹⁵ See, [Migration Amendment \(Strengthening Employer Compliance\) Act 2023](#)

¹⁶ The Queensland criminal wage theft provisions came into effect on 14 September 2020 with the passing of the Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020 (Qld), which amended s391 ('Definition of stealing') of the Criminal Code Act 1899 (Qld) to include deliberate and intentional behaviour leading to under or non-payment of entitlements. Wage theft complaints handled by the Queensland Police Service who are unable to assist with wage recovery matters in court.

¹⁷ Wage Theft Act 2020 (Vic) come into effect on 1 July 2021, the first proceedings commenced in November 2022 against Rehmat & Mehar Pty Ltd (trading as The Macedon Lounge) for conduct that allegedly occurred between 1 July 2021 and November 2021. The proceedings were discontinued in November 2023 and the legislation was repealed in December 2025.

- Serious contravention provisions commenced on 15 September 2017, and the first matter the FWO filed alleging serious contraventions was on 20 May 2019 (19 months).¹⁸
- Provisions introduced to prohibit the hindering and obstructing of a Fair Work Inspector commenced on 15 September 2017, and the first matter the FWO filed in relation to these provisions was on 2 September 2019 (just short of 2 years).¹⁹
- Franchisor liability provisions commenced on 27 October 2017 the first litigation relying on these provisions was not filed until 28 February 2023 (5.5 years).²⁰
- The time it takes for a matter to reach the courts is influenced by various factors, including identifying a matter where alleged prima facie breaches have occurred post the commencement of relevant provisions, obtaining evidence to satisfy the required threshold of the court from a variety of sources (including use of various voluntary and compulsory evidence gathering processes), witness cooperation and employing entity liquidity, undertaking detailed calculations of entitlements, particularly where records may be sparse.
- It is the FWO's experience that there is often significant effort and investment made in investigating matters that ultimately do not meet the threshold to proceed to court, for reasons specific to the circumstances of each investigation.

If pressed on FWO's litigations relating to the civil penalty changes

- The FWO is yet to commence any proceedings that rely on the updated definition of serious contravention to knowing or reckless conduct (commenced 27 Feb 2024). All litigations commenced by the FWO that are currently before the courts which allege that a contravention of a civil remedy provision is a serious contravention per s557A of the Fair Work Act relate to conduct that occurred before 27 February 2024. The FWO does have matters under investigation which are likely to invoke the new provisions and (without pre-empting any investigations which may be still underway) we would expect that where we identify serious contraventions these will be litigated in due course.
- To date, the FWO is yet to make an application for pecuniary penalties in a civil litigation that rely on higher penalties for 'selected civil remedy contraventions' (commenced 27 Feb 2024). To make use of this new provision, the FWO would need to file evidence with the court about a business' size or aggregate turnover which would likely not occur until we reach the penalty stage in a litigation.
- No penalty decisions have been handed down in FWO matters which make use of the new method for calculating civil penalties associated with an underpayment amount (commenced 1 January 2025). The 3x underpayment calculation of civil remedies only applies if a party specifically seeks to rely on it in an application made to the courts, and the FWO has yet to file any matters that include such an application.

¹⁸ See, [*Fair Work Ombudsman v IE Enterprises Pty Ltd* \[2021\] FCA 60](#)

¹⁹ See, [*Fair Work Ombudsman v Blue Sky Kids Land Pty Ltd \(in liq\) \(No 4\)* \[2024\] FCA 1475](#)

²⁰ See, [*Fair Work Ombudsman v 85 Degrees Coffee Australia Pty Ltd* \[2024\] FCA 576](#)

- Given the penalty-based threshold for non-small businesses is \$495,000 per contravention, this method of calculating a pecuniary penalty will likely only become a consideration where 3 x the underpayment amount for one particular contravention is above the relevant maximum penalty. Based on our experience litigating in the civil space, and the number of individual contraventions usually alleged where there are multiple entitlements involved, we expect the number of litigations where this will be the case will be small.
- There are a range of FWO matters where the increased civil penalties for non-compliance with a compliance notice (commenced 27 Feb 2024) have been used to calculate pecuniary penalties by courts (which is what we would expect to see given compliance notice allegations may tend to be more confined litigations). Examples include:
 - [Fair Work Ombudsman v Um \[2025\] FedCFamC2G 1755](#); and
 - [Fair Work Ombudsman v Armstrong \[2025\] FedCFamC2G 1756](#).

Does the regulated community know about the offence?

- The FWO is committed to expanding our reach and working constructively with stakeholders and the broader community to build awareness of the FWO and to inform employers and workers about their workplace rights and obligations. This is a fundamental element of all our work that is written into our strategic objectives and performance indicators.²¹
- More specific to the offence, the FWO has undertaken significant work to educate the community and increase awareness of the offence, both in the lead up to the offence taking effect and since then.
- As outlined in our submission, the FWO also ran a communications campaign across streaming platforms and social media to coincide with the criminal offence coming into effect, which had 15.47 million impressions.
- Since that initial campaign we've continued to promote the offence, the FWO's role and our educative resources through FWO's social media channels, email updates to subscribers and the FWO's Employer Newsletter.
- This has included targeted engagement activities, development of tailored guidance materials and resources, website content, and a multi-channel communications campaign.
- Our website is the FWO's primary customer service channel and is our largest and busiest platform. Our content about 'closing loopholes' legislative changes that included information about the offence was viewed a combined total of 368,000 times from publishing to 31 December 2025:
 - the [Closing Loopholes](#) webpage was viewed more than 234,000 times

²¹ See [Office of the Fair Work Ombudsman Corporate Plan 2025-26](#), Strategic Objective 1 'Employers and workers know about the Fair Work Ombudsman and what we do' and KPI1 'We will increase the level of workplace community awareness of the FWO.'

- the [Criminalising wage underpayments and other issues](#) webpage was viewed more than 81,000 times
- the [Closing Loopholes – Visual snapshot](#) was viewed more than 52,000 times
- Between 1 July 2024 and 31 December 2025 there was high engagement with our tailored website content and resources for the offence - viewed a combined total of 140,000 times. Specifically:
 - the [Criminal prosecution](#) webpage was viewed more than 38,700 times
 - the [Cooperation agreements](#) webpage was viewed more than 4,000 times
 - the [Voluntary Small Business Wage Compliance Code](#) webpage was viewed more than 43,000 times
 - the [Guide to paying employees correctly and the Voluntary Small Business Wage Compliance Code](#) was viewed almost 14,000 times, and
 - news articles about the commencement of the new criminal underpayment laws was viewed more than 40,000 times.

