



# Review of the Office of the Fair Work Ombudsman

Prepared for consideration by Minister for  
Employment and Workplace Relations

Final Report 7 December 2023

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The findings in this report are based on a qualitative study and the reported results reflect a perception of the Office of the Fair Work Ombudsman but only to the extent of the stakeholders consulted. Any projection to wider stakeholders is subject to the level of bias in the method of sample selection. No warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by stakeholders consulted as part of the process.

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# Acknowledgement of Country

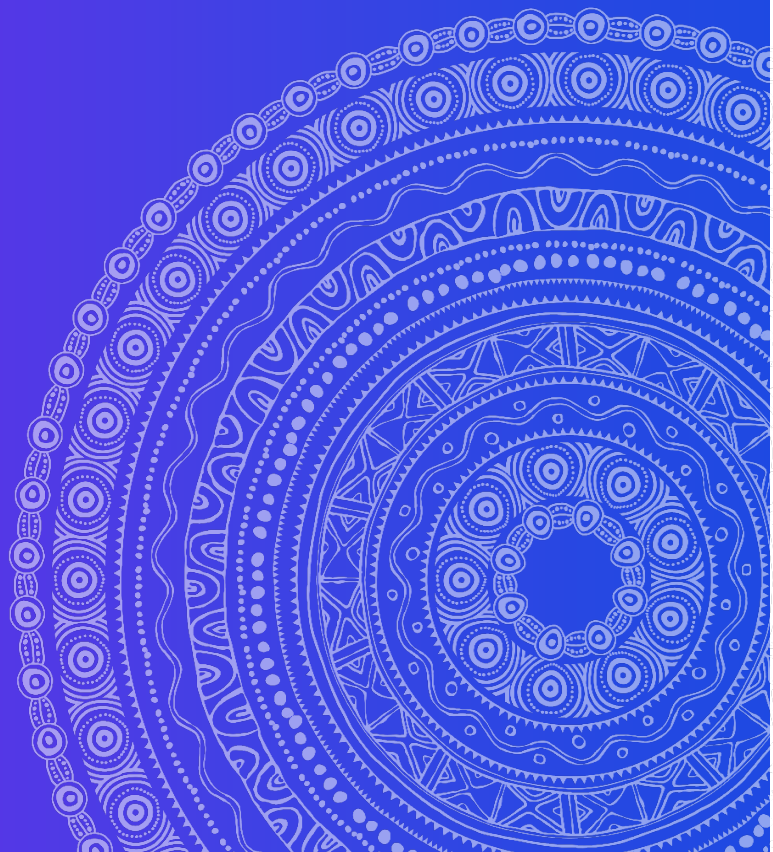
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At KPMG, our future is one where all Australians are united by a shared, honest, and complete understanding of our past, present, and future. We are committed to making this future a reality. Our story celebrates and acknowledges that the cultures, histories, rights, and voices of Aboriginal and Torres Strait Islander People are heard, understood, respected and celebrated.

Australia's First Peoples continue to hold distinctive cultural, spiritual, physical and economical relationships with their land, water and skies. We take our obligations to the land and environments in which we operate seriously.

We look forward to making our contribution towards a new future for Aboriginal and Torres Strait Islander peoples so that they can chart a strong future for themselves, their families and communities. We believe we can achieve much more together than we can apart.

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# Executive Summary

The Office of the Fair Work Ombudsman (the FWO) is an independent statutory office with the purpose to promote harmonious, productive, cooperative, and compliant workplace relations in Australia. Its activities in discharging its statutory functions continue to evolve over time, including in response to labour market shifts and changes to the legal framework.

In recent years and over successive Budgets, the FWO has taken on a range of additional statutory functions. Given this context, it is timely to conduct a review to ensure its operational practices and resource allocation are optimal, consistent with the Government's commitment to budget repair and responsible spending. The Review of the Office of the Fair Work Ombudsman (the Review) Terms of Reference detail the expectations of the Review including to provide a suite of recommendations, identifying efficiencies and opportunities for savings.<sup>1</sup>

Primary opportunities identified through this Review are geared towards informing savings in line with a 2.5 percent ongoing reduction in the FWO's departmental budget announced in the 2023-24 Budget. The information presented in this Review will support the FWO to take a considered approach to applying these savings in 2023-24 and over the forward estimates. It is intended that the findings of this Review will enable the FWO to capitalise on possible efficiencies without negatively impacting on its core service delivery or its ability to address emerging workplace issues.

The Review was delivered over approximately three months in September – November 2023. Review activities included successive rounds of stakeholder consultations, data requests and analysis, hypothesis generation and testing, and production of this report. Key emerging themes (summarised below) from the Review's current state assessment centred around the influence of the FWO's complex operating environment on its operations, regulatory strategy, organisational structure, culture and risk settings, capability constraints, and how it approaches collaboration and partnerships.

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<sup>1</sup> Department of Employment and Workplace Relations, 3 July 2023, *Review of the Office of the Fair Work Ombudsman – Terms of Reference*, Australian Government. <https://www.dewr.gov.au/workplace-relations-australia/resources/review-office-fair-work-ombudsman>

## Emerging themes from the Review

### Operating environment



The highly dynamic, contested and complex nature of the environment within which the FWO operates drives effort for the regulator to respond.

### Organisational structure



The FWO's organisational structure is mostly process based. There are some examples of functional duplication within its structure. This may be driving some structural inefficiencies.

### Collaboration and partnerships



The FWO collaborates actively in a number of whole of government activities, such as taskforces, where the objectives align or intersect with its focus areas. However, it may be missing opportunities for collaboration, innovation and efficiencies in delivery of outcomes.

### Regulatory strategy



The FWO undertakes some proactive work as part of activity it delivers in line with its annual priorities. However, much of its regulatory response is complaints driven and, therefore, reactive. Much of how it measures its performance is also based on reacting and responding to complaints, rather than on outcomes.

### Organisational culture and risk settings



Generally, there appears to be a tendency toward low tolerance levels for risk taking and avoiding public criticism. This may result in delayed or convoluted decision making, decisions being made at a higher level than they could be, an overly thorough or cautious approach to service delivery or over servicing, and a somewhat internally focused culture.

### Capability constraints



The FWO appears to be experiencing some capability constraints that impact on its ability to efficiently fulfil its functions as Australia's workplace relations regulator. For example, it has a limited budget for investing in new technology and workforce challenges may also be having an impact on efficiency.

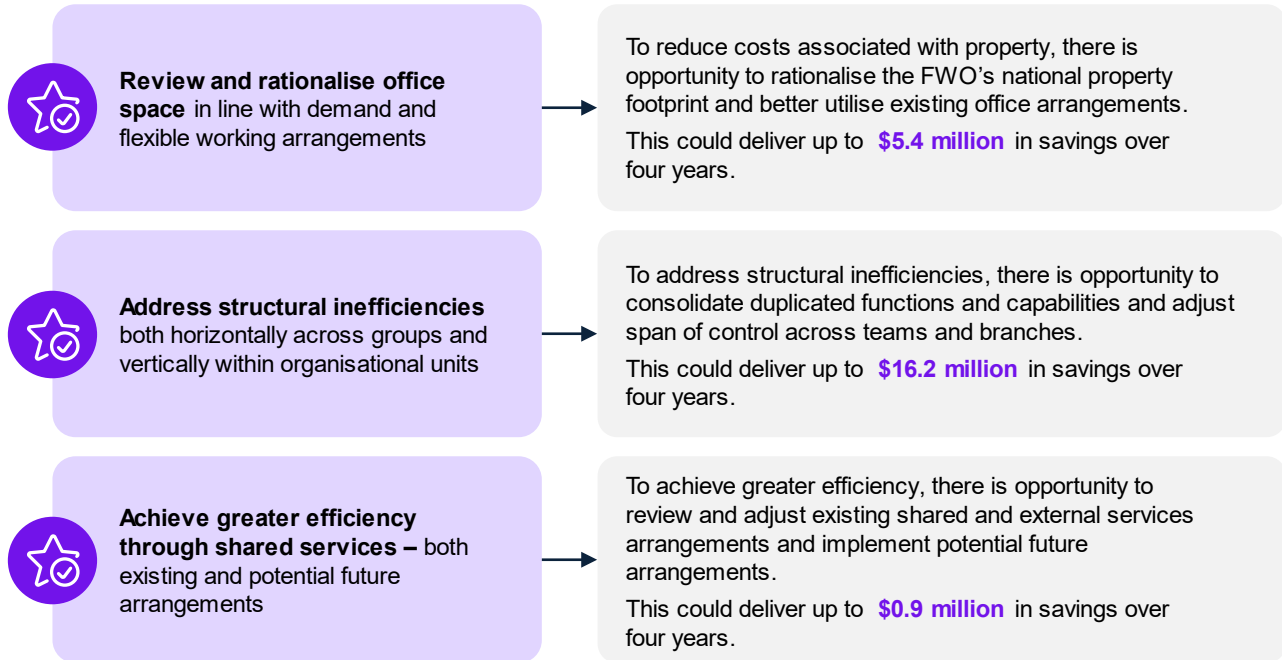
The future state opportunities identified in this Review need to be considered in the broader context of factors that are still to be determined. Therefore, several qualifications have been applied that highlight the limited scope of this review, the hypothetical nature of examples provided and the various implementation considerations regarding approach and cost, that have not been captured as part of this Review. These qualifications are outlined in detail in Chapter 3 Future State Opportunities.

Five assessment criteria were developed to assess and prioritise potential opportunities. These included strategic alignment, feasibility, fiscal impact, service delivery and risk. Application of these criteria identified three primary opportunities for implementation. These opportunities, centring on rationalising office space, addressing structural inefficiencies and managing shared services, scored the highest against the assessment criteria and, importantly, offer immediate potential savings (from this year, being 2023-24). The figures identified in the opportunities are not necessarily cumulative but are suggested as a combination of measures. There are also costs that the FWO would incur to implement savings identified, which have been identified as uncosted assumptions in the future state analysis.

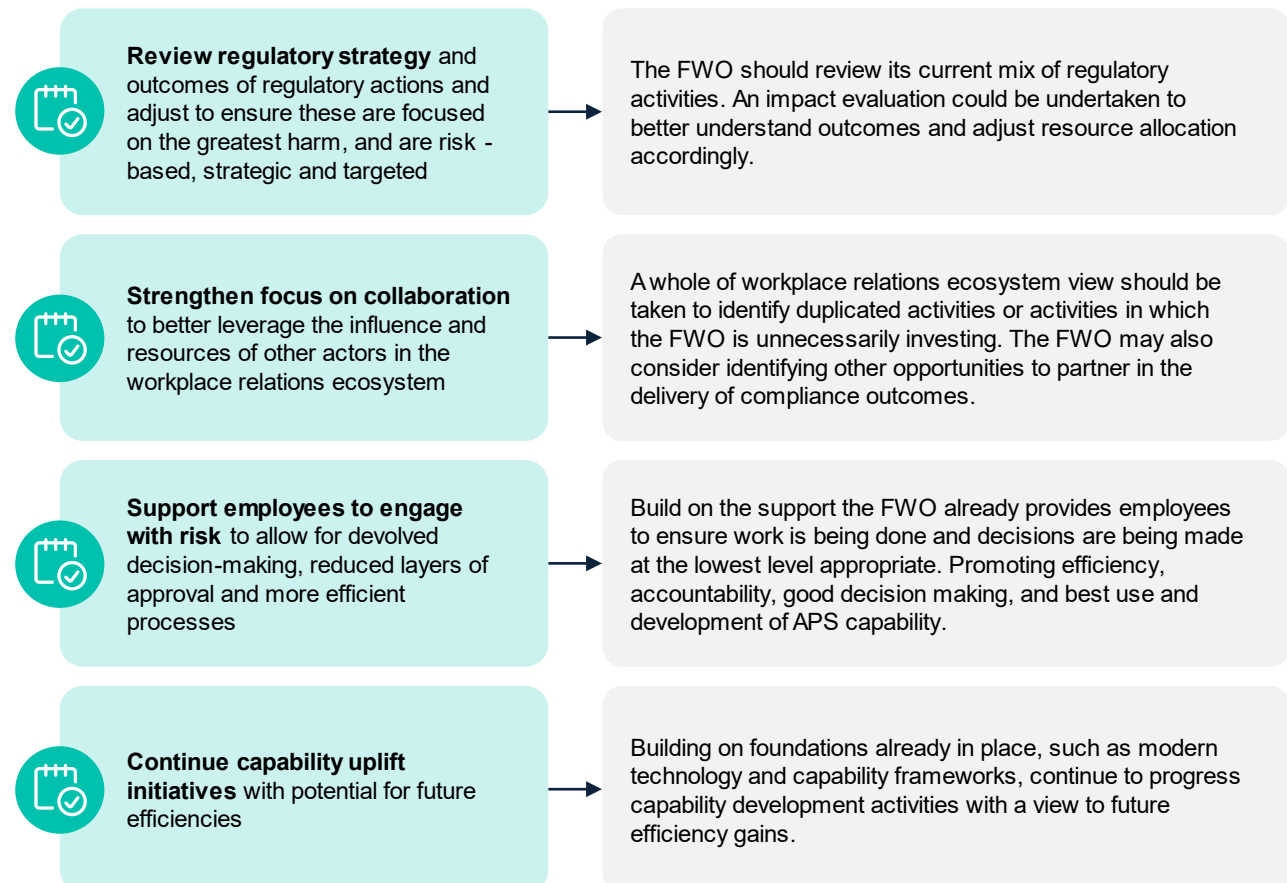
The Review identified four additional opportunities that could potentially involve savings, would support successful implementation of the primary opportunities, or would otherwise support better practice operations. These include reviewing the FWO's regulatory strategy from an impact lens, exploring opportunities to collaborate in the delivery of outcomes, supporting employees to engage with risk and continuing to progress capability uplift initiatives.

