



Review of the Office of the Fair Work Ombudsman – Terms of Reference

Context

The Office of the Fair Work Ombudsman (FWO) is an independent statutory office under the *Fair Work Act 2009*. The FWO's purpose is to promote harmonious, productive, cooperative, and compliant workplace relations in Australia.

Under the Fair Work Act, the FWO's statutory mandate is to fulfil the following functions:

- provide education, assistance, advice and guidance to employers, employees, outworkers, outworker entities and organisations, including in multiple languages
- promote and monitor compliance with workplace laws
- inquire into and investigate breaches of the Fair Work Act
- take appropriate enforcement action
- perform its statutory functions efficiently, effectively, economically and ethically.

The FWO's activities in discharging its statutory functions continue to evolve over time, including in response to labour market shifts and changes to the legal framework. An independent capability review of the agency was conducted in late 2018 with all recommendations implemented. In recent years and over successive Budgets, the FWO has taken on a range of additional functions.

As a result, it is timely to conduct a review of the FWO to ensure its operational practices and resource allocation are optimal, enabling it to capitalise on possible efficiencies without negatively impacting on its core service delivery and ability to address emerging workplace issues.

The review is consistent with the Government's commitment to budget repair and responsible spending. Its recommendations will help identify and inform savings in line with a 2.5 percent ongoing reduction in the FWO's departmental budget announced in the 2023-24 Budget.

Objectives

The objectives of the review of the FWO are to:

1. examine the operational practices of the FWO to determine whether any changes or modifications to specific practices or activities would enhance the efficient operation of the FWO
2. assess how the FWO allocates its resources to deliver its statutory mandate and make recommendations to ensure that resources are used efficiently to deliver positive outcomes for the community
3. identify any barriers to the FWO operating efficiently to fulfil its functions
4. provide a suite of recommendations, of which all or a combination of, would identify efficiencies and opportunities for savings and provide the basis for a 2.5 per cent ongoing saving from the FWO's departmental budget based on its October 2022 departmental budget allocation.

Conduct of the review

An independent reviewer will be appointed to conduct the review.

In conducting the review, the reviewer is to consult the Department of Employment and Workplace Relations and the FWO. The review may consider best practice, including the practices and operations of any comparable regulators.

In undertaking their assessment, the reviewer will take as given the FWO's legislative framework. The recommendations should not adversely impact the FWO's ability to carry out its core service delivery, such as educating workers and businesses about their rights and obligations, monitoring compliance with the Fair Work Act, taking enforcement action where necessary and assisting employees to recover entitlements. The review should consider the full range of the FWO's work.

The reviewer will report to the Minister for Employment and Workplace Relations by 30 November 2023. The Minister will consult, as appropriate, with the Prime Minister and Minister for Finance in agreeing changes arising from the review.