If pressed for more details

- In the lead up to the offence taking effect the FWO engaged extensively with stakeholders over a sustained period of time. This engagement gave us feedback and insights to understand the needs of the community. But to the point about awareness, the FWO had dialogue with regulated entities at an early stage which provided transparency and predictability to them about how the FWO would approach the offence.
 - We undertook multiple rounds of consultation with the FWO's Advisory Group, NWRCC members, the Young Workers Centre and the Australian Small Business and Family Enterprise Ombudsman on the development of the Code and development of draft guidance for small business and in relation to cooperation agreements, with stakeholders provided an opportunity to give verbal and written feedback.
 - We were part of DEWR's final consultation through the NWRCC's Committee on Industrial Legislation and state and territory governments before the Code was declared.
- The FWO has developed news articles and published new website content about the offence, including content on legislative changes that covers 'closing loopholes' and dedicated webpages for criminal prosecution, cooperation agreements, and the Code. Tailored resources about the offence is also available on our website, including:
 - A guide to cooperation agreements to help employers or individuals who are concerned they may be liable for the offence and want to positively engage with the FWO (April 2024)
 - A guide to the Code to help small business employers pay their employees correctly and to understand and access the protections of the Code (December 2024)
 - An updated Compliance and Enforcement Policy to reflect our new role investigating possible breaches of the offence as well as the requirement for the policy to contain guidelines about the use of cooperation agreements and when the FWO would consider entering into an enforceable undertaking. (January 2025).

- There was also notable media coverage of the Offence's passage through Parliament and when it came into effect and its existence continues to be regularly referenced in media coverage of underpayment, or 'wage theft' matters.

FWO's contribution/role re the Closing Loopholes Review

- The FWO continues to engage proactively with the Closing Loopholes Review (the Review). To date this has included:
 - Meetings with the reviewer [s.22 - irrelevant information] in January and February 2026
 - [s.22 - irrelevant information] attending a meeting of the FWO's Advisory Group in March 2026
 - Providing operational data and information requested by the Review team in March 2026
 - Ongoing engagement between the FWO and the Review team
- We are aware of stakeholder commentary contained in some submissions to the Review which reference the FWO's role in regard to wage theft and the introduction of a criminal offence for deliberate wage underpayments.
 - We look forward to continuing to work collaboratively with the Review as it concludes its work and if appropriate will work with Government to assess any recommendations the Review makes that are relevant to the FWO's remit and operations.

Why does the FWO's submission to the inquiry provide more detail than previous QoN responses? [s.22 - irrelevant information] will consider handling strategy

- In response to QoN SQ26-000005, in line with the FWO's standard approach to Questions on Notice, the FWO provided specific information relevant to the direct questions posed by Senator Payman. These questions largely went to the resourcing the FWO has received to investigate possible breaches of the Offence, when the criminal investigations branch was established and whether any referrals for potential criminal prosecution have been made.
- The FWO's submission to the Inquiry provided additional details that were not directly relevant or captured by the wording of the QoN including:
 - Further information on the work the FWO has undertaken to operationalise the new criminal jurisdiction including work to establish the criminal investigations branch and develop internal capabilities needed to carry out criminal investigations
 - Observations on the use of 'wage theft' as a term and the challenges with quantifying instances of 'wage theft' and assessing the impact that various legislative amendments to the Fair Work Act have had on the prevalence of wage theft; and,
 - The FWO's broader work addressing wage underpayments since the agency's establishment in 2009.
- These additional details were provided to assist the Committee in its deliberations and provide broader information about the FWO's work addressing wage underpayments over a longer period of time.

- The FWO is happy to provide relevant information and data to assist the Committee where it is available at your request.

How many QoNs has the FWO received that relate to the criminal jurisdiction?

- The FWO has received a total of 3 QoNs relating to the criminal jurisdiction:

Reference	Subject	Estimate Hearing	Tabled Date
SQ26-000005 (Payman)	Wage Theft Enforcement: Referrals, Resourcing and Outcomes	Additional Estimates 2025-26	13 April 2026
SQ26-000001 (Payman)	Wage theft	Supplementary Budget Estimates 2025-2026	16 February 2026
SQ25-000837 (Payman)	Wage Theft Investigations and Findings	Supplementary Budget Estimates 2025-2026	15 December 2025

- For background: DEWR has also received the following QoNs relating to the criminal jurisdiction:

Reference	Subject	Estimate Hearing	Tabled Date
SQ25-001830 (Payman)	Wage theft	Supplementary Budget Estimates 2025 - 2026	10 February 2026
SQ24-002056 (Cash)	Consultation Process for Criminalisation of Wage Theft Provisions	Supplementary Budget Estimates 2024-2025	19 December 2024

Does complexity / ambiguity in the workplace relations framework contribute to underpayments?

- We understand there are a range of stakeholder views relating to ambiguity or complexity within the Fair Work framework.
 - The FWO enforces the law as it stands and employers must meet their obligations. We provide practical guidance, tools and advice to help employers achieve this.
 - The FWO's advice and education offerings are supported internally by specialist advice teams experienced in navigating complex and emerging workplace relations interpretative issues, including interaction issues.
- The FWO is also committed to collaborating and engaging with industry parties and other external stakeholders in relation to complex and emerging WR interpretative issues, to understand industry interpretative positions, expertise and perspectives, and to inform our advice and educative content.

- Where an issue arises where there is genuine ambiguity or uncertainty about the legal position, we assist employers and employees by providing general information about the issue, including where appropriate the relevant factors to consider and any practical steps or best practice information that may be appropriate.
 - The FWO is not able to make a determination or declaration to resolve that ambiguity.
 - In terms of how that ambiguity might work in that particular person or employer's circumstances, beyond the provision of general information, we will assist the person to understand where they might be able to get more specific help, which may for example include a representative body, legal aid, or other legal assistance.
 - Of course, we also always monitor court decisions, and will update our position and materials where appropriate to reflect the development of the law.