## Opportunities identified by the Review

### Primary opportunities recommended for implementation



### Other opportunities for consideration





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# Glossary

ABCC	Australian Building and Construction Commission
ACCC	Australian Competition and Consumer Commission
AHRC	Australian Human Rights Commission
API	Application Programming Interface
APS	Australian Public Service
APSC	Australian Public Service Commission
APSE database	Australian Public Service Employment database
ASIC	Australian Securities and Investment Commission
ASL	Average Staffing Level
ATO	Australian Taxation Office
CEIS	Casual Employment Information Statement
CEO	Chief Executive Officer
CFO	Chief Financial Officer
COO	Chief Operating Officer
CPMF	Commonwealth Property Management Framework
CRM system	Customer Relationship Management system
DEWR	Department of Employment and Workplace Relations'
DFAT	Department of Foreign Affairs and Trade
DFAT	Department of Foreign Affairs and Trade
EAS	Employer Advisory Service
Fair Work Act	<i>Fair Work Act 2009</i>
FOI	Freedom of Information Act
FRAC	Fast Food, Restaurants and Cafes
FTE	Full Time Equivalent
FWIS	Fair Work Information Statement
FWO	Fair Work Ombudsman / Office of the Fair Work Ombudsman
Hayne Royal Commission	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
Home Affairs	Department of Home Affairs
IDC	Inter-Departmental Committee
ILO	International Labour Organization
KPIs	Key Performance Indicators
MAP	Modern Awards Pay Database
Minister	Minister for Employment and Workplace Relations
MoU	Memoranda of Understanding
NES	National Employment Standards
OLSC	Office of Legal Services Coordination
PACT	Pay and Conditions Tool
PALM Scheme	Pacific Australia Labour Mobility Scheme
PGPA Act	<i>Public Governance, Performance and Accountability Act</i>
RfA	Request for Assistance
SDO	Service Delivery Office

# 1 Background and Approach

The 2022 change in government has brought a renewed commitment from the Australian Government to prioritise workplace relations and ensure the fair work system is fit-for-purpose for modern Australia.

Machinery of Government changes in July 2022 realigned the Office of the Fair Work Ombudsman (in this report referred to as the FWO/the Agency) and the Department of Employment and Workplace Relations' (DEWR) statutory functions to the employment and workplace relations portfolio, while significant adjustments to the FWO's remit and structure were being progressed with broader legislative reforms.

There has also been significant upheaval in how Australians work since the FWO undertook a capability and performance review in 2018. The changes experienced are expected to continue over the next decade and will present unique challenges for emerging workplace issues. Employees and businesses will continue to be affected by the development and adoption of emerging technologies, increasing levels of cyber risk, new ways of doing business, post-COVID expectations around work and a dip in economic confidence. At this time of renewal and significant changes, and with the new Fair Work Ombudsman's term beginning in September 2023, it is integral to ensure the foundations can support an independent, trusted and empowered FWO.

These recent structural changes, new compliance and enforcement responsibilities, ongoing regulatory reforms, and changes to the FWO's scope and remit, present an opportunity to stocktake the regulator's activities. Within this context, the Australian Government announced savings of \$15.8 million over four years from 2023-24 by reducing the FWO's departmental resourcing by 2.5 percent.<sup>2</sup> This Review into the

FWO's operations was also announced in the 2023-24 Budget to support this measure.<sup>3</sup>

## 1.1 Review objectives and scope

This Review assessed the FWO's operational activities and practices. It considered optimal resource allocation within a context of evolving functions and the Australian Government's commitment to budget repair and responsible spending. Insights provided in this final report were tested to ensure they do not adversely impact the FWO's ability to carry out its core service delivery.

The Review did not consider the effectiveness of the FWO as it relates to the delivery of its primary functions and obligations. Nor did it consider the suitability or appropriateness of functions assigned to the FWO. These lines of inquiry were out of scope for the Review.

The objectives of the Review, as outlined in the Review of the Office of the Fair Work Ombudsman – Terms of Reference<sup>4</sup>, were to:

- 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
- 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
- Identify any barriers to the FWO operating efficiently to fulfil its functions
- Provide a suite of recommendations of which all, or a combination thereof, would identify efficiencies and opportunities for savings and provide the basis for a 2.5 percent ongoing saving from the FWO's departmental budget based on its October 2022 departmental budget allocation.

<sup>2</sup> Part of the 'reviewing policies and programs to ensure quality spending' measure. The savings achieved under this measure will be redirected to fund other employment, skills and training, and workplace relations programs. See Department of Employment and Workplace Relations, 9 May 2023, *Portfolio Budget Statements 2023-24, Budget Related Paper No. 1.6 Employment and Workplace Relations Portfolio*, Australian Government, pp. 19-20.

<sup>3</sup> Australian Government, 9 May 2023, *Budget 2023-24, Budget Measures, Budget Paper no. 2*, pg. 108.

<sup>4</sup> Department of Employment and Workplace Relations, 3 July 2023, *Review of the Office of the Fair Work Ombudsman – Terms of Reference*, Australian Government. <https://www.dewr.gov.au/workplace-relations-australia/resources/review-office-fair-work-ombudsman>

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## 1.2 Review approach overview

The Review was delivered over approximately three months in September – November 2023. Review activities included successive rounds of stakeholder consultations, data requests and analysis, hypothesis generation and testing, and production of this report. The approach to delivering this Review was developed in consultation with DEWR to ensure the approach reflected the objectives, scope and intent of the Review, in line with the terms of reference.

### 1.2.1 Current state assessment

The Review undertook a current state assessment to understand how the FWO is currently operating and to establish a financial and operational baseline. This involved clearly defining current levels of resourcing, functions and remit, and building a credible and consistent baseline of current functions as the foundation for analysis. The assessment considered five years of historical information to build an understanding of changes to conferred functions and remit, and the demand on FWO resources.

Key emerging themes from the Review's current state assessment centred around the influence of the FWO's complex operating environment on its operations, regulatory strategy, organisational structure, culture and risk settings, capability constraints, and how it approaches collaboration and partnerships.

### 1.2.2 Stakeholder consultation

The Review team held over 23 consultations to gain insights into the overall performance and efficiency of the FWO, and into specific operational practices and opportunities for greater efficiency. This included consultation with senior executive staff and nominated delegates from all Groups of the FWO, relevant divisions of DEWR and Fair Work Commission. These consultations involved both one-on-one semi-structured interviews as well as small group interviews.

Following initial consultations, the Review team facilitated the collection of information from respective divisions to ensure an appropriate evidence base to baseline the current state, understand future needs, and analyse potential opportunities. This included a number of follow-up interviews with particular stakeholders to clarify or delve further into details.

### 1.2.3 Hypothesis development and opportunity analysis

Hypothesis generation focused on identifying opportunities that could be feasibly implemented to realise immediate cost savings without adversely impacting service delivery or the FWO's ability to respond to emerging workplace relations issues. These hypotheses were tested with key stakeholders in the FWO and with the DEWR project team. The team then undertook further scenario development and analysis, including assessment against agreed criteria, to develop the examples and calculate the range of potential savings for each priority opportunity.

## 2 Current State Assessment

The following pages provide content relevant to understanding the current state of the FWO.

This current state assessment includes contextual information on the Australian workplace and industrial relations ecosystem, strategic and policy context, and legislative arrangements. It also presents information the Review team has collected through reviewing documentation and undertaking stakeholder consultation on the FWO's organisation and structure, governance arrangements, functions, and organisational units. It also presents some analysis on partnerships, regulatory tools and posture, performance, funding, and size and composition of the workforce. Finally, a high-level comparator analysis provides the opportunity to compare the FWO with other similar organisations (see Appendix C).

### 2.1 Australian workplace and industrial relations ecosystem

The FWO is Australia's national workplace relations regulator. The role of the FWO is to promote harmonious, productive, and cooperative workplace relations. This is achieved through provision of education, assistance, advice, and guidance to employers, employees, outworkers, and outwork entities and organisations. The FWO also monitors, makes inquiries into, investigates, and enforces compliance with Australia's workplace laws.

The FWO operates within a broader workplace and industrial relations ecosystem consisting of a range of stakeholders. Key stakeholders include:

- Other members of the 'Fair Work Family', including the Minister for Employment and Workplace Relations, DEWR, the department responsible for workplace relations policy and

legislation, and the Fair Work Commission, Australia's workplace relations tribunal

- The Federal Court, which has original jurisdiction<sup>5</sup> to hear matters arising under the *Fair Work Act 2009* (the Fair Work Act), alongside the Federal Circuit and Family Court which, in addition to having jurisdiction to hear matters under the Fair Work Act, also has jurisdiction to handle small claims by employees for unpaid wages<sup>6</sup>
- Other Government agencies such as the Australian Taxation Office (ATO), the Department of Home Affairs (Home Affairs), and the Department of Foreign Affairs and Trade (DFAT) that own policy responsibility and regulatory roles that intersect with the focus of the FWO
- Other regulators with their own regulatory remits connected to the work of the FWO, such as the Australian Competition and Consumer Commission (ACCC), the Australian Human Rights Commission (AHRC), the Australian Securities and Investment Commission (ASIC), the Commonwealth Ombudsman, the Australian Small Business and Family Enterprise Ombudsman (ASBFE), Safe Work Australia and Comcare
- State and Territory Government agencies and jurisdictional regulators, such as state-based work, and health and safety regulators
- Employers and regulated entities, including large corporate employers, registered organisations<sup>7</sup> such as workers' unions, as well as small and medium sized enterprises, which collectively form different industries, such as the university sector or horticulture sector
- Employer enablers that provide services and products to employers and relevant professional bodies that set standards for certain relevant professions and services
- Other key stakeholders with a role in workplace relations such as employer associations and

<sup>5</sup> Note: The Federal Court has original jurisdiction pursuant to s19(1) of the *Federal Court of Australia Act 1976* to hear matters arising under the *Fair Work Act 2009*. See Federal Court of Australia, (n.d.), *Content DIV 11148*, Australian Government, <http://www.fedcourt.gov.au/?a=19422#:~:text=The%20Federal%20Court%20also%20has,judge%20of%20the%20Federal%20Court> (Accessed 20 October 2023)

<sup>6</sup> Federal Circuit and Family Court of Australia, (n.d.), *Fair Work: Small Claims*, Australian Government, <https://www.fcfcfa.gov.au/gfl/fairwork-small-claims> (Accessed 19 October 2023)

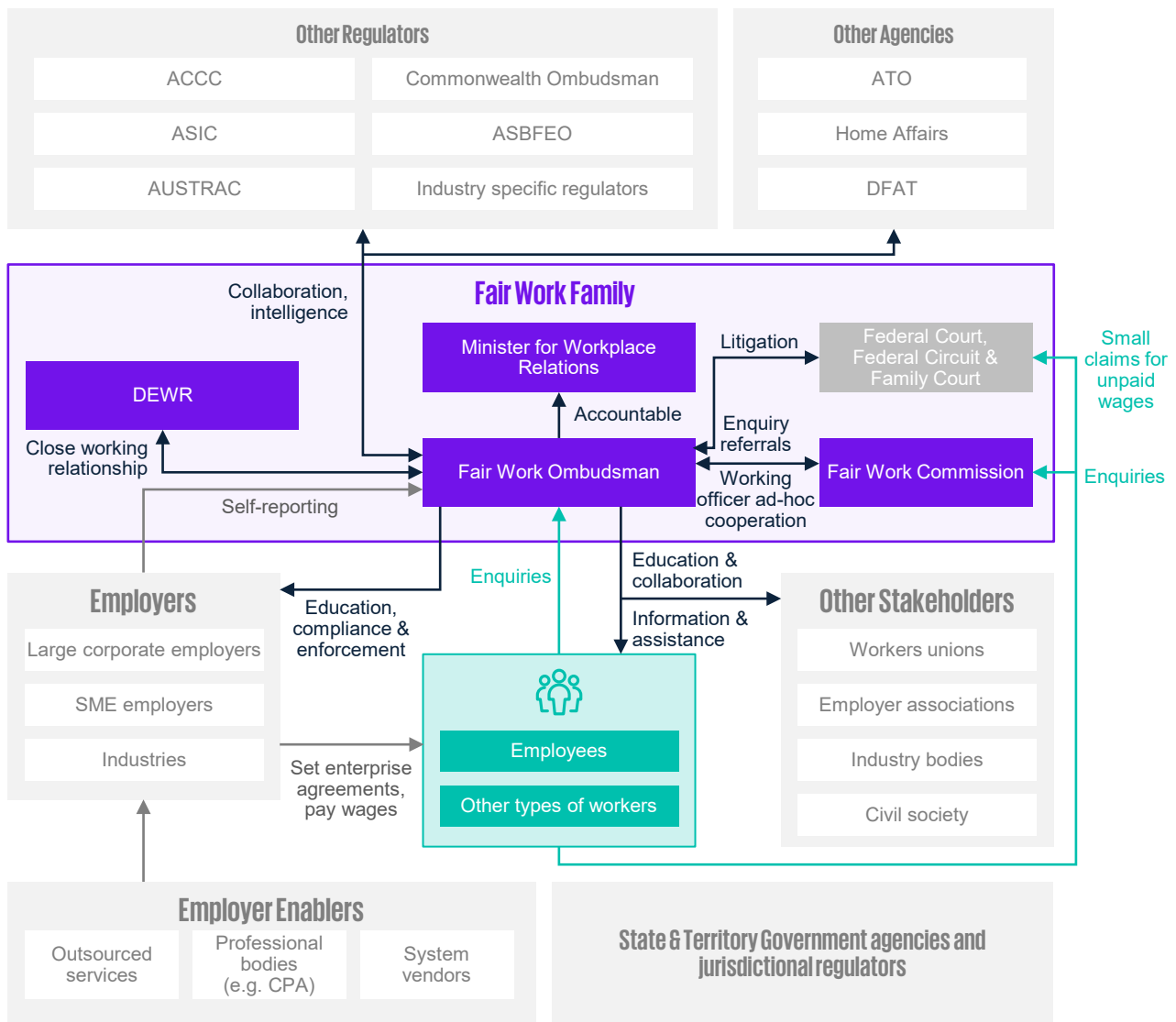
<sup>7</sup> Note: The Fair Work Commission defines a registered organisation as an association of employers, employees (union), or an enterprise association, that the Commission has registered under the *Fair Work (Registered Organisations) Act 2009*. See Fair Work Commission, (n.d.), *Registered organisations*, Australian Government, <https://www.fwc.gov.au/registered-organisations>

groups, industry peak bodies and civil society organisations.

The figure below outlines some of the FWO's core interactions with other entities within the broader Australian workplace and industrial relations ecosystem. For example, the FWO is accountable to the Minister and has a close working relationship with DEWR. The FWO also collaborates with other Government agencies on certain agendas and programs. For example, the FWO works with the

ATO and others on the Shadow Economy and Phoenix Taskforces, and with Home Affairs and DFAT on migrant worker programs. It also delivers education, compliance and enforcement activities related to employers as well as information and assistance to employees.

**Figure 1: FWO within Australia's workplace and industrial relations ecosystem**





## 2.2 Strategic context

The FWO was established in 2009 as an independent, statutory regulator under the Fair Work Act. Since that time, there have been successive changes to the landscape of Australia's workplace relations and subsequent workplace laws. These changes reflect the evolving work practices, emerging technologies, post-COVID work expectations and, significantly, change of government. As a result, legislation has changed significantly in recent years to reflect changing Australian Government priorities and focus.

In the past, the FWO has received criticism for not using the sharper regulatory tools at its disposal as much as it was possible. Wage theft scandals involving high-profile employers contributed to mounting public pressure for more decisive action. These include, but are not limited to, wage underpayment issues in relation to George Calombaris' MAdE Establishment group of companies<sup>8</sup> and 7-Eleven.<sup>9</sup> The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Hayne Royal Commission), which highlighted issues of regulators being too friendly, has also promoted closer scrutiny of all regulators.

Meanwhile, there is growing global and community awareness around the rights, treatment, and underpayment of migrant workers in Australia. Migrant workers have the same workplace rights and protections and are entitled to the same minimum pay rates as other workers, regardless of visa type. The Migrant Workers' Taskforce established in 2016 and reporting in 2019 highlighted the FWO's critical role in assisting migrant workers and monitoring certain skilled visa arrangements. The report of the Migrant Workers' Taskforce noted that the FWO could more strongly support the enforcement and litigation objectives of the Fair Work Act through more effective use of its tools, such as compliance notices, enforceable undertakings, infringement notices and court action.<sup>10</sup>

Given the above, the FWO has committed to prioritising vulnerable cohorts, or those who require additional assistance. This is in addition to its historical focus on small businesses (both employers and employees), recognising small business does not have access to the same human resources advice and support as might be available to larger organisations. Its compliance and enforcement priorities have also targeted industries that are at significant risk of non-compliance. For example, during 2023-24, the FWO is prioritising underpayments and workplace protections in the following sectors:

- Agriculture
- Building and construction
- Care
- Fast food, restaurants, and cafes
- Large corporates and university sectors.

Another example of its commitment to assisting vulnerable cohorts is the FWO's support of the expansion of the Pacific Australia Labour Mobility Scheme (the PALM Scheme). The FWO works closely with DEWR and the Department of Foreign Affairs and Trade (DFAT) which are responsible for administering the PALM Scheme. The PALM Scheme has expanded significantly and, as announced in the 2023-24 Budget, Government provided additional funding allowing the FWO to continue to ensure overseas workers hired under the Scheme are paid their correct wages and entitlements.

The FWO has commenced legal action in litigating high-profile matters. These matters include alleged wage underpayments against Woolworths Group, Coles Supermarket, the Commonwealth Bank of Australia, CommSec, and the University of Melbourne. These public legal actions have raised the FWO's profile further within the community. Despite this work, the FWO has received criticism in the media from certain sections of the community, including the union movement, especially regarding the recent absorption of the Australian Building and Construction Commission's (ABCC) Fair Work Act responsibilities. At the same time, in the wake of the Hayne Royal Commission and Migrant Workers' Taskforce, the FWO has

<sup>8</sup> ABC News, 18 July 2019, *George Calombaris' MAdE Establishment underpaid workers \$7.8 million*, Australian Broadcasting Corporation, <https://www.abc.net.au/news/2019-07-18/george-calombaris-made-establishment-backpays-underpaid-workers/11320274> (Accessed 23 October 2023)

<sup>9</sup> Adele Ferguson, Sarah Danckert and Klaus Toft, 29 August 2015, *7-Eleven: Investigation exposes shocking exploitation of convenience store workers*, Fairfax Media/Four Corners, <https://www.theage.com.au/business/workplace/7eleven-investigation-exposes-shocking-exploitation-of-convenience-store-workers-20150828-gja276.html> (Accessed 23 October 2023)

<sup>10</sup> Department of Employment and Workplace Relations, 7 March 2019, *Report of the Migrant Workers' Taskforce*, Australian Government, <https://www.dewr.gov.au/migrant-workers-taskforce/resources/report-migrant-workers-taskforce>

been criticised for failing to fully use its available compliance and enforcement powers.

Regulatory reform and changing priorities have inevitably impacted the demands for the FWO's operations, functions and activities, as well as its level of resourcing and operational practices. To address this, the FWO has undertaken various reviews over this period, including the Capability Review conducted by David Butler Consulting in 2018. In a 2020 follow-up review, it was noted that:

"...one of the greatest challenges to the future success of the FWO is the potential for a misalignment between what the FWO can actually do and how it can help – compared to what the public believes it should do and the help it is expected to provide."<sup>11</sup>

The change of Government in May 2022 has brought a renewed commitment to prioritise workplace relations and ensure Australia's systems and institutions are fit-for-purpose to operate in modern Australia. The machinery of Government changes in July 2022 realigned the FWO and its statutory functions to the Employment and Workplace Relations portfolio, while significant adjustments to remit and structure were subsequently implemented with broader legislative reforms. This included enhancements to a range of employee entitlements and important new responsibilities and funding for the FWO.<sup>12</sup>

These additional responsibilities acquired, or expected to be acquired and elaborated on in the following section on legislative arrangements, have increased the FWO's workload and impacted its ways of doing business. Some examples include:

- Responsibility for regulating the commercial building and construction industry's compliance

with the Fair Work Act following the abolition of the ABCC

- Use of small claims processes through the Federal Circuit and Family Court
- Supporting the expansion of the PALM Scheme.

With this change and the appointment of the new Fair Work Ombudsman (in this report referred to as the FWO Chief Executive Officer (CEO)) from 1 September 2023, it is integral to ensure the organisation's foundations can support an independent, trusted, and empowered FWO. Effective change management is necessary in response to structural changes, new compliance and enforcement responsibilities, and updated scope and remit. Short-term adjustments present new opportunities to consolidate or stocktake current activities and address emerging challenges confronting the FWO.

As noted by the Minister for Employment and Workplace Relations (the Minister):

"The role of the Fair Work Ombudsman is more important than ever as the Government moves to implement a better and fairer workplace relations system for Australian workers."<sup>13</sup>

The changes experienced are expected to continue over the next decade and will present unique challenges for emerging workplace issues.

The Minister has signed a new statement of expectations for the FWO to define its role<sup>14</sup> (see section 2.9.3 Performance for further details). Recently, the FWO has been consulting broadly with its staff, DEWR and the workplace relations community to inform the development of an updated statement of intent.

<sup>11</sup> David Butler Consulting, June 2020, *Fair Work Ombudsman Capability Review – Follow Up Review*, pg. 5

<sup>12</sup> Parliament of Australia, 2023, *Explanatory Memorandum, Fair Work Legislation Amendment (Closing Loopholes) Bill 2023 (Cth)*, [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r7072](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7072), Parliament of Australia, 2022, *Explanatory Memorandum, Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022 (Cth)*, [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r6882](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6882), Parliament of Australia, 2023, *Explanatory Memorandum, Fair Work Legislation Amendment (Protecting Worker Entitlements) Bill 2023 (Cth)*, [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r7010](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7010), Parliament of Australia, 2022, *Explanatory Memorandum, Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 (Cth)*, [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r6941](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6941)

<sup>13</sup> The Hon Tony Burke MP, Minister for Employment and Workplace Relations and Minister for the Arts, 7 July 2023, *Media Release: 7 July 2023 – New Fair Work Ombudsman*, <https://ministers.dewr.gov.au/burke/new-fair-work-ombudsman>

<sup>14</sup> The Hon Tony Burke MP, Minister for Employment and Workplace Relations and Minister for the Arts, 24 October 2023, *Fair Work Ombudsman Statement of Expectations – 2023*, Australian Government (not publicly available)

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## 2.3 Legislative arrangements

### 2.3.1 Fair Work Legislation

The FWO operates under the Fair Work Act and is responsible for ensuring compliance with the Act and its Regulations. The Fair Work Act and fair work instruments govern the employee and employer relationship within the national workplace relations system, by:

- Providing a safety net of minimum entitlements
- Enabling flexible working arrangements
- Providing fairness at work and preventing discrimination against employees.

The Fair Work Act<sup>15</sup> set out the statutory functions of the FWO, including:

- To promote:
  - Harmonious, productive and cooperative workplace relations
  - Compliance with the Act and fair work instrumentsincluding by providing education, assistance and advice to employees, employers, outworkers, outworker entities and organisations and producing best practice guides to workplace relations or workplace practices
- To inquire into, and investigate, any act or practice that may be contrary to this Act, a fair work instrument or a safety net contractual entitlement
- To commence proceedings in a court, or to make applications to the Fair Work Commission, to enforce this Act, fair work instruments and safety net contractual entitlements
- To refer matters to relevant authorities
- To represent employees or outworkers who are, or may become, a party to proceedings in a court, or a party to a matter before the Fair Work Commission, under this Act or a fair work instrument, if the FWO considers that representing the employees or outworkers will promote compliance with this Act or the fair work instrument
- Any other functions conferred on the FWO by any Act.

The Act also confers compliance powers to Fair Work Inspectors for the purpose of determining whether workplace laws are being, or have been, complied with.<sup>16</sup> These powers include the power to enter certain premises and to inspect and make copies of documents on the premises.

In addition, there are a range of legislative instruments and delegations that outline the powers and responsibilities of certain individuals within the FWO and include:

- Delegation of Powers and Functions under section 683 of the Fair Work Act
- Delegation of Powers and Functions under *Paid Parental Leave Act 2010* and *Regulatory Powers (Standard Provisions) Act 2014*
- Direction to Inspectors under subsection 704(1) of the Fair Work Act
- General authorisation to consent to litigation under the Fair Work Act, and
- Approval and authorisation under the *Freedom of Information Act 1982*.

Other legislation relevant to the FWO discharging its responsibilities are detailed in Appendix D.

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<sup>15</sup> Australian Government, *Fair Work Act 2009*, s.682, <https://www.legislation.gov.au/>

<sup>16</sup> Australian Government, *Fair Work Act 2009*, s.706, <https://www.legislation.gov.au/>

## 2.3.2 Recent and upcoming potential legislative changes

The FWO's activities in discharging its statutory functions continue to evolve, including in response to labour market shifts and changes to the legal framework. In recent years and over successive Budgets, the FWO has acquired some additional funding and functions (and in some cases, ceased the delivery of functions to respond to terminating measures). These changes were driven by changing Government priorities and subsequent legislative change.

As depicted in the figure below, over the past year, the Commonwealth Parliament has passed several legislative amendments to the Fair Work Act, including:

- *Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022*
- *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*
- *Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023*.

These amendments to Australian workplace laws have provided important new responsibilities and resulted in additional funding to the FWO, including:

- The abolition of the ABCC on 6 February 2023 and the transfer of roles and responsibilities of enforcing the Fair Work Act in the commercial building and construction industry from 10 November 2022
- Investigation into allegations related to the new prohibition on workplace sexual harassment
- Informing employers and employees about the new paid family and domestic violence leave entitlement and enforcing this change.

New statutory functions are expected to be acquired by the FWO pending the passage through Parliament of the *Fair Work Legislation Amendment (Closing Loopholes) Bill 2023*.<sup>17</sup> As noted in the FWO's submission<sup>18</sup> to the Senate Education and Employment Legislation Committee Inquiry, some of the proposed amendments within the Closing Loopholes Bill will:

- Expand the reach of the FWO's education and regulatory assistance to 'regulated workers' and 'regulated businesses'
- Redefine 'casual employees' and facilitate the conversion of casual employment to full-time or part-time employment as well as provide for minimum standards guidelines to be made for 'regulated workers'
- Provide further civil remedy provisions that the FWO would have standing to enforce, for example, protections against adverse action in the workplace for employees and prospective employees who are being subjected to domestic and family violence
- Increase maximum civil penalties in line with the accepted recommendations of the Migrant Workers' Taskforce
- Strengthen the civil enforcement regime, including increases to civil penalties and changes to the 'serious contravention' provisions in the Fair Work Act
- Provide the FWO with a criminal jurisdiction through the criminalisation of wage theft in the Fair Work Act, conferring powers to the FWO to investigate alleged criminal offences and refer matters to the Australian Federal Police or the Commonwealth Director of Public Prosecutions for consideration and prosecution.

Government announced<sup>19</sup> funding of \$32.4 million over four years to implement the new criminal offence function. The FWO is monitoring the progress of the Closing Loopholes Bill through Parliament to ensure the Agency is well placed to educate and support businesses and workers with their rights and obligations once the Bill is legislated. In particular, the addition of a new criminal jurisdiction will have a significant organisational impact on the FWO and its operational practices.

<sup>17</sup> Parliament of Australia, 2023, *Explanatory Memorandum, Fair Work Legislation Amendment (Closing Loopholes) Bill 2023 (Cth)*, [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r7072](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r7072)

<sup>18</sup> Fair Work Ombudsman, 5 October 2023, *Submission to Senate Education and Employment Legislation Committee Inquiry into the Fair Work Legislation Amendment (Closing Loopholes) Bill 2023*, Australian Government

<sup>19</sup> The Hon Tony Burke MP, Minister for Employment and Workplace Relations and Minister for the Arts, 3 September 2023, *Media Release: 3 September 2023 - Albanese Labor Government to criminalise wage theft*, <https://ministers.dewr.gov.au/burke/albanese-labor-government-criminalise-wage-theft>

**Figure 2: Recent and upcoming legislative changes to the Fair Work Act**



Emerging theme

## Operating environment

As outlined above, the highly dynamic, contested and complex nature of the environment within which the FWO operates is driving additional effort for the regulator to respond. In Australia, industrial relations is highly politicised with the two major parties taking very different ideological approaches. Independents and cross-benchers also have strong views and play a role in this. Media attention and broader community expectations are also high in this public policy area.