If pressed about the Federal Court's SCHADS Award decision (raised in Australian Industry Group's submission)

- The Federal Court proceedings referred to by the Ai Group in their submission originated from the FWO issuing a compliance notice to an employer in the SCHADS sector in January 2024 to rectify contraventions of the Award, based on our historic interpretation of the sleepover provisions of that Award.
 - Our positions on the interpretation of award and legislative provisions are established, and evolve over time, to inform the exercise of our statutory functions, including to provide education and advice about, and monitor and enforce compliance with, rights and obligations under the Fair Work Act and fair work instruments.
 - While the FWO cannot make determinations about the law or how it applies in specific circumstances, we are acutely aware that our information and guidance informs decisions that businesses and workers make and so the interpretative positions that underpin them must be thoroughly considered, consistently applied and defensible.
 - Our historic interpretation of the sleepover provisions of the SCHADS Award was based on comprehensive research, analysis and advice, and had been communicated consistently to the public since 2013.
- The compliance notice was issued consistent with our approach to 'guided compliance', as set out in our Compliance and Enforcement Policy (p. 9), with the employer subsequently exercising its statutory right to commence proceedings against the FWO to review the notice.
 - As would be reasonably expected, the FWO defended the proceedings consistently with its historic interpretation and the FWO's position, reflected in our Compliance and Enforcement Policy (p. 15) that litigation can help to clarify the law to help the workplace community to understand their rights and obligations
- Both the primary judge and the Full Court on appeal found that the sleepover provisions of the SCHADS Award lack clarity and precision in several respects, and while they did not agree with our historic interpretation, the decisions provide helpful clarity on rights and obligations under the Award, which we have reflected in updating our information and guidance.

- We will further update our information and guidance to reflect the Fair Work Commission's recent decision to vary the SCHADS Award with effect from 1 June, in proceedings brought by AI Group and other parties.
- We will work with our Disability Support Services and Aged Care Services Reference Groups, which includes both employer organisations and unions, to ensure that the updated information and guidance supports the needs of workplace participants.

If pressed about FWO's litigation of Coles and Woolworths:

- On 5 September 2025, the Federal Court made various findings in relation to liability in the FWO's legal proceedings against Woolworths and Coles (commenced separately in June 2021 and December 2021 respectively).

The FWO is currently reviewing these calculations in light of the findings made by the Court, and the subsequent findings that are yet to be made on the few remaining issues in dispute.

- The key findings in this decision in favour of the FWO include:
 - The contractual set off clauses relied on by Woolworths (6 months) and Coles (12 months) could only operate within a single pay period;
 - Notwithstanding that they paid annual salaries, Coles and Woolworths were required to make and keep records in accordance with section 535 of the Fair Work Act, and failed to do so; and
 - The reverse onus in section 557C applies and accordingly Coles and Woolworths have the onus of disproving the allegations (about which they had record-keeping obligations).
- In the ongoing proceedings, the FWO is seeking court orders requiring Woolworths and Coles to rectify any outstanding underpayments in relation to thousands of affected employees across each of their workforces, plus interest and superannuation.

If pressed on impact of Coles / Woolies on businesses, particularly small businesses:

- The FWO has alleged that the main cause of the underpayments in Coles and Woolworths was their practice of paying salaried employees annual salaries (approximately \$55,000 to \$88,000 across the two matters) that were insufficient to cover their minimum lawful entitlements, given they generally performed significant amounts of overtime work.
- Small business better placed given:
 - They employ significantly fewer employees than Coles and Woolworths
 - Much more likely to be aware of the hours that people work and accordingly well placed to ensure their salaries are sufficient to compensate them for such hours.
- It is also relevant to note that the FWO has relied on the reverse onus in s 557C of the Fair Work Act in respect of certain matters, which applies where an employer was required to make and keep a record and has failed to comply with the requirements. Details of the record keeping requirements are found in the Fair Work Regulations 2009 and have not been the subject of any recent relevant amendments.

- The FWO's website has also long contained information in respect of annualised salaries, both through a dedicated landing page and publicly accessible knowledge articles. For example:
 - The FWO's Library article, titled "Rules about when and how to pay employees", sets out that generally, employers need to pay their employees in full for each pay period.
 - The FWO's Payroll Remediation Guide also contains information on set off, restating the FWO's long held public position that 'employers need to pay their employees in full for each pay period in accordance with the applicable fair work instrument(s) or the Fair Work Act.'
- The decision does not prohibit the use of contractual annual salary arrangements, but instead makes it clear that where such arrangements are entered into the employer is required to pay the employee at least the amount that they are entitled to under the relevant industrial instrument for each pay period.
- Any employer would need to set the salary at a rate that would discharge that obligation and have a process in place to ensure that the salary is sufficient to do so. The decision also makes it clear that a contractual annual salary arrangement does not relieve an employer of their record keeping obligations under section 535 of the Fair Work Act.
- A contractual annual salary arrangement is not the only way that an annual salary can be achieved. There are other options available to employers, including:
 - Awards – a number of awards (for example, the Restaurant Industry Award 2020, Pharmacy Industry Award 2020 and the Clerks – Private Sector Award 2020) provide for annualised wage arrangements, where an employer can pay a fixed regular amount each pay period over a year. The relevant awards set out the rules that must be followed when entering into an annualised wage arrangement. These rules may allow an annualised wage to cover entitlements like minimum pay rates, penalties, overtime, allowances and annual leave loading. Typically, where provided for in an award, there is a requirement on the employer to undertake an annual reconciliation to ensure that employees are not disadvantaged over the year and also require the employer to keep a record of hours and unpaid breaks.
 - Enterprise agreements – an employer can make an Enterprise Agreement that makes provision for an annualised wage/salary arrangement noting that any such Enterprise Agreement must be approved by the Fair Work Commission and must pass the Better Off Overall Test.
 - Guarantee of annual earnings – an employee (or a prospective employee) and employer can enter into a guarantee of annual earnings by way of written undertaking. The written undertaking can be entered into by an employee who is covered by a Modern Award, with their employer, that allows the employer to pay the employee more than the high-income threshold per annum during a period of 12 months or more (see sections 328 to 333A of the Fair Work Act). The consequence of the undertaking is that the Modern Award does not apply.

Proposal to establish a Fair Work Court to resolve workplace disputes

- The FWO is aware that submissions to this Inquiry from the SDA and the ANMF call for the Commonwealth to establish a Fair Work Court to provide a simple, accessible avenue for employees to pursue unpaid entitlements.

- This is a matter for government – refer to DEWR.

Background

- Only courts can exercise judicial power.
- The FWC cannot exercise Commonwealth judicial power for example, by dealing with underpayment claims through compulsory arbitration, as it is an administrative tribunal, not a court.
- A Fair Work Court could be co-located with the FWC, either by replacing the current Fair Work jurisdiction of the Federal Circuit and Family Court of Australia, which provides an informal, low-cost process for small claims relating to underpayment of employment entitlements, or by duplicating the jurisdiction.

Funding – how has it been allocated within the FWO and what is the budget for the Criminal Investigations Branch budget? s.22 - irrelevant information

Agency Funding

- The FWO allocates incoming resources across the agency's functions reflecting the anticipated need. For example, in addition to operational areas, resourcing is directed to legal staff and lawyers, education and communications, and corporate and enabling services.
- As part of the 2023-2024 Mid-year Economic and Fiscal Outlook (MYEFO), the Government confirmed funding of \$55 million over four years from 2023–24 (and \$12.5 million per year ongoing) to support the introduction of the Offence to be investigated by the FWO and referred to the AFP or CDPP where appropriate.
- This funding includes \$49.5 million over four years (\$11.0 million per year ongoing) for the FWO to take on its new role as the investigatory agency for the Offence and operate technology systems to undertake investigations to a criminal standard.
- The FWO allocated incoming resources across the agency's functions reflecting the anticipated need. The funding supports:
 - Specially trained Fair Work Inspectors who undertake criminal investigations which must be segregated from civil investigations
 - Evidence management staff who manage the collection, chain of custody and analysis of physical and digital evidence. They also look after prosecution disclosure requirements
 - Legal support with expertise in criminal law
 - Calculations support to determine underpayment amounts
 - Technology operating costs associated with establishing a secure protected environment to host case management, handling, processing, analysis and storage of evidence in accordance with criminal investigation standards Expert forensic technology and data analysis
 - Investigation costs related to witnesses (eg. interpreters and translation), evidence gathering, execution of search warrants, including travel

- Education functions, including targeted engagement activities, the development of tailored guidance materials, resources, and website content. It also included a multi-channel communications campaign to educate the community about the offence.
- Ongoing costs associated with staffing, equipment and property.

CIB

- For the 25/26 FY, the Criminal Investigations Branch was allocated \$3,425,793.
- As at 31 March 2026, the Branch has spent \$2,429,126 on both labour and non-labour expenses.

Funding - Why was more funding needed? / why do other areas of the FWO need additional funding?

- The FWO's work to investigate the criminal offence is supported by a range of functions within the agency.
- The shift from being a solely civil to a dual track regulator requires a significant uplift in systems, processes and capability across the agency to support criminal investigations. For example, the recruitment of lawyers with criminal law expertise which must be segregated from the FWO's civil work.
- The criminal functions require additional, and in some cases different, work to be undertaken by the areas that support the work of the criminal investigations branch.

Case management platform

- In order to meet the requirements for criminal investigations in the AGIS, admissibility requirements for criminal proceedings and disclosure requirements, the FWO required funding to build and implement a new platform (including a case management system) to meet these standards and security requirements for protected information.
- The FWO's existing platform, and case management system, was built to civil standards only.

Staffing - What do the 16.7 staff do? How many are working on investigations? What are the other staff working on?

- The CIB has an allocated staffing budget for FY 25/26 of 16.7 ASL.
- The FWO currently has 14 staff working on criminal investigations across two teams (Criminal Investigations team and Evidence Management team). These staff were recruited into the Branch with skills and experience in undertaking and supporting criminal investigations and evidence management.
- There are also 5 staff who are responsible for projects to support the operationalisation of the criminal jurisdiction. These projects include the development of our case management system.

CDPP referrals - Why hasn't the FWO referred a matter and when does the FWO expect to refer a matter?

- Criminal investigations can be complex and take time. The duration of an investigation depends on a wide range of factors, including complexity, available evidence and legal considerations.
- Criminal investigations are likely to involve:
 - Limited access to documentary evidence
 - Complex schemes designed to avoid detection
 - Complex business structures
 - Victims from vulnerable cohorts who may require additional support eg. interpreters
 - Reliance on coordinated assistance from third parties eg. AFP for search warrants and Services Australia for digital forensic support
- It is also important that the FWO has exhausted all appropriate lines of enquiry before a referral, particularly where those enquiries may lead to exculpatory evidence favourable to those under investigation.
- The FWO has three active operations investigating alleged offending contrary to ss327A(1) of the FWA. In accordance with our C&E policy, we would refer a matter to the CDPP where we consider that we have gathered sufficient evidence to prove that a criminal underpayment offence or related offence has been committed and a referral is in the public interest.

If asked about the status or information about:

- *The FWO's ongoing investigations,*
- *matters CIB have currently under assessment,*
- *any crim referrals, or matters which did not progress to criminal investigation,*
- *specific employers or list of employers not in public domain*
- It is the FWO's general practice not to disclose information about matters which it has (or had) under criminal investigation, or has considered for criminal investigation. We may confirm such information where this is clearly in the public domain (for example, before the courts) or where we consider it is necessary for us to progress our investigation.
- Disclosure of this information may:
 - prejudice our ongoing investigation, particularly where the existence of the investigation is not yet known to the persons or entities being investigated. It is also possible that a closed investigation may be reopened at a later time if further or new information is identified, and disclosure could prejudice that occurring.
 - mean that if an investigation ultimately does not determine criminal conduct occurred, the employer or individuals may suffer harm or damage if their name is disclosed during an active investigation and before findings have been made.

- even where a matter may not result in a criminal investigation, those matters may remain under investigation within the FWO within our civil jurisdiction, in relation to which we would not comment.
- Information about the FWO's general approach to disclosing information about investigations is set out in the FWO's publicly available Compliance and Enforcement Policy and Media Policy.

If pressed further:

- I am not able to provide that information today and I can take the question on notice to consider what information may be provided OR I can't provide information about ongoing investigations on the grounds that it may give rise to prejudice to these investigations.

If asked about investigation methods:

- Public disclosure of information relating to the FWO's investigative methods may not be in the public interest if there is a risk of prejudice to an investigation, or the effectiveness of the FWO's criminal investigative work or subsequent referrals to the AFP/CDPP. As such, I am not able to provide that information today and I can take the question on notice to consider what information may be provided.

What are use and derivative use immunities?