Even minor legislative amendments can result in significant effort to flow the change through all aspects of the organisation. As such, changes in Government or Government policy direction have and do inevitably significantly impact on the FWO and its operations. Recent events including the 2022 change in Government, a series of amendments to the Fair Work Act and the appointment of a new CEO mean the FWO is undergoing a particularly intense period of change.

## 2.4 Organisation and structure

The FWO maintains a nation-wide presence across a network of 22 offices, eight located in all capital cities and 14 regional areas, as depicted in the figure below. This presence reflects the national nature of the work of the FWO, with Fair Work Inspectors being required to undertake field work across a variety of locations and workplaces. The formation of the FWO's office footprint was driven by legislative changes and strong parliamentary interest in equitable service delivery for specific locations. As of 30 September 2023, the FWO's headcount was 971 (904 Average Staffing Level (ASL)) across five groups and 14 branches.<sup>20</sup>

The FWO maintains several shared services arrangements with DEWR, including IT, budget, and corporate functions. For example, DEWR's IT shared services model provides a range of services such as providing a network, desktop platforms, computer allocation, and an application hosting platform.<sup>21</sup> Furthermore, the FWO consumes shared services through the Department of Finance, including payroll and finance systems provided by the Service Delivery Office (SDO) and property management services as part of the Property Services Coordinated Procurement Arrangement. It also has a shared services arrangement in relation to the security team, as part of maintaining a protected security environment under the Australian Government Protective Security Policy Framework requirements.

Figure 3: FWO locations across Australia



<sup>20</sup> Fair Work Ombudsman, 30 September 2023, *HR Data*, Australian Government.

<sup>21</sup> Importantly, while DEWR does offer a hosting platform, the FWO only utilises a small portion of the platform, as their systems are mostly hosted on SAAS services.

## 2.4.1 Governance

Post the Butler Review in 2018, the FWO has enhanced and strengthened its governance framework with the establishment of two new boards in addition to its Audit and Risk Committee. As depicted in the figure below, the FWO’s governance framework consists of:

- Corporate Board
- Enforcement Board
- Audit and Risk Committee.

The membership, roles and responsibilities of these governance bodies are detailed further below. Membership of both the Corporate Board and Enforcement Board is entirely internal to the FWO.

This governance framework is regularly reviewed by the FWO to ensure it remains fit for purpose and continues to support the FWO CEO as the Accountable Authority, Entity Head and statutory office holder under the Fair Work Act. In addition to the existing boards, the FWO may create committees or working groups to fulfil a specific purpose and respond to changes in its external and internal environment.

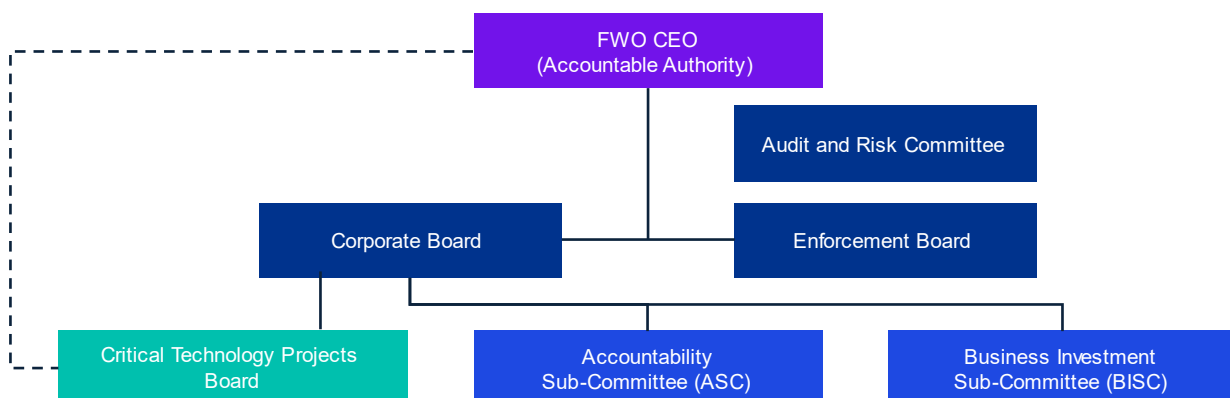
## Corporate Board

The Corporate Board is the key advisory group which supports and assists the FWO CEO in the discharge of their duties, responsibilities, and accountabilities under the *Public Governance, Performance and Accountability Act* (the PGPA Act) and other Commonwealth legislation and Government policies. The Board is chaired by the FWO CEO (the Chief Operating Officer (COO) has chaired following the appointment of the new FWO CEO) and consists of the Chief Operating Officer, Chief Counsel and the SES Band 2 Deputy Fair Work Ombudsman positions for Compliance and Enforcement, Policy and Communications, and Large Corporates and Industrial Compliance.

The Corporate Board is primarily responsible for identifying and monitoring strategic risks and is supported in this by three sub-committees as well as the Audit and Risk Committee. These sub-committees include:

- **Accountability Sub-Committee** - oversees and makes recommendations for approval of strategic decisions with respect to corporate matters and financial performance, compliance with the PGPA Act and framework, performance and reporting (including the Annual Performance Statement), and government policies
- **Business Investment Sub-Committee** - has oversight of, and makes recommendations for, approval of information and communications technology-related matters and projects
- **Critical Technology Projects Board** - monitors critical technology projects and ensures the agreed business outcomes are delivered.

Figure 4: The FWO’s governance framework



## Enforcement Board

The Enforcement Board is the key advisory body for the FWO CEO as the Accountable Authority. This Board ensures a risk-based and proportionate response with respect to the relevant statutory powers and functions under the Fair Work Act. It determines the FWO’s strategic priorities, the publicly available Compliance and Enforcement Policy and establishes and monitors the Agency’s annual compliance and enforcement program of work.

The Board is chaired by the FWO CEO (the Deputy Fair Work Ombudsman for Compliance and Enforcement has chaired following the appointment of the new FWO CEO) and comprised of the FWO CEO, SES Band 2 Deputy Fair Work Ombudsman positions for Compliance and Enforcement, Policy and Communication, and Large Corporates and Industrial Compliance. The Board is supported by the legal advice of the Chief Counsel, who is a standing attendee but is not a member and does not have decision making authority. The COO may attend for corporate matters or as needed.

## Audit and Risk Committee

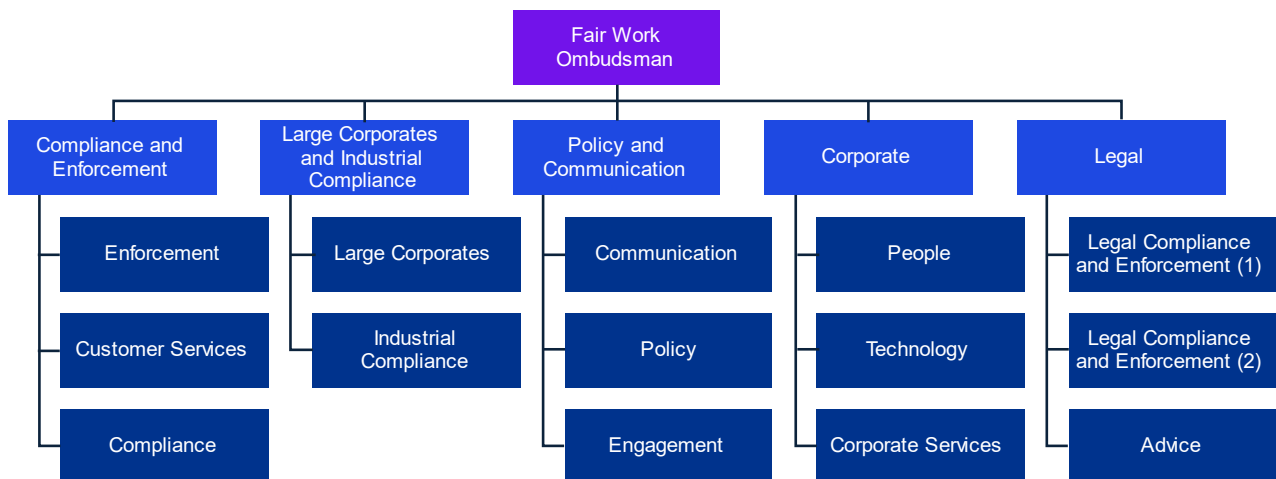
The Audit and Risk Committee provides independent advice to the FWO CEO as the accountable authority of the FWO’s financial and performance reporting, risk management framework, internal control systems and policy compliance. The role and responsibilities of the committee, including its objective, authority, membership, functions, reporting, and administrative arrangements, are set out in the Audit and Risk Committee Charter.

The Audit and Risk Committee membership currently comprises of four independent members, three independent of Government and one senior Government official.

### 2.4.2 Structure

The FWO is led by the FWO CEO and is comprised of five groups, 14 branches and 55 teams. Each group is focused on a specific component of the FWO’s statutory remit, with each Branch providing specific capabilities, sector knowledge and services. Each Branch is composed of multiple, smaller teams that are responsible for delivering or supporting specific aspects of the Branch’s remit. The FWO’s organisation structure is provided in the figure below detailing the groups and branches.

Figure 5: High-level overview of the FWO’s organisational structure







Emerging theme

## Organisational structure

The FWO's organisational structure is mostly process based. Most of its teams are formed to complete a relatively clearly delineated step in a broader process, after which a matter is handed over to another team to complete the next step, and so on. Handovers between teams, impacted by disparate systems, may be creating inefficiencies.

There are some examples of functional duplication within the FWO's structure where similar functions and capabilities are evident across different groups and teams. This may be driving some structural inefficiencies. Linked to the emerging theme around organisational culture and risk settings, the FWO's structure also appears to be relatively hierarchical with wide-ranging input and several layers of approval involved in some activities.

## 2.5 Functions

The FWO provides service offerings under its six statutory functions as mandated under section 682 of the Fair Work Act. These core functions are undertaken to fulfil the FWO's purpose as set out in the legislation and enable it to interact effectively across its complex stakeholder environment. In addition to these core functions, the FWO provides a range of other services that support or enable its operations and other core functions where there is more discretion in terms of delivery, volumes, and resource allocation. The table below provides a summary of the FWO's statutory functions and the main activities it performs.

**Table 1: FWO statutory functions as at 30 September 2023**

Function/s	Main activities
Provide education, assistance, advice and guidance to employers, employees, outworkers, outworker entities and organisations	<ul style="list-style-type: none"> <li>• Operate the Fair Work Infoline</li> <li>• Operate the website portal</li> <li>• Develop all content for the Agency's websites</li> <li>• Maintain and update the websites (information and resources)</li> <li>• Maintain and update online tools, including the Pay and Conditions Tool</li> <li>• Develop and update online resources, including online learning courses, infographics, and interactive templates</li> <li>• Communicate and educate the community via social media platforms</li> <li>• Develop best practice guides in relation to workplace relations</li> <li>• Develop and deliver tailored information, resources, and advice for specific Groups</li> <li>• Deliver translated resources for non-English speakers to ensure non-English speakers can receive adequate education and advice in relation to their workplace entitlements</li> <li>• Facilitate the delivery of Home Affairs' Translating and Interpreting Service to support non-English speakers</li> <li>• Develop and deliver online webinars and outreach activities to increase awareness of the FWO and its services</li> <li>• Provide written advice to small businesses through the Employer Advisory Service (EAS)</li> <li>• Review and improve current education and advice tools and mechanisms</li> <li>• Consult with other regulators and relevant Government agencies to ensure the accuracy of educational resources and, where possible, present a whole-of-Government approach to support workplace participants</li> <li>• Consult and co-design education information tools and resources with stakeholders as well as using best practice behavioural insights to inform education initiatives</li> </ul>
Promote and monitor the compliance with workplace laws	<ul style="list-style-type: none"> <li>• Gather and review available intelligence and evidence to determine a suitable approach to compliance and enforcement</li> <li>• Set annual regulatory priorities to support efficient and targeted delivery of compliance functions</li> <li>• Act in accordance with the agreed approach for compliance and enforcement activities</li> <li>• Monitor and analyse workplace trends to determine key areas for proactive work</li> <li>• Exchange information and intelligence with other regulators and Government agencies as appropriate to promote and monitor compliance</li> <li>• Refer enquiries or matters that sit outside of the FWO's remit to relevant authorities</li> <li>• Engage with employees, employers and the public through media, external communications channels, and public engagements regarding compliance, enforcement, and litigation activities</li> <li>• Represent employees or outworkers in relation to acts of potential non-compliance through court proceedings or Fair Work Commission matters that will promote compliance with the Fair Work Act or fair work instruments</li> </ul>
Take appropriate enforcement action	<ul style="list-style-type: none"> <li>• Utilise the FWO's range of enforcement tools to appropriately respond to cases of potential non-compliance</li> <li>• Undertake court proceedings or submit an application to the Fair Work Commission to enforce workplace laws and safety net contractual entitlements</li> <li>• Review the compliance and enforcement approach to maximise operational efficiency and the impact of service delivery</li> </ul>
Inquire into and investigate breaches of workplace laws and safety net contractual entitlements	<ul style="list-style-type: none"> <li>• Collect and review available intelligence and evidence</li> <li>• Conduct proactive investigations in priority areas</li> <li>• Conduct proactive audit work in priority areas</li> <li>• Conduct reactive investigations in relation to potential non-compliance (for example, Requests for Assistance (RfAs) or self-reports)</li> </ul>

The FWO delivers a range of enabling and supporting functions to support the delivery of its statutory functions and address the needs of external stakeholders. Enabling and supporting functions consist of activities that ensure the efficient and effective delivery of core organisational functions and services, such as internal corporate services and parliamentary and ministerial engagement, as outlined in the table below.