- The FWO has the power to compel the production of records and documents in certain circumstances, copy and inspect records (ss709(d), 709(e) and 712(1) of the FWA) and conduct compulsory examinations (FWO notices). These powers override an individual's right not to incriminate themselves which is a significant loss of personal liberty.
- There are protections contained in the FWA that may apply where an individual is compelled to provide such information to the FWO. These protections seek to preserve some of that individual's right. These protections limit how the compelled information can be used (use immunities) as well as how information/documents/things obtained as a direct result of that information can be used (derivative use immunities) - (ss713(2), 713(3) and s713A)).
- The immunities prevent the compelled information, or derived information, from being used against that individual in future criminal proceedings. The FWO must be careful when undertaking criminal investigations to ensure how it is gathering and using information complies with these requirements under the FWA. If the FWO doesn't, it can give rise to unfairness to an accused and have serious consequences in a future prosecution.
- The immunities do not apply to all documents or information obtained pursuant to the FWO's compulsory powers (for example, they do not apply to employee records required to be kept pursuant to s 535(1)) and payslips: s713(4)(a)-(b)). The immunities also only apply to individuals (natural persons) so they do not apply to corporate entities such as companies.
- These immunities in the FWA are common in Commonwealth statutory frameworks. These immunities are ordinarily included where investigative powers are provided to regulatory agencies which expressly override this important individual right. Careful consideration is given during the drafting of these powers consistent with the Attorney General's Department's 'Guide to Framing

Commonwealth Offences, Infringement Notices and Enforcement Powers and the Office of Parliamentary Counsel's *Drafting Direction No. 3.5. Criminal law and law enforcement*. These documents are available on AGD and OPC's websites.

If asked directly if the immunities are a challenge for the FWO –

- We acknowledge the immunities in the FWA provide important statutory safeguards to protect a person's right not to self-incriminate themselves, balanced against the public interest in the FWO being able to effectively and expeditiously investigate suspected criminal conduct. This is why the FWO must be careful when undertaking criminal investigations to ensure how it is gathering and using information complies with these requirements under the FWA. These immunities are common in Commonwealth and other dual regulatory frameworks (for example, work health and safety and corporate and commercial regulation).

CDPP referrals - Is the bar for referrals to the CDPP too high?

- The FWO currently has three ongoing operations investigating allegations of offending contrary to s327A(1) of the FWA. These matters will be referred to the CDPP once they have been thoroughly investigated and if we consider that we have gathered sufficient evidence to prove that a criminal underpayment offence or related offence has been committed and a referral is in the public interest.
- As no matters have been referred to date, it is too early to know whether the CDPP will commence prosecutions based on referrals from the FWO. The CDPP will independently consider the matter in line with the *Prosecution Policy of the Commonwealth*. The *Prosecution Policy of the Commonwealth* is available on the CDPP's website.

Employers - How many businesses are using or have tried to access the safe harbour mechanisms?

- The FWO has not had any requests for cooperation agreements or under the Voluntary Small Business Wage Compliance Code.
- We recommend employers report intentional conduct that may amount to a potential offence or related offence to us as soon as they become aware of it. These safe harbour mechanisms are in place deliberately to support employers (including small business employers) to positively engage with us and agree to remedying the effects of the conduct.
- Our approach is outlined in our guide to cooperation agreements, and the Code, which are available on the FWO's website.
- While we cannot say how many employers have accessed this content on our website, we know that between 1 July 2024 and 31 December 2025:
 - the [Voluntary Small Business Wage Compliance Code](#) webpage was viewed more than 43,000 times
 - the [Guide to paying employees correctly and the Voluntary Small Business Wage Compliance Code](#) was viewed almost 14,000 times

- More generally, we also know that FWO's Compliance and Enforcement Policy has been downloaded more than 15,800 times during that same 18-month period.

Employers - Can employers avoid criminal investigation by concealing underpayments through no, or false, records? s.22 - irrelevant info

- The FWO will conduct criminal investigations in accordance with the considerations outlined in our C&E policy, with investigations generally being reserved for the most serious conduct including where there is a greater need for specific or general deterrence than what could be achieved through civil litigation.
- We would expect that employers may attempt to conceal underpayments through the use of false records or failing to keep records. When conducting a criminal investigation, we will be seeking to gather all available evidence. While the use of false records may make the investigations more complex and may also indicate a degree of pre-meditation and sophistication in relation to the alleged offending, it does not necessarily mean that an employer will be able to avoid detection of the offending and a subsequent criminal investigation. The FWO gathers a range of evidence including via other sources of documentary or testimonial evidence which is admissible in criminal proceedings.
- The FWO also takes the failure to make or keep records, or the provision of false information to the FWO, very seriously. The Fair Work Act (and regulations) and the Commonwealth Criminal Code each provide a suite of civil penalty and criminal offence provisions that address that type of conduct.
 - Fair Work Act provisions include contraventions related to the failure to make and keep records, the provision of false or misleading information to a Fair Work Inspector, and in certain circumstances, may engage the contravention of hindering or obstructing a Fair Work Inspector. Penalties for these range between [insert] depending on the contravention and whether they are alleged to fall within the 'serious contravention' regime under section 557.
 - Criminal Code provisions include giving false or misleading information or documents to a Commonwealth entity or a person exercising Commonwealth powers or performing Commonwealth functions (ss 137.1, 137.2), and in very serious cases the conduct could even amount to obstruction of a Commonwealth public official (s 149.1).

Finalised referrals - What action will be taken against employers who were assessed for criminal investigation but didn't make it to investigation? s.22 - irrelevant info

- This will depend upon the reasons why a decision was made to either not commence a criminal investigation or not continue a criminal investigation.
- There are many reasons why this might occur, including issues identifying witnesses who are willing to be involved in a criminal investigation or future prosecution against their employer, or where there are clear evidential gaps which the FWO will not be able to overcome to prove the matter to the criminal standard. Where the conduct may potentially amount to an offence, another reason can be that general deterrence may be able to be better achieved through civil

enforcement action (e.g. where there is no history of non-compliance and the alleged offending is at the lower end of seriousness).

- A matter assessed for criminal investigation that does not proceed may be referred to the FWO's civil enforcement teams, closed without further action taken or referred to another agency where offending outside of the FWO's jurisdiction is suspected.
- Where a matter is referred to the civil enforcement teams, this will usually include evidence that has been gathered during the assessment phase which can be used to progress the civil investigation.

If asked for details about specific referrals which have not been progressed to criminal investigation

- It is the FWO's general practice not to disclose information about matters (incl. the identity of entities) which it has considered for criminal investigation. This is because the matters may remain under investigation within the FWO's civil jurisdiction, in relation to which we would not comment. It also may prejudice our ability to re-consider the matter for criminal investigation if further or new information is identified which changes our assessment.
- Information about the FWO's general approach to disclosing information about investigations is set out in the FWO's publicly available Compliance and Enforcement Policy and Media Policy.

If pressed further:

- I am not able to provide that information today and I can take the question on notice to consider what information may be provided OR I can't provide information about ongoing investigations on the grounds that it may give rise to prejudice to these investigations.

**Threshold - What kinds of conduct are likely to meet the criminal threshold?
How are matters selected for investigation?**

- The criminal jurisdiction is generally reserved for the most egregious conduct and does not apply to accidental, inadvertent or genuine mistakes by an employer.
- To secure a conviction under the criminal offence, the CDPP will need to prove beyond reasonable doubt that an employer intentionally engaged in conduct that resulted in a failure to pay a required amount to, on behalf of, or for the benefit of, their employee.
- Because of this, the FWO will not be referring matters to the CDPP where an employer has unintentionally underpaid a worker (i.e., made a mistake). That will not meet the criminal offence threshold.
- By way of example, the types of matters that the FWO would possibly investigate for the new criminal offence include:
 - a case where an employer intentionally creates two rates of pay for different types of employees, for example, visa workers being paid rates that are significantly less than the award rate and non-visa workers being paid the award rate, where the employer provided false records to the FWO showing that all employees were paid the award rate;

- deliberate cash back arrangements where the intended result is the employee receiving less than their award entitlements;
- a case where the employer had a prior court finding and then continued to intentionally underpay the same type of employees at the same rate which did not meet the award requirement.

Superannuation – Is superannuation captured by the offence? Will the FWO enforce the offence in relation to intentionally unpaid superannuation?

- Yes, it is. However, the offence does not apply to superannuation if the parties are only national system employees and national system employers due to the States' referral of powers to the Commonwealth for the purposes of paragraph 51(xxxvii) of the Constitution. This broadly means that superannuation is excluded from the offence in relation to:
 - employees in New South Wales, South Australia, Queensland, Tasmania and Victoria who are employed by:
 - sole traders
 - partnerships
 - other unincorporated entities
 - non-trading corporations
 - most of the Victorian state government
 - Tasmanian local government employees.
- Superannuation is included for all other employers, namely those who are national system employers because they are constitutionally covered – with the most usual example being employers who are proprietary limited companies.
- As such, the FWO will consider these entitlements as part of its criminal investigations where they fall within the scope of the offence.
- The Australian Taxation Office is, however, the leading Commonwealth regulator with respect to superannuation. We note there are existing criminal offences within the Commonwealth taxation framework directed to failures to remit superannuation contributions. The FWO has formal arrangements in place with the ATO, and will refer appropriate matters for their consideration.

Related offence - How do the extensions of liability in the Criminal Code relate to the offence? Is it possible (as suggested by AiG) that the test for intentional conduct is lowered by the corporate criminal responsibility provisions?

- The FWA provides 'related offence provisions', in addition to the s 327A offence. The related offence provisions extend criminal liability in relation to the s 327A offence by adopting:

- Part 2.4 of the Commonwealth Criminal Code: attempt (s 11.1), complicity and common purpose (s 11.2), joint commission (s 11.2A), commission by proxy (s 11.3), incitement (s 11.4) and conspiracy (s 11.5),
- Section 6 of the Commonwealth Crimes Act 1914: accessory after the fact.
- In many instances, the related offence provisions still require proof of the s 327A offence having been committed by another person (the principal offender) – for example, where a person aids, abets, counsel or procures the commission of the offence by another (s 11.2 – complicity and common purpose).
- The Criminal Code (Part 2.5) sets out the ways in which corporate criminal responsibility may be established, including how to prove the intention of a company.
 - Physical elements (s 12.2): committed by a corporate agent who is *acting within apparent scope of their employment and/or authority* that are attributed to the company
 - Fault elements (s 12.3): if intention is a fault element in relation to a physical element of an offence, that fault element must be attributed to a company that *expressly, tacitly or impliedly authorised or permitted* the commission of the offence
- This way of attributing criminal liability to companies is a standard and longstanding provision in the Criminal Code and applies across many Commonwealth criminal offences, so is not unique to the FWO's jurisdiction.
- It must also be proven to the criminal standard of proof beyond reasonable doubt, which is a high evidential threshold, particularly where conduct of that nature will often require complex evidence of the operation of corporate entities and a range of individual officers or their governance bodies such as boards.

If asked about AiG submission regarding late payments engaging criminal liability:

We are aware of the submission by AiG raising concern as to the operation of the offence provision where an employer pays an amount after the time that it is due.

Whilst it is not for FWO to comment on any policy intent regarding the drafting of the offence, we consider that the inclusion of the failure to pay 'when an amount is due' to be providing a clear point at which the offence crystallises, so the legislation provides clear obligations.

Absent this aspect of the offence, this would potentially raise the question of 'how late is too late', and a lack of clarity as to when the offence is actually complete.

As a separate matter however, if the FWO identified that intentional underpayment conduct arose because of an employer's late payment, it would still be necessary for us to consider whether we thought that pursuing such conduct as a criminal offence would be in the public interest. It seems unlikely that that would occur, unless the conduct was accompanied by egregious or exploitative circumstances which warranted use of such a serious sanction.

Challenges - Do we think there are any areas that are not working or should be amended b.22 - info

- At this early stage, the offence can be said to be broadly operating as intended. We are actively investigating the offence in accordance with the considerations in the C&E policy, and continue to identify and consider matters which could be progressed for criminal investigation.
- That said, this is a new offence provision which has not yet been tested before the courts. We will be guided by feedback from the CDPP and the courts to inform our views on this and make any formal recommendations to the Department based on that feedback.

If asked about technical points raised by other submissions

- We welcome and do consider any feedback from stakeholders, including those who have made submissions to this inquiry. However, we do not think it is helpful for us to speculate publicly about the offence provision before it has had the opportunity to be tested before the courts. We will make any formal recommendations to the Department based on feedback from the courts and the CDPP in due course.
- We strongly encourage anyone who believes that they are being underpaid, including intentionally underpaid, or anyone who is aware of others being underpaid to report this to the FWO as detection is key to enforcement.

Closing Loopholes - Confidential letter b.22 - info

- The FWO did provide a confidential letter to the Closing Loopholes review regarding the criminal jurisdiction, including on technical matters about the offence. We asked for the FWO's submission to be confidential so we could be candid with the Reviewer without prejudicing any ongoing criminal investigations and future prosecutions relating to the offence.

If pressed to provide the confidential letter, or details about the letter, to the committee

- I am not able to provide that information today and I can take the question on notice to consider what information may be provided to assist the Committee.