**Table 2: Enabling and supporting functions performed by the FWO as at 30 September 2023**

Function	Main activities
Executive	<ul style="list-style-type: none"> <li>• Provide executive assistance to the FWO CEO and Deputy Fair Work Ombudsmen</li> <li>• Provide administrative support to the FWO</li> </ul>
People	<ul style="list-style-type: none"> <li>• Management of recruitment, selection and resource allocation processes</li> <li>• Provide performance and change management</li> <li>• Learning and development</li> <li>• Employee participation and communication</li> <li>• Payroll processing</li> </ul>
Finance	<ul style="list-style-type: none"> <li>• Budget management and financial reporting such as for annual reports</li> <li>• Financial cost and control</li> <li>• Procurement advice and support</li> <li>• Engage and work with the SDO in relation to shared services</li> </ul>
Property	<ul style="list-style-type: none"> <li>• Manage contractor to deliver property and asset projects, such as fit outs and maintenance</li> <li>• Manage the Agency's approach to leasing turnover opportunities</li> </ul>
Other Corporate Enabling Functions	<ul style="list-style-type: none"> <li>• Deliver risk management, counter fraud, governance and accountability related functions</li> <li>• Deliver the Corporate Plan and Annual Performance Statement</li> <li>• Manage and monitor physical security across FWO locations</li> <li>• Manage customer feedback and complaints sent directly or indirectly to the FWO</li> <li>• Manage and support internal audit activities and the Audit and Risk Committee</li> <li>• Monitor and manage the FWO's ability to fulfil its obligations under privacy, Freedom of Information Act (FOI) and information management legislation</li> </ul>
Technology	<ul style="list-style-type: none"> <li>• Deliver and manage the internal and external facing technology applications used to conduct enabling and service delivery processes</li> <li>• Monitor and seek to resolve any existing cyber security risks to ensure the organisational stability of the organisation</li> <li>• Engage and work with DEWR to ensure any shared technology services provided by DEWR are operating efficiently</li> </ul>
Advice	<ul style="list-style-type: none"> <li>• Provide in-house advice and legal assistance to inform internal corporate processes and assist with external Agency matters</li> <li>• Provide technical advice and assistance including managing the KnowledgeNet database to provide sector knowledge to the FWO's business areas</li> </ul>
Parliamentary and Ministerial	<ul style="list-style-type: none"> <li>• Manage the FWO's relationship and formal engagement with the Minister's Office, including the provision of responses to Ministerial correspondence and enquiries</li> <li>• Assist MPs and the Minister's Office with constituent enquiries regarding FWO related matters</li> </ul>

The assessment of the FWO's current state has also identified a number of core functions being delivered, but where the FWO has a higher level of discretion to augment delivery, volumes and resource allocation. The table below outlines these functions, noting that 'discretionary' refers to those functions that are scalable at the FWO's discretion.

**Table 3: Discretionary functions performed by the FWO as at 30 September 2023**

Function	Main activities	Example
Participation in whole-of-government taskforces and international engagement	<ul style="list-style-type: none"> <li>Utilise the FWO's unique knowledge and capabilities to support collaborative, whole-of-government initiatives in relation to migrant labour, small business and other relevant matters</li> <li>Participate in interdepartmental committees on human trafficking and slavery</li> <li>Support discrete projects such as the development of a national labour hire scheme</li> <li>Provide coordination and leadership on cross Agency processes such as stakeholder consultations, workshops and taskforces</li> <li>Support whole-of-government, multicultural frameworks and policies, including through access and equity action plans and a translation policy</li> </ul>	<ul style="list-style-type: none"> <li>Participation in more than 20 forums and interdepartmental committees</li> </ul>
Supporting DEWR by providing insights as the national workplace regulator to inform the provision of policy advice to Government	<ul style="list-style-type: none"> <li>Utilise workplace relations sector knowledge to support policy development processes</li> <li>Support the development and submission of new policy proposals</li> </ul>	<ul style="list-style-type: none"> <li>Providing additional support to DEWR in response to its workload pressures resulting from Government reforms</li> </ul>
Internal advice on public enquiry responses	<ul style="list-style-type: none"> <li>The Advice Branch assists the Customer Service team with complex public enquiries that require technical or legal expertise</li> </ul>	<ul style="list-style-type: none"> <li>Technical advisors assisting with customer enquiries</li> </ul>
Parallel regulation (joint operation) matters	<ul style="list-style-type: none"> <li>Cooperate with other regulators and Government agencies on parallel regulation matters including information sharing</li> </ul>	<ul style="list-style-type: none"> <li>Parallel regulation activities with ATO, AFP, Border Force and other regulators</li> </ul>

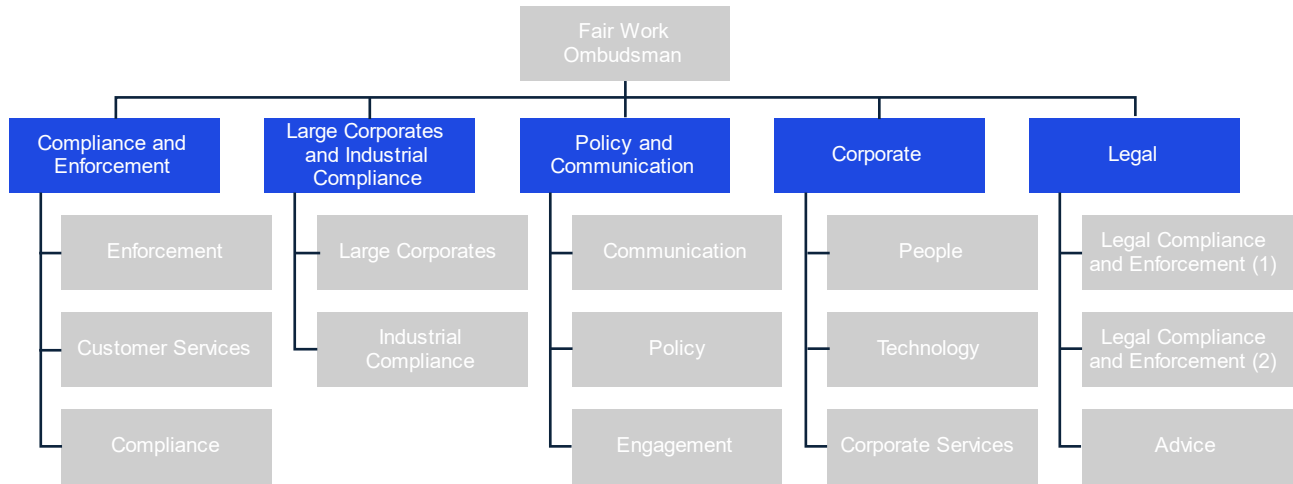
## 2.6 Group and Branch functional summaries

This section provides a summary of the groups and their branches that operate within the FWO.

Each summary provides an overview of core functions and capabilities within each Group, operational challenges and opportunities, identifying what systems or practices have been updated and changed to enhance offerings and drive efficiency.

This section is informed by key insights gathered from policy and procedural documentation, annual reports, recent reviews, and consultations with relevant stakeholders. Where ASL and Budget has been provided, this has been sourced from Budget and HR data provided to KPMG from the FWO and is current as of 30 September 2023. The high-level ASL data provided in the group summary infographics below include executive level and executive support staff, in addition to total ASL of the teams of each Branch. The team and Branch level ASL data provided in the Branch functional summaries below exclude executive level and executive support staff.

Figure 6: FWO Groups



# Compliance and Enforcement Group

## Structure and workforce

 **3**  
branches

 **13**  
teams

 **491**  
ASL

## Budget

**\$57.4 m**  
Group Budget  
2023-24

**35.5%**  
Percentage of total  
FWO budget  
(labour and non-labour  
departmental budget)

Approximately  
**\$53m**  
Largest workforce  
& labour budget  
allocation

## Core Functions

### Customer Services

- Answering customer enquiries and assessing Requests for Assistance

### Enforcement

- Proactive and reactive work to promote compliance with the Fair Work Act

### Compliance

- Proactive and reactive work to promote compliance with the Fair Work Act
- Management of the Pay Tools service
- Calculations assistance

## What We Heard

- **Technology transformation**  
Replaced incompatible, inefficient and high risk technology applications
- **Recruitment and retention**  
Experiencing difficulties with attracting and retaining staff
- **Capability Framework**  
Introducing a capability framework to support role clarity performance management
- **Regulatory approach shift**  
Stronger, mostly reactive regulatory approach with greater use of CNs and litigation
- **Improved compliance notice process**  
Initiative underway to improve and standardise compliance notice processes

**3,536**

Investigations into  
complex or significant  
matters recovering  
\$17.9m

 **330k**

Enquiries answered  
in FY23

 **6.4m**

Record annual PACT  
visits in FY23

 **2,424**

Compliance notices  
issued recovering  
\$14.8m in FY23

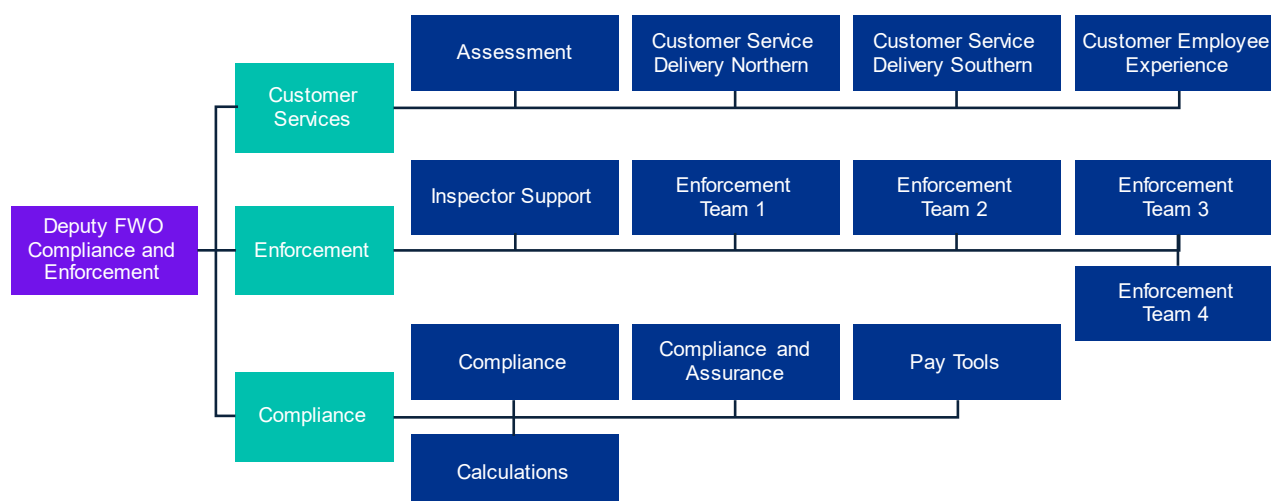
 **977**

Targeted compliance  
activities in high-risk  
sectors that returned  
nearly \$77 million in  
FY23

## 2.6.1 Compliance and Enforcement Group

The Compliance and Enforcement Group is responsible for receiving, investigating, and/or responding to enquiries, Requests for Assistance and compliance matters regarding the potential non-compliance of employers and/or employees in the workplace. The Compliance and Enforcement Group comprises of three branches: Customer Services, Enforcement, and Compliance. The figure and tables below outline the teams under each of the three branches.

Figure 7: Compliance and Enforcement Group organisational structure



### Customer Services Branch

The core function of the Customer Services Branch is to respond to and triage customer enquiries and is comprised of four teams as outlined in the table below.

Table 4: Customer Services Branch teams, ASL and responsibilities

Customer Services Branch			Budget: \$25m	ASL: 213
Team	ASL	Functions		
Assessment Team	46.4	<ul style="list-style-type: none"> <li>Assess RfAs and engage with employees and employers to gain the required information to determine the appropriate response</li> <li>Most RfAs will be resolved through engaging with the parties, but some will be forwarded to the Inspector Support team for triaging</li> </ul>		
Customer Service Delivery Northern and Southern	139.8	Two teams, which: <ul style="list-style-type: none"> <li>Manage the Fair Work Infoline and My Account service to provide tailored information and advice to employees and employers regarding workplace issues including pay and conditions, termination, record keeping and disputes. Forward RfAs to the Assessment team</li> </ul>		
Customer and Employee Experience	27.2	<ul style="list-style-type: none"> <li>Enable the delivery of customer services through rostering, technology support, and other related activities</li> </ul>		

## Enforcement Branch

The Enforcement Branch core function is to investigate RfAs as well as ensure compliance in key priority sectors to ensure compliance with the Fair Work Act. The Branch is comprised of five teams, which are outlined in the table below.

**Table 5: Enforcement Branch teams, ASL and responsibilities**

Enforcement Branch			
		Budget: \$19.9m	ASL: 170.2
Team	ASL	Responsibilities	
Inspector Support Team	33.2	<ul style="list-style-type: none"> <li>• Triage around 25 percent of RfAs per year to determine if they warrant investigation</li> <li>• Allocate matters requiring investigation to one of the Inspector teams in either the Enforcement or Compliance Branches</li> <li>• Engage with employers to address non-compliance with compliance notices issued by the FWO</li> <li>• Track and report on key performance indicators</li> <li>• Manage and implement Fair Work Inspector policies, procedures, guides, and compliance with Australian Government Investigation standards</li> <li>• Ensure data integrity by managing the complaints database (Titan)</li> </ul>	
Enforcement Team 1	31.6	Four Inspector teams consisting of Fair Work Inspectors, who: <ul style="list-style-type: none"> <li>• Investigate several thousand employing entities suspected of contravening relevant workplace laws and fair work instruments, such as underpayments of wages and entitlements, sham contracting arrangements and unlawful discrimination</li> </ul>	
Enforcement Team 2	40.9	<ul style="list-style-type: none"> <li>• Conduct intel-led proactive compliance investigations in targeted agency priority sectors (for example, horticulture, care)</li> </ul>	
Enforcement Team 3	32.7	<ul style="list-style-type: none"> <li>• Investigate workplace complaints as generated by third parties such as the media, parliamentarians, unions</li> <li>• Enforce relevant workplace laws and fair work instruments, including referring to Legal Group to enforce through the court system (where necessary)</li> <li>• Issue statutory supported enforcement tools (for example, Compliance Notices, Infringement Notices, Enforceable Undertakings)</li> <li>• Deliver arrival briefings for PALM Scheme participants and monitor compliance by PALM Approved Employers</li> </ul>	
Enforcement Team 4	31.8		



## Compliance Branch

The Compliance Branch's core function is to undertake proactive and reactive work to promote compliance with the Fair Work Act.

**Table 6: Compliance Branch teams, ASL and responsibilities**

Compliance Branch			
		Budget: \$11.6m	ASL: 99.2
Team	ASL	Responsibilities	
Compliance and Assurance teams	69.4	<p>Inspector Teams, consisting of Fair Work Inspectors who:</p> <ul style="list-style-type: none"> <li>Investigate RfAs involving suspected contraventions of workplace laws and fair work instruments involving underpayments of wages</li> <li>Conduct intel-led proactive compliance investigations in targeted agency priority sectors (for example, Fast Food, Restaurants and Cafes)</li> <li>Investigate self-reported non-compliance</li> <li>Investigate workplace complaints as generated by third parties such as the media, parliamentarians and unions</li> <li>Enforce relevant workplace laws and fair work instruments through the court system (where necessary)</li> <li>Issue statutory supported enforcement tools (for example, Compliance Notices, Infringement Notices, Enforceable Undertakings)</li> </ul> <p>Additional responsibilities of the Compliance and Assurance Team include:</p> <ul style="list-style-type: none"> <li>Monitoring employer progress with executed enforceable undertakings to ensure ongoing compliance</li> <li>Register unclaimed monies and locate workers owed monies (section 559 of the Fair Work Act)</li> </ul>	
Pay Tools	13.5	<ul style="list-style-type: none"> <li>Monitor and maintain the FWO's Pay and Conditions Tool (PACT) and pay guide data and systems, which includes updating the tools to reflect changes in wages or industry awards</li> </ul>	
Calculations	16.3	<ul style="list-style-type: none"> <li>Conduct calculations relating to significant FWO investigations and then present calculations solutions to other FWO teams</li> </ul>	

## Compliance and Enforcement process flows

The organisational structure for the Compliance and Enforcement Group is based around the enquiry, investigation and enforcement processes. Most FWO teams in these areas are formed to complete a certain step in this process. Following each step, the matter is handed to the team charged with the next step in the process. The process flow below is less linear than depicted, however provides a demonstration of key operational steps and activities that are core to the FWO's enforcement work (see Appendix E for a more detailed process map).

The process for RfAs investigated by the Compliance and Enforcement Group is stepped out below, and includes the following stages:

- 1. Enquiry:** The Customer Services team answers enquiries received via the Fair Work Infoline and My Account service. This team will send any unresolved enquiries (RfAs) to the Assessment team. Some complex enquiries are passed to the Advice Branch for technical advice. Matters within the remit of the Industrial Compliance Branch are sent directly to the Industrial Compliance queue.
- 2. Assessment:** The Assessment team processes and seeks to resolve RfAs through engagement with employees and employers. This team refers any unresolved RfAs to the Inspector Support Team.
- 3. Triage:** The Inspector Support team reviews the RfAs to determine which matters warrant investigation by teams of Fair Work Inspectors. Then, this team allocates RfAs requiring further investigation to inspector teams in either the Enforcement or Compliance Branches.
- 4. Investigation:** Fair Work Inspectors within the Enforcement and Compliance Branches investigate RfAs. Some RfAs are finalised by Fair Work Inspectors without the use of the FWO's enforcement tools, but others require the use of enforcement actions.
- 5. Enforcement action:** The Enforcement and Compliance Branches undertake necessary enforcement actions, such as the issuing of infringement notices or compliance notices, and enforceable undertakings. Within the enforcement process, the Legal Group is responsible for delivering legal action relating to RfAs/investigations that are resolved through litigation and other associated processes.

Figure 8: Compliance and Enforcement Group process flow



## Group operational challenges and initiatives

The Compliance and Enforcement Group noted a range of existing operational challenges in relation to their processes, systems and services. This Group has worked to respond to these challenges and achieve greater efficiency through a range of capability building, technology and process improvement initiatives.

### Operational challenges

The operational challenges impacting the efficiency and effectiveness of the Compliance and Enforcement Group are outlined in the table below.

**Table 7: Compliance and Enforcement Group operational challenges**

Key Areas	Operational Challenges
Technology	<ul style="list-style-type: none"> <li>• A lack of integration between business systems limits the efficiency of cross-group processes. FWO's IT strategy work is targeting this lack of integration</li> <li>• This Group completes resource intensive, manual tasks due to a lack of automation and end-to-end systems</li> <li>• There is a lack of investment in efficiency related technological initiatives, such as simplifying the technology landscape for Customer Service staff</li> </ul>
Recruitment and Retention	<ul style="list-style-type: none"> <li>• Experiencing difficulties with attracting and retaining staff</li> </ul>
Capability Building	<ul style="list-style-type: none"> <li>• Staff members need to be highly trained to perform their roles. For example, Compliance and Enforcement Group staff need to attain detailed sector workplace relations knowledge to address complex customer enquiries and allegations of non-compliance</li> <li>• Compliance and Enforcement Group staff need to conduct extensive knowledge building activities to account for legislative changes</li> </ul>
Workload	<ul style="list-style-type: none"> <li>• Workload is increasing, driven by the number of strategic litigations and rate of cases going through the investigation process</li> <li>• The Customer Services Branch receives a consistently high volume of enquiries each week, driven by increasing demand for investigations</li> </ul>
Budget	<ul style="list-style-type: none"> <li>• Budget and resourcing constraints present a barrier to efficiency for the Group, including a lack of funding for: <ul style="list-style-type: none"> <li>– Field work investigations</li> <li>– Capability development</li> <li>– Technology</li> <li>– Parallel regulation</li> </ul> </li> </ul>
Compliance Penalties	<ul style="list-style-type: none"> <li>• The compliance rate of regulated entities is impaired by low non-compliance penalties, as current penalties are not high enough to deter non-compliance by employers</li> </ul>

## Current, recent and upcoming initiatives

The Compliance and Enforcement Group is delivering a range of efficiency initiatives (see below).

Figure 9: Compliance and Enforcement Group initiatives

Current, Recent and Upcoming Initiatives

### Compliance and Enforcement Group

- ▶ Replaced a core business system with a modern like-for-like solution to resolve security risks and enable improved operational processes
- ▶ Connecting the Customer Relationship Management (CRM) system to telephonic system to address system compatibility issues
- ▶ Closing webchat due to underutilisation and need to optimise resource allocation
- ▶ Building data analytic and automated reporting capabilities to reduce manual effort
- ▶ Improved compliance notice processes and standardisation of issuing processes
- ▶ Trialling calculation assistance for employers to support with completion of compliance notices

## Capability framework

In 2021, the former FWO CEO commissioned a review of compliance notice processes to ensure they were fit for purpose. The Compliance and Enforcement Group has a capability framework initiative underway to action the Review's capability related recommendations in relation to compliance notice processes. The Compliance and Enforcement Group has worked with the FWO's People Branch and external consultants to design a framework to map capabilities, skills and behavioural standards for different levels in the inspectorate. The framework is expected to deliver a range of efficiencies, including:

- Setting clear expectations and descriptions for specific roles or levels and demonstrate the career pathway for staff: some staff members are currently working at the level set out in the framework, and others may need support to align to this in relation to expected attitudes, attributes, or skills.
- Facilitating individual capability assessments and a Group wide capability gap analysis: team leaders will assess staff members to determine their performance against expectations.
- Enabling capability building: the staff members who do not meet expectations will undergo additional training and other processes to build their capability.

This capability framework will apply to any operational roles related to the Compliance and Enforcement Group's compliance notice function.

# Large Corporates and Industrial Compliance Group

## Structure and Workforce

 **2**  
branches

 **5**  
teams

 **45**  
ASL\*

## Budget

**\$7.1m**  
Group Budget  
2023-24\*

**4.4%**  
Percentage of total  
FWO budget  
(labour and non-labour  
departmental budget)

**68%**  
of the Group budget is  
allocated to the Large  
Corporates Branch

## Core Functions

### Large Corporates

- Triaging and self assessment of all self reports of non-compliance to the FWO from all sectors of the economy
- Oversight and assurance functions of large scale wage remediation programs by large corporate employers
- Investigation and enforcement activities in relation to non-compliance by large corporate entities supported by data analysis and project management expertise and tools

### Industrial Compliance

- Investigation and enforcement activities in relation to industrial matters (comprising specific provisions in the Fair Work Act)
- Delivery of strategic compliance and enforcement activities for specific sectors as directed by Enforcement Bar (for example, currently the university sector).

## What We Heard

- **Newly established**  
Large Corporates established in FY21 and Industrial Compliance in FY23
- **Multidisciplinary teams**  
Bringing complementary skillsets to achieve outcomes and agile capability
- **Technological capabilities**  
Large Scale Wage Tool, data analytics, evidence management technology, and project management tools and capabilities to conduct large and/or complex investigations are key components of the Group
- **Politicised / expectations**  
Highly political space, a large remit and high expectations, but the FWO cannot do it all
- **Proactive engagement**  
There is opportunity to be more proactive, but this needs to be resourced

**\$220 million**

in wages recovered for nearly 140,000 underpaid employees in the sector in 2022-23

 **71**

Active self-report matters across triage and corporate assurance functions for large remediation programs

 **15**

Active corporate investigations

 **40**

Current investigations being undertaken by the Industrial Compliance branch

\*ASL and budget for Large Corporates and Industrial Compliance Group includes prorated budget and ASL for the Industrial Compliance Branch over seven months. Industrial Compliance Branch is engaged in the second phase of its recruitment process.

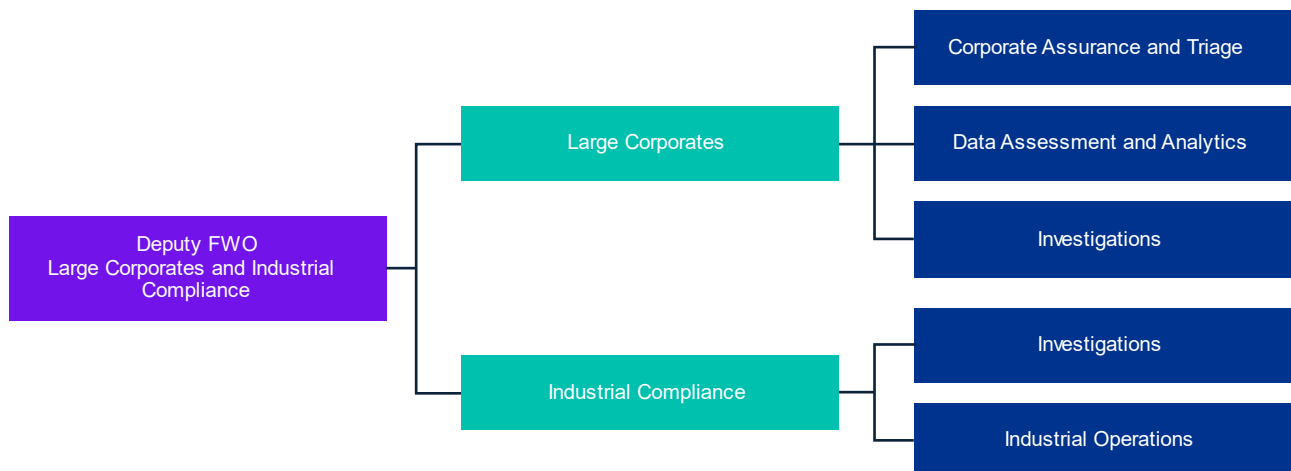
## 2.6.2 Large Corporates and Industrial Compliance Group

The Large Corporates and Industrial Compliance Group is the newest Group to be established at the FWO. The Large Corporates Branch was formed in 2020, and its functions were previously delivered within the Compliance and Enforcement Group. The Industrial Compliance Branch was formed in 2022 to deliver industrial compliance work in all sectors, including but not limited to the commercial building and construction sector. This resulted from the absorption of functions from the ABCC following its abolition. The resourcing provided through this measure was not absorbed by the Industrial Compliance Branch alone, with other branches and teams across the FWO absorbing ASL and funding. As a result, the budget figures reflect the seven-month, pro rata ASL of 16.6 as of 30 September 2023. A recruitment process is underway to reach the full budgeted ASL for the Group occurring in Q1-Q2 of 2023-24.

The formation of this Group reflects the expanded remit and resourcing of the FWO resulting from changing Government priorities, a significant increase in self-reported non-compliance by employers, and subsequent legislative change. The Group is responsible for resolving compliance matters involving large corporate entities and addressing systemic compliance issues related to specific industries or sectors, such as the university sector. Pending the passing of the Closing Loopholes Bill before Parliament, the implementation of the FWO's criminal jurisdiction is intended to be incorporated into the Large Corporates and Industrial Compliance Group.

The establishment of the Large Corporates and Industrial Compliance Group also provided an opportunity to review how the FWO previously operated in the large corporates and industrial compliance spaces, developing new capabilities and skills. There has been an emphasis on recruiting multidisciplinary staff to allow the Group to pivot to changing priorities and legislation. In the Large Corporates Branch, there has also been emphasis in employing new tools. For example, the data analytics capability has given the FWO the ability to identify and quantify contraventions at a large scale. Additionally, evidence management technology supports large scale and complex investigations into serious non-compliance. Overall, there has been a concerted focus on employing a combination of skillsets, technology, and reduction of human effort to ensure investigation is efficient and effective.

Figure 10: Large Corporates and Industrial Compliance Group organisational structure



## Large Corporates Branch

The Large Corporates Branch was established with funding from the Mid-Year Economic and Fiscal Update 2020-21, emerging from the Large Corporates Taskforce set up by the FWO in 2020. Its core function is to manage the triaging of self-reports of non-compliance received by the FWO and to deliver strategic compliance and enforcement outcomes in matters involving large corporate entities. This Branch was formed as a response to the increase in underpayments by large corporate entities and the capability of the FWO to respond to large scale underpayment investigations. The Branch is made up of three teams outlined in the table below.

**Table 8: Large Corporates Branch teams, ASL and responsibilities**

Large Corporates		
		Budget: \$4.5m
		ASL: 28.4
Team	ASL	Responsibilities
Corporate Assurance and Triage	4.5	<ul style="list-style-type: none"> <li>• Triage all self-reports to the FWO to determine the appropriate pathway or allocation of the matter</li> <li>• Monitor and identify non-compliance trends among large corporate self-reports to inform investigation strategy</li> <li>• Provide strategic advice and project management support to assist investigations into serious non-compliance by large corporate entities</li> </ul>
Data Assessment and Analytics	8.6	<ul style="list-style-type: none"> <li>• Conduct evidence handling, extraction, conversion, and assessment of large corporate payroll databases and remediation models</li> <li>• Trial new technologies for investigation efficiencies, including eDiscovery platforms and machine learning models for evidence analysis</li> <li>• Statistical modelling to provide insights to the expert evidence of investigators and lawyers at litigation stages</li> </ul>
Investigations	15.3	<ul style="list-style-type: none"> <li>• Investigate complex large corporate matters identified for potential compliance and enforcement action</li> <li>• Trial new approaches to Investigations involving multidisciplinary teams</li> <li>• Oversight and assurance functions of large scale wage remediation programs by large corporate employers</li> </ul>

## Industrial Compliance Branch

The Industrial Compliance Branch conducts compliance and enforcement activities relating to industrial matters under the Fair Work Act, such as protections relating to industrial activities and workplace rights. This includes conducting investigations into matters escalated from the FWO's Customer Services Branch or received via other intelligence sources. The Industrial Compliance Branch is also responsible for the strategic oversight of compliance and enforcement activities for specific sectors as directed by the Enforcement Board (for example, currently the University sector).

The Industrial Compliance Branch consists of two teams. This Branch is one of the newest additions to the FWO, having been established out of the absorption of the ABCC as a measure in the October 2022 Budget. This Branch is undertaking a two phased approach in establishing processes and recruiting staff. At the time of writing, the Industrial Compliance Branch was engaged in the second phase of recruitment, which will increase its ASL.

**Table 9: Industrial Compliance Branch teams, ASL and responsibilities**

Industrial Compliance		
		Budget: \$2.1m
		ASL: 13.5
Team	ASL	Responsibilities
Investigations	10.9	<ul style="list-style-type: none"> <li>Build awareness of FWO workplace protections jurisdiction through targeted stakeholder engagement and education</li> <li>Conduct proactive and reactive intelligence led investigations into protections relating to industrial rights across industries</li> </ul>
Industrial Operations	2.6	Consists of multi-disciplinary personnel who: <ul style="list-style-type: none"> <li>Aim to deliver sector wide deterrence outcomes, such as the FWO's compliance work in the university sector</li> <li>Triage all university sector self-reports and work closely with entities that are reporting to the FWO</li> <li>Provide strategic advice and project management support to assist key investigations undertaken by the Investigations team as well as Compliance and Enforcement teams in relation to university investigations</li> </ul>



## Large Corporates and Industrial Compliance process flows

The below paragraphs provide example process flows for the Large Corporates Branch and Industrial Compliance Branch

### Large Corporates process flow

The process for investigations by the Large Corporates Branch is stepped out in the figure below, although in practice it is less linear than depicted. It includes the following stages:

1. **Report:** The report stage is comprised of two processes. Employers may self-report incidents of non-compliance to the FWO, through channels including a notification channel published in the FWO's Compliance and Enforcement Policy, the Fair Work Infoline or directly to senior officers. Alternatively, the FWO may become aware of non-compliance through various channels including the ASX, company announcements, enquiries, media and the FWO's intelligence function.
2. **Assessment:** The Large Corporates Branch triages matters to determine whether a self-report falls within FWO's Compliance and Enforcement policy. The Branch also conducts a preliminary evaluation of significance, priority, and level of risk against approved criteria, notifying relevant FWO branches. The matter is either allocated for investigation, or may be closed based on the information provided, compliance history, or receipt of further information. Self-reports by entities other than large corporates are referred to the Compliance and Enforcement Group, or Industrial Compliance Branch as relevant.
3. **Investigation:** Where self-reports by large corporates are not closed at the assessment stage, the Large Corporates Branch investigates. Investigation is similar to investigations delivered in the Compliance and Enforcement Branches but involve a larger scale and higher level of complexity. Investigation generally requires the formation of multidisciplinary teams with a broad range of skillsets, and may involve testing and validation of remediation programs, including calculations methodology, and detailed consideration of corrective measures including systems, processes, and training.
4. **Enforcement:** If appropriate, the investigation process results in compliance or enforcement outcomes, or legal outcomes. Compliance and enforcement actions such as compliance notices or enforceable undertakings may be issued, or if legal action is required, the Legal Group will conduct litigation processes.

Figure 11: Large Corporates Branch process flow



### Industrial Compliance process flow

The process for investigations by the Industrial Compliance Branch is stepped out in the figure overleaf, and includes the following stages:

1. **Enquiry:** The Customer Services team answers general enquiries received via the Fair Work Infoline and My Account service. Time-sensitive and more complex enquiries are referred to the Industrial Compliance Branch. The Industrial Compliance Branch also has a direct stakeholder inbox which receives enquiries. Self-reports go directly to the Industrial Compliance team.
2. **Assessment:** The Industrial Compliance Branch processes and seeks to resolve enquiries in line with the FWO's Compliance and Enforcement policy. This includes initial consideration of jurisdiction, likely evidence, level of public interest, priority and risk level. The Industrial Compliance Branch also applies the University Strategy as appropriate which also includes consideration of public interest factors to determine the level of FWO intervention and resourcing. This is because universities are separated out of the pool of self-reports due to being a priority sector.

3. **Investigation:** Investigation is immediate as appropriate for industrial contraventions which can be time sensitive and reliant on witness testimonies rather than documents (which is more prevalent in underpayment cases). Investigations involve prompt phone calls or more often face-to-face interviews to ensure witness testimonies are as accurate as possible. Investigations are often longer and more resource intensive than for confined underpayment investigations, due to the large amount of investigation required for each enquiry, rather than the number of enquiries.
4. **Enforcement action:** If appropriate, the investigation process results in compliance or enforcement outcomes. Enforcement outcomes within the Industrial Compliance Branch's remit generally require some legal support from the Legal Group on the basis that compliance and infringement notices are not enforcement tools available under the Act for the contraventions in the remit of this Branch.

Figure 12: Industrial Compliance Branch process flow



## Group operational challenges and initiatives

The Large Corporates and Industrial Compliance Group noted a range of existing operational challenges in relation to their processes, systems and services. This Group is working to respond to these challenges and achieve greater efficiency through the delivery of technology, capability and recruitment initiatives.

### Operational challenges

Operational challenges that may be impacting the efficiency and effectiveness of the Large Corporates and Industrial Compliance Group are outlined in the table below.

Table 10: Large Corporates and Industrial Compliance operational challenges

Key Areas	Operational Challenges
Technology	<ul style="list-style-type: none"> <li>A lack of automation, and excessive manual handling in existing technology systems is reducing this Group's efficiency, for example, maintaining a manual referral pathway from Customer Services Branch to Industrial Compliance Branch while the technology build was approved and implemented</li> </ul>
Politicised Environment	<ul style="list-style-type: none"> <li>The highly politicised nature of the Industrial Compliance Branch's work in the building and construction sector in particular generates significant barriers to efficient and effective service delivery</li> </ul>
Workload	<ul style="list-style-type: none"> <li>There is a need to balance workload (for example, volume of self-reports received by the Large Corporates Branch) with existing resourcing and budget constraints</li> <li>The Large Corporates Branch is experiencing difficulties with the efficient triaging and compliance assurance for new matters due to the volume of self-reports and the current allocation of investigative resources</li> </ul>

## Current, recent and upcoming initiatives

The Large Corporates and Industrial Compliance Group is delivering several efficiency initiatives, including the use of innovative technology solutions (for example, the wage assessment model) to achieve further automation and integration.

The Large Corporates Branch's assessment model utilises industrial relations information and data analytics capabilities to automate large scale underpayment calculation processes. The program is underpinned by code that, using skilled analysts, can transform award and agreements into assessment models that can process tens of thousands of employees' payroll records without manual data entry. The large scale wage assessment model initiative has significantly increased efficiency and unlocked new capability, as previous calculations were manually completed through Microsoft Excel for smaller numbers of employees or over limited time periods. The Excel based wage calculator is widely utilised by the Calculations team, as 95 percent of wage calculations occur across five awards and still require manual data entry. Most large corporate investigations do not use the top five awards and new assessment models are required.

Figure 13: Large Corporates and Industrial Compliance Group initiatives

### Current, Recent and Upcoming Initiatives

## Large Corporates and Industrial Compliance Group

- ▶ Employing a wage calculator tool to calculate underpayments to reduce manual effort
- ▶ Using AI to extract data sets from handwritten records
- ▶ Recruitment of multidisciplinary staff, such as data analysts and coders
- ▶ Reviewing enforceable undertaking processes to create user friendly drafting tools and reduce duplication
- ▶ Implementation of a project management framework to govern complex investigations to ensure efficient resourcing and monitoring
- ▶ Ongoing technology capability uplift in relation to the analysis of large volumes of evidence and Power BI dashboards

# Policy and Communication Group

## Structure and Workforce

 **3**  
branches

 **13**  
teams

 **111**  
ASL

## Budget

**\$17.6 m**  
Group Budget  
2023-24

**10.9%**  
Percentage of total  
FWO budget  
(labour and non-labour  
departmental budget)

**83%**  
of the Group's  
budget is  
labour costs

The  
Communications  
Branch has the  
proportionately  
largest budget in  
the Group

## Core Functions

### Communication

- Internal and external communications including media
- Developing all content and education tools and resources for the FWO's websites

### Engagement

- Community and stakeholder engagement
- Cross Government programs and engagement in priority areas (for example, migrant workers and small business)
- Strategic projects including priority setting and grants management

### Policy

- Business reporting, intelligence and anonymous reporting
- Support policy, parliamentary and ministerial processes

## What We Heard

- **Increasing workload**  
Government reforms are driving high workload and resourcing pressures
- **New technology systems**  
FWO does not have necessary systems to support its work (for example, storage of social media information)
- **Efficient DEWR relations**  
Both parties leverage the other's work to prevent the duplication of functions
- **Politicised environment**  
Transfer of ABCC functions increased the political focus on the FWO

**27 million**

Total website visits in  
FY23

 **54,517**

Record number of  
online learning centre  
courses commenced

 **574,000**

Email subscribers in  
FY23

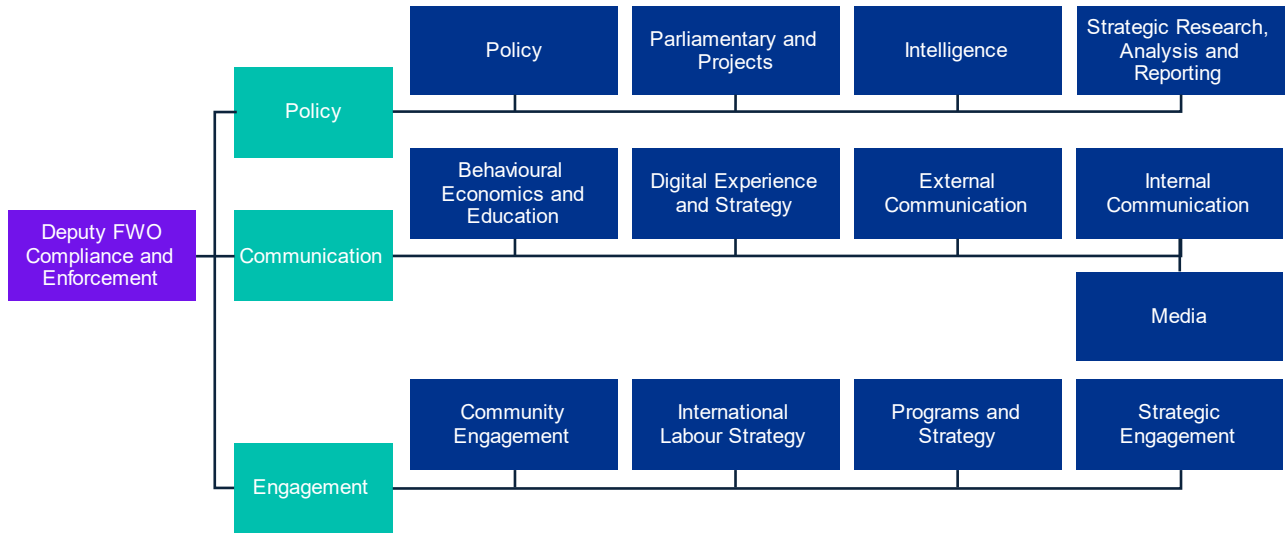
 **162**

Media releases  
published in FY23

### 2.6.3 Policy and Communication Group

The Policy and Communication Group is responsible for the FWO’s communication, engagement and collaboration with internal, parliamentary, departmental policy and other external stakeholders. The Group consists of three branches including Communication, Engagement and Policy.

Figure 14: Policy and Communication Group organisational structure



#### Communication Branch

The Communication Branch is responsible for engaging and communicating with internal and external stakeholders to support the FWO’s function of informing and educating stakeholders and the public. The Branch is an amalgamation of two separate branches which was undertaken as a response to the 2019 Butler Review. It consists of five teams with specific functions.

Table 11: Communication Branch teams, ASL and responsibilities

Communication Branch		
		Budget: \$7.7m
		ASL: 41.7
Team	ASL	Responsibilities
Behavioural Economics and Education	9.0	<p>A multidisciplinary team with staff skilled in a range of disciplines including psychology, human centred design, behavioural economics, law and learning design, who:</p> <ul style="list-style-type: none"> <li>Develop and maintain a large range of education tools and resources to help the workplace community understand their rights and entitlements and apply best practice</li> <li>Use behavioural economics to understand and influence behaviour in Australian workplaces</li> <li>Partner with stakeholders and the community to co-design education initiatives and extend the reach of the team’s work</li> <li>Collaborate with internal teams in developing education initiatives and associated tools</li> </ul>

Team	ASL	Responsibilities
Digital Experience and Strategy	13.2	<ul style="list-style-type: none"> <li>• Manage and develop the content and user experience of the FWO website, which is the single source of truth publicly and internally – content is reviewed by Legal before publication</li> <li>• Establish relationships across Government to ensure coordinated messaging across government websites including the Fair Work Commission, AHRC and ATO</li> <li>• Manage and develop content for sub-sites for small business and horticulture</li> <li>• Maintain and develop some website tools and applications</li> <li>• Inform customers via FWO's email subscription system about important website updates affecting workplace entitlements and obligations</li> </ul>
External communications	8.5	<ul style="list-style-type: none"> <li>• Cultivate FWO's brand and narrative outside traditional media channels, including coordinating FWO's response to issues and changes as they arise</li> <li>• Establish relationships across government to ensure consistent and shared messaging when relevant</li> <li>• Manage and develop content across multiple social media platforms including LinkedIn, Instagram, Facebook and X (formerly Twitter)</li> <li>• Provide graphic design function for the Agency including video editing and development</li> <li>• Develop and implement marketing campaigns to promote the work of the Agency and educate the community about workplace relations entitlements and obligations</li> <li>• Manage and develop monthly employer newsletter, particularly aimed at small businesses, and broader FWO subscriber strategy</li> </ul>
Internal Communications	6.5	<ul style="list-style-type: none"> <li>• Develop and disseminate communications internally (for example, to FWO staff) such as internal intranet, messaging from the leadership and internal news and events</li> <li>• Develop and deliver internal communications for the FWO CEO including the weekly newsletter</li> <li>• Provide strategic communications support to FWO teams and leadership through development and implementation of communications strategies focusing on a range of internal issues</li> <li>• Maintain, develop and manage the FWO's intranet including managing and supporting the FWO's community of intranet content publishers</li> <li>• Develop and deliver the FWO's Annual Report each year</li> </ul>
Media	4.5	<ul style="list-style-type: none"> <li>• Manage the FWO's media profile through traditional media channels such as print media, television and radio, as well as online (excluding social media channels)</li> <li>• Draft and publish media releases</li> <li>• Manage and coordinate media requests with internal and external stakeholders</li> <li>• Brief and prepare FWO media spokespersons</li> <li>• Distribute relevant media information to the rest of the Agency</li> </ul>

## Engagement Branch

The Engagement Branch leads the FWO's contributions to cross government programs and initiatives relating to migrant workers and small business, manages community and stakeholder engagement, and delivers strategic projects and initiatives. This Branch consists of four teams with specific functions as outlined in the table below.

Table 12: Engagement Branch teams, ASL and responsibilities

Engagement Branch			
		Budget: \$3.9m	ASL: 24.3
Team	ASL	Responsibilities	
Community Engagement	6.8	<ul style="list-style-type: none"> <li>Deliver community outreach activities, with priority focus on small business and vulnerable worker communities to increase awareness of workplace laws and the FWO, and obtain insights to inform the FWO's approach</li> <li>Conduct activities including webinars, community stakeholder eNewsletter, events and presentations, train-the-trainer programs, and contribution to cross-community/multicultural forums, through use of intermediaries such as industry bodies and employer groups</li> <li>Build and manage relationships with intermediaries such as community legal centres, community organisations, not-for-profit organisations, industry bodies, employer groups, education providers and migrant worker support services to reach priority communities and groups</li> <li>Implement the FWO's Small Business Strategy</li> <li>Collaborate with other government agencies such as the ATO to ensure consistent, whole of government messaging</li> <li>Support implementation of FWO speeches policy including provision of standard materials and keeping records of events attended by FWO representatives</li> </ul>	
International Labour Strategy	9.3	<ul style="list-style-type: none"> <li>Lead the FWO's input into cross government work related to migrant worker exploitation, including implementation of the recommendations of the Migrant Workers' Taskforce report, and involving close collaboration with DEWR and other government agencies such as Home Affairs</li> <li>Manage the FWO's responsibilities under the PALM Scheme including advice to administering departments and participants, compliance history checks, coordinating arrival briefings and maintaining a suite of tailored information and education resources</li> <li>Represent the FWO in human trafficking and slavery inter-departmental committees (IDCs) and manage the FWO's obligations under the National Action Plan to combat modern slavery</li> </ul>	
Programs and Strategy	3.0	<p>A new team recently created to accommodate increasing workloads and:</p> <ul style="list-style-type: none"> <li>Support discrete projects and priority issues, for example, leading the FWO's input into the development of a National Labour Hire Scheme and engaging with stakeholders with a role or interest in labour hire regulation</li> <li>Provide coordination and leadership on cross-Agency projects such as the Fast Food, Restaurants and Cafes (FRAC) Strategy and annual regulatory priority setting</li> <li>Support whole of government multicultural framework and policies, including managing the FWO's Multicultural Access and Equity Action Plan and translation policy</li> </ul>	

Team	ASL	Responsibilities
		<ul style="list-style-type: none"> <li>• Procures and maintains professional translations of key statutory documents such as the Fair Work Information Statement and Casual Employment Information Statement</li> </ul>
Strategic Engagement	5.2	<ul style="list-style-type: none"> <li>• Manage the FWO's stakeholder engagement strategy, which involves managing a stakeholder database, internal guidance, and templates to support stakeholder engagement, and advise on strategic engagement opportunities</li> <li>• Manage formal stakeholder arrangements including memoranda of understanding (MoUs) with industry and other government agencies, and coordinates regular strategic meetings with key partners such as the ATO and ASIC</li> <li>• Provide support to the FWO CEO's office including stakeholder engagement plans, briefings, meeting support and drafting correspondence where required</li> <li>• Manage the FWO's Community Engagement Grants program and relationships with grantees</li> </ul>

## Policy Branch

The Policy Branch is responsible for leading the FWO's government engagement and parliamentary process work, providing information and advice through intelligence products to assist in the strategic allocation of FWO resources, and providing the FWO's data for internal and external reporting needs. This Branch analyses the strategic environment in which the FWO operates to inform future decision making (for example, significant risks) for the organisation, and supports the FWO's communications activities. The Policy Branch consists of four teams with specific functions as outlined in the table below.

Table 13: Policy Branch teams, ASL and responsibilities

<div style="display: flex; justify-content: space-between; align-items: center;"> <span style="font-size: 1.2em; font-weight: bold;">Policy Branch</span> <div style="border: 1px solid black; border-radius: 15px; padding: 5px 15px; background-color: #00a651; color: white;">Budget: \$5.5m</div> <div style="border: 1px solid black; border-radius: 15px; padding: 5px 15px; background-color: #00a651; color: white;">ASL: 40.4</div> </div>		
Team	ASL	Responsibilities
Intelligence	16.9	<ul style="list-style-type: none"> <li>• Manage the FWO's intelligence and data, including:               <ul style="list-style-type: none"> <li>– Handle anonymous report processes such as coding and tagging reports</li> <li>– Engage with other agencies in relation to data usage and collating data analytic reports</li> <li>– Support whole-of-government taskforces</li> <li>– Create intelligence products to inform the FWO's investigations and audits, or to share other regulators</li> <li>– Manage the FWO's intelligence holdings, drawing in internal and external intelligence / data</li> </ul> </li> </ul>
Parliamentary and Projects	6.1	<ul style="list-style-type: none"> <li>• Coordinate parliamentary responsibilities (for example, Senate Estimates)</li> <li>• Manage the FWO's international engagements activities, for example, engagement with the International Labour Organization (ILO) and overseas governments</li> <li>• Conduct project-based work on policy issues (for example, Respect@Work, RegTech, Disability Royal Commission)</li> <li>• Assist with Ministerial Correspondence and constituent enquiries from Members of Parliament</li> </ul>



Team	ASL	Responsibilities
Policy	6.8	<ul style="list-style-type: none"> <li>• Manage key relationships with the Minister's Office and DEWR</li> <li>• Represent the FWO's interests in policy and legislation development processes and advises the Agency on policy-related matters</li> <li>• Support the development of New Policy Proposals</li> <li>• Make submissions to government, parliamentary and public inquiries</li> <li>• Prepare key speeches to support the FWO CEO</li> </ul>
Strategic Research, Analysis and Reporting	10.6	<ul style="list-style-type: none"> <li>• Identify and monitor trends and risks, which involves managing internal reporting, conducting compliance risks modelling and regression analysis</li> <li>• Provide trend analysis and modelling for the FWO's priority settings</li> <li>• Monitor and update Agency priorities throughout the financial year</li> <li>• Prepare official statistics for external reporting, such as the Annual Report</li> </ul>

## Group operational challenges and initiatives

The Policy and Communication Group noted a range of existing operational challenges in relation to their processes, systems and services. This Group is working to respond to these challenges and achieve greater efficiency through the delivery of process improvement, data and technology initiatives.

### Operational challenges

The operational challenges impacting the efficiency and effectiveness of the Policy and Communication Group are outlined in the table below.

**Table 14: Policy and Communication Group operational challenges**

Key Areas	Operational Challenges
Technology	<ul style="list-style-type: none"> <li>• This Group faces continual challenges in relation to technology systems and processes, such as: <ul style="list-style-type: none"> <li>– The need to build new technology capability to modernise the FWO's intelligence function</li> <li>– Ensuring data and reporting is part of initial project scoping</li> <li>– Investment in system upgrades leaving little capacity for system enhancements and time taken to implement small works is excessive</li> </ul> </li> </ul>
Workload	<ul style="list-style-type: none"> <li>• Significant Government reforms are driving additional workload and resourcing pressures for this Group in terms of the increased demand and need for customer communication, product development, updates to resources including translated resources, and engagement on changes to the Fair Work Act</li> <li>• Workplace compliance is increasingly seen as fundamental to effective public policy development. This draws the FWO into a growing number of government and non-government forums and groups. FWO representation in these forums is non-discretionary to manage expectations from external parties about how the FWO can deliver</li> <li>• The Policy and Engagement Branches' work with non-governmental stakeholders (in line with Government's stated expectations around engagement) drives further workload and resourcing pressures</li> </ul>
Politicised Environment	<ul style="list-style-type: none"> <li>• The politicised environment generates barriers to operational efficiency for this Group, such as allocating additional time to deliver external products to ensure appropriate language in public facing communications, correspondence and media</li> </ul>

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## Current, recent and upcoming initiatives

The Policy and Communication Group has a range of initiatives to achieve greater efficiency outlined in the figure below.

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**Figure 15: Policy and Communication Group initiatives**



# Legal Group

## Structure and Workforce

 **3**  
branches

 **9**  
teams

 **122**  
ASL

## Budget

**\$27.4**  
Group Budget  
2023-24

**17.0%**  
Percentage of total  
FWO budget  
(labour and non-labour  
departmental budget)

**59%**  
of the Group's  
budget is  
labour costs

**\$11.3m**  
Non-labour costs  
and represents 47%  
of the FWO's total  
non-labour budget

## Core Functions

### Advice

- Legal advice – legal frameworks and strategic advice
- Technical advice
- Employer Advisory Service
- Knowledge management
- Ensuring consistency of agency position on workplace relation matters

### Legal Compliance and Enforcement

- Strategic and legal advice, such as advising on appropriate enforcement actions
- Litigation including recovery and small claims processes

## What We Heard

- **Increasing workload**  
Additional workload driven by the transfer of ABCC functions, compliance notices and legislation changes
- **Staffing level**  
Difficulties with attracting and retaining staff
- **Capability building**  
Internal capability building initiatives have reduced the need for outsourcing
- **High volume of litigations**  
Consider the balance between the volume of litigations and resourcing constraints
- **Streamlined debt recovery**  
Initiated project payback to streamline debt recovery processes

**\$3.7m**

Secured in court-  
ordered penalties in  
FY23

 **119**

litigations in court (81  
filed in FY23)

 **383**

matters subject to  
assessment,  
ongoing advice or  
debt recovery

 **2,893**

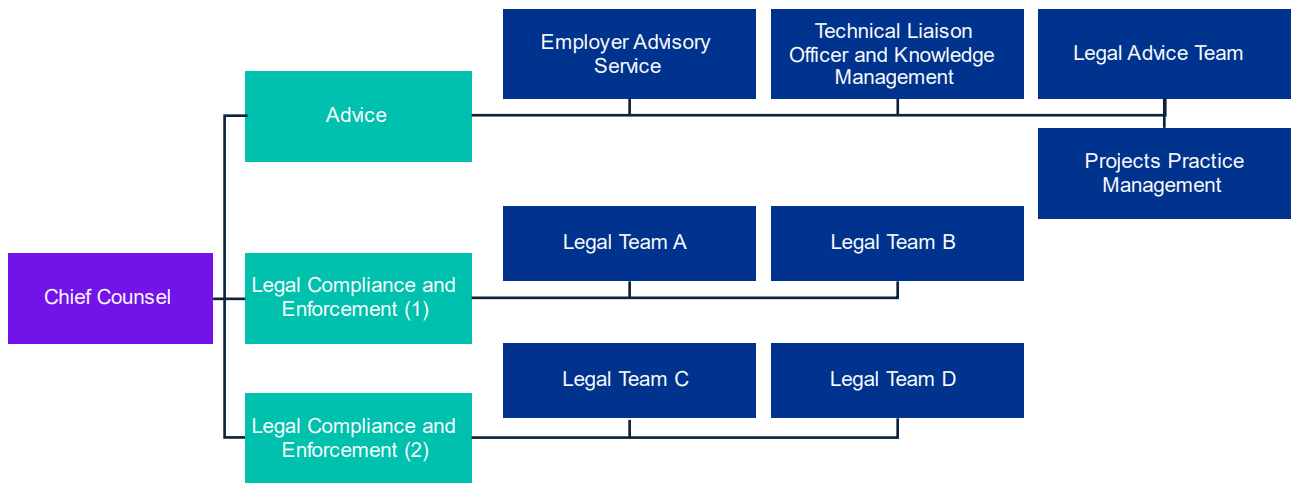
Pieces of written  
advice by the EAS  
in FY23

## 2.6.4 Legal

The Legal Group provides litigation and advisory services to support the FWO's purpose and functions as set out in the Fair Work Act and the PGPA Act. In particular, the Group provides legal and strategic advice to the Agency's Compliance and Enforcement Branch, delivers the Employer Advice Service and works with most other business areas to ensure accuracy, framework integrity and consistency in the FWO's position across the litigation and advisory functions. The Group also provides legal research, analysis, and recommendations to the FWO CEO as required and provides in-house advice to the Agency more broadly.

Pending the passing of the Closing Loopholes Bill before Parliament, the Legal Group will also have a significant role in the incorporating of the new criminal jurisdiction in the current exclusively civil, FWO operating environment.

**Figure 16: Legal Group organisational structure**



## Advice Branch

The Advice Branch has four teams that deliver a range of advisory services and enabling functions as outlined in the table below. The Branch aligns technical and advice work, leveraging internal expertise and knowledge content to prioritise providing correct advice. The Advice