Budget

Monday, 4 May 2026

12:24 PM

Funding – how has it been allocated within the FWO

- As part of the 2023-2024 Mid-year Economic and Fiscal Outlook (MYEFO), the Government confirmed funding of \$55 million over four years from 2023–24 (and \$12.5 million per year ongoing) to support the introduction of the Offence to be investigated by the FWO and referred to the AFP or CDDP where appropriate.
- This funding includes \$49.5 million over four years for the FWO to take on its new role as the investigatory agency for the Offence and operate technology systems to undertake investigations to a criminal standard.
- The measure provides the FWO with **departmental funding** of approximately \$11 million per year on an ongoing basis, with an **associated ASL of 16.7**. I'd like to give the committee some context on how that funding is being implemented.
- The \$11 million is a departmental measure — **it forms part of our overall appropriation** and it doesn't fund only the 16.7 ASL. Consistent with standard practice for departmental appropriations, the funding supports a set of functions that together enable the agency to deliver on the measure's intended outcomes.
- The measure **supplements capacity**, with a **component directed to standing up** the new Branch for the specialist components.
- The **16.7 ASL is the net additional capacity** the measure brings to the FWO at a whole-of-agency level. Some of that capacity is in the newly created roles directly attributable to the criminal jurisdiction.
- That's a decision we have made, in our view, a more efficient one — it allows us to draw on existing expertise and functions across the agency rather than duplicating capability.
- So some of it supplements existing functions — for example, our legal team had pre-existing capability that we've extended

rather than duplicated. And some of the implementation effort is being delivered by people whose substantive roles are funded from the FWO's base appropriation, with the measure funding the marginal uplift.

- It also reflects the reality that implementation of a reform of this kind is not a single activity.
- The new criminal offence represented a fundamental change in our regulatory work, where the FWO was historically a civil regulator. Conducting criminal investigations to the standard required by the CDPP, against the criminal standard of proof, with the procedural protections that attach to criminal proceedings, required significant changes to our operating model.
- The expenditure is expected to shift across the forward estimates as implementation matures. Expenditure in the early years was weighted toward systems uplift, training, education and communications. Expenditure in later years is expected to be more heavily weighted toward ongoing operational activity.
- The implementation of the jurisdiction is not something that is cordoned off from the rest of the FWO's work – an underpayment matter may move through multiple channels, civil investigations function, legal functions, and into our criminal investigations functions.
- The FWO allocated incoming resources across the agency's functions reflecting the anticipated need. The funding supports:
 - **criminal investigations capability** — investigators with the training to conduct evidence-gathering to a criminal standard, that is segregated from our civil jurisdiction, and evidence management manage the collection, chain of custody and analysis of physical and digital evidence. They also look after prosecution disclosure requirements
 - Investigation costs related to witnesses (eg. interpreters and translation), evidence gathering, execution of search warrants, including travel
 - **legal capability** — we've augmented our internal legal function and our briefing relationship with the CDPP, because criminal referrals require a different legal workflow than civil litigation.

- **technology operating costs** associated with establishing a secure protected environment to host case management, handing, processing, analysis and storage of evidence in accordance with criminal investigation standards Expert forensic technology and data analysis
- **Intelligence and calculations**
- **Education functions**, including targeted engagement activities, the development of tailored guidance materials, resources, and website content. It also included a multi-channel communications campaign to educate the community about the offence.
- And there's a **corporate component** — finance, people, governance, property — that supports the measure indirectly.

CIB

- For the 25/26 FY, the Criminal Investigations Branch was allocated \$3,425,793.
- As at 31 March 2026, the Branch has spent \$2,429,126 on both labour and non-labour expenses.
- I can take the disaggregation on notice. Broadly, the measure includes employee expenses, supplier costs — including legal services and external expert advice — and an ICT component.

CIB People stats

Thursday, 30 April 2026 7:58 AM

- The CIB has an allocated staffing budget for FY 25/26 of 16.7 ASL.
- The FWO currently has 14 staff directly working on criminal investigations .
- These staff were recruited into the Branch with skills and experience in undertaking and supporting criminal investigations and evidence management.
- There are also 2 staff who are responsible for projects to support the operationalisation of the criminal jurisdiction. These projects include the development of our case management system. These staff work in a project team with staff performing functions for the broader Group and Agency

How many Fair Work Inspectors?

- 8 badged Fair Work Inspectors in the Branch

Evidence management

Saturday, 2 May 2026 3:58 PM

EM will collect, store, analyse, disclose and dispose of evidence in compliance with applicable Commonwealth, state and territory legislation.

In addition to these, compliance also includes standards, policies and guidelines governing continuity of evidence, chain of custody, duties of disclosure, and information security.

Evidence must be handled and preserved in a manner that prevents loss, contamination or unauthorised access, and supported by accurate records that demonstrate its authenticity and reliability from the point of collection through to presentation in legal proceedings.

Investigation stats

Wednesday, 29 April 2026 8:20 AM

Since 1 Jan 2025

- 39 assessed (finalised) > 35 not progressed to crim.
- 4 matters to full investigative operations
- 3 matters remain under active operations
- Further 7 currently under assessment, which includes preliminary investigative steps such as obtaining bank, STP and other data plus witness engagement
- Numbers not static; change and ons/off.

[1 matter closed referred to civil investigation]

- Over 200 NTPs
- Around 100 voluntary productions
- Over 6000 documents
- Data from 7 agencies including ATO, Home Affairs, AFP, SA and others
- Witness discussions and formal interviews
- Forensic assessments

Investment/Uplift

Wednesday, 29 April 2025 2:34 PM

What does the funding support?

- specially trained Fair Work Inspectors who undertake criminal investigations, which must be segregated from civil investigations
- evidence management staff to manage the collection, chain of custody and analysis of physical and digital evidence, and prosecution disclosure requirements
- legal support
- expert forensic technology and data analysis
- calculations support to determine underpayment amounts
- investigation costs related to witnesses (for example, transcription and translation), evidence gathering and execution of search warrants, including travel
- technology operating costs associated with a secure protected environment to host case management, handling, processing, analysis and storage of evidence in accordance with criminal investigation standards, and
- ongoing costs associated with staffing, equipment and property.

prior to the Offence taking effect on 1 January 2025, resources were allocated to implementation of the new jurisdiction including:

- capital investment in physical infrastructure for management of evidence to a criminal standard,
- development and building of a case management system and secure platform that meets the requirements for criminal investigations and referrals,
- establishing inter-agency arrangements, including with the AFP, CDPP and Services Australia to support criminal investigations activities and referrals,
- developing internal processes, policies and training to support the FWO becoming a dual civil and criminal investigating agency,
- publicly available guidance material and website content about the Offence.

Part of the funding allocation supports the operation and management of the case management system and secure technology platform, as well as non-labour costs associated with investigations including translations, interviews, forensic support and travel associated with investigative activities. Criminal investigations are resource-intensive due to the evidentiary requirements and serious nature of the alleged offending.

Staff were recruited to the Branch across multiple recruitment rounds during the last quarter of 2024, with onboarding occurring over late 2024 and the beginning of 2025. The Branch is resourced with staff who have skills and experience in undertaking and supporting criminal investigations. Staff in the Branch are responsible for:

- identifying and assessing potential criminal matters that align with the FWO's Compliance and Enforcement Policy and Priorities,
 - supporting other teams with early assessment and referrals of potential criminal matters,
 - conducting criminal investigations, including interviewing witnesses, exercising compliance powers, undertaking search warrants, and analysing evidence,
 - ensuring all evidentiary material collected in our criminal investigations is managed securely and in accordance with legal obligations;
- preparing briefs of evidence for referral to the CDPP.

Case management system

- In order to meet the requirements for criminal investigations in the AGIS, admissibility requirements for criminal proceedings and disclosure requirements, the FWO required funding to build and implement new technology platforms, including a case management system, to meet these standards and security requirements for protected information.
- The FWO's existing platforms and civil case management system were not appropriate for management of criminal investigations and referral to the CDPP.

Safe Harbour

Wednesday, 29 April 2026 4:23 PM

there are two 'safe harbour' mechanisms in relation to the Offence: • the Voluntary Small Business Wage Compliance Code (the Code) is a legislative instrument developed by the FWO under the Fair Work Act that provides assurances for small businesses that have unintentionally underpaid their workers. • the FWO may enter into a cooperation agreement with an employer, business or individual who has told the FWO that they have engaged in conduct that may constitute the Offence. The safe harbour mechanisms only operate in relation to possible criminal prosecution. The FWO is not prevented from taking other enforcement action in relation to an underpayment, such as commencing civil penalty litigation or entering into an enforceable undertaking, if one of the safe harbour mechanisms is relied upon.

- The FWO has not had any requests for cooperation agreements or under the Voluntary Small Business Wage Compliance Code.
- We recommend employers report intentional conduct that may amount to a potential offence or related offence to us as soon as they become aware of it. These safe harbour mechanisms are in place deliberately to support employers (including small business employers) to positively engage with us and agree to remedying the effects of the conduct.
- Our approach is outlined in our guide to cooperation agreements, and the Code, which are available on the FWO's website.
- While we cannot say how many employers have accessed this content on our website, we know that that between 1 July 2024 and 31 December 2025: [\[IA1\]](#) [\[F2\]](#)
- the [Voluntary Small Business Wage Compliance Code](#) webpage was viewed more than 43,000 times
- the [Guide to paying employees correctly and the Voluntary Small Business Wage Compliance Code](#) was viewed almost 14,000 times

STP/Measurement

Sunday, 3 May 2026 4:32 PM

- The FWO does not have access to data on businesses registered to make wages payments, and the payment of wages and entitlements other than in specific cases or via prescribed taskforces and subject to limitations.
- This is something that would assist our work in detecting and proactively preventing underpayments, as well as reporting on levels of compliance across the economy.
- Our submission to Treasury's review of tax regulator secrecy exceptions outlines our view that greater access to Single Touch Payroll data held by the ATO would allow us to identify paying entities and what they pay their employees, to identify and recover underpayments.^[1]
- ^[1] ee [DEWR - FWO - Response letter - A Booth Redacted.pdf](#)

From <<https://sharedservicescentre.sharepoint.com/sites/FWO-Doc-B6/Inquiries%20Reviews%20and%20Submissions/Education%20and%20Employment%20Committee/2026%2003%20-%20Wage%20Theft%20Inquiry/%5bDraft%5d-%20Inquiry%20Appearance%20brief%20-%20Wage%20Theft%20Inquiry%202026.docx>>

Superannuation

Sunday, 3 May 2026 4:44 PM

1. The FWO's role is limited to enforcing underpayment or non-payment of superannuation contributions (breach of a fair work instrument such as an award/NES) and recovering unpaid superannuation as part of enforcing entitlements under the Fair Work Act.

Exceptions

The criminal offence provisions don't apply to all entitlements for certain employees. This broadly includes:

- employees in New South Wales, South Australia, Queensland, Tasmania and Victoria who are employed by sole traders, partnerships, other unincorporated entities, or non-trading corporations
- most Victorian state government employees
- Tasmanian local government employees.

Find out more about [state referred businesses](#).

For these employees, the criminal offence provisions don't apply for:

- superannuation contributions
- payment for taking long service leave
- payment for taking leave connected with being the victim of a crime
- payment for taking jury duty leave or for emergency services duties.

The criminal offence provisions apply to other wages and entitlements for these employees

From <<https://www.fairwork.gov.au/about-us/compliance-and-enforcement/criminal-prosecution>>

2. The ATO has extensive powers to recover superannuation and enforce compliance with the *Superannuation Guarantee (Administration) Act 1992* (Cth) including director liability/crim provisions. Upcoming pay day super reforms.
3. The FWO works closely with the ATO.
4. The FWO is not able to proactively monitor payment of the superannuation guarantee because in most circumstances, strict secrecy provisions in the tax law prohibit the FWO from accessing ATO data to determine whether superannuation has been paid.



nes-supera
nnuation-...

Wallis Research Report & Engagement with UoM

Wednesday, 29 April 2026 1:25 PM

\$40k. Awaiting Law School analysis but have survey data.

Hort and Cafes/Restaurants

518 respondents

Replicates 2015 study, but incl Qs on reforms. Undertaken in late 2025 (survey). Most recent and only study into business attitudes.

Considering the factors encouraging changes made to compliance procedures, and the proportion of businesses who stated these as being important:

- Almost all (90%) suggested that maintaining a reputation as a good or model employer was important
- While around two thirds suggested that each of the following factors were important:
 - A sense that the changes in the law were a positive development that employers should willingly comply with (68%)
 - Direct contact with the Fair Work Ombudsman (66%)
 - Additional penalties for serious contraventions (e.g. deliberate breaches) (64%)
 - Hearing about Fair Work Ombudsman litigation, enforceable undertakings or campaigns involving other employers in your industry (64%)
 - Introduction of criminal penalties for wage theft (62%)
 - Pressure from your employees (61%)

s.22 - irrelevant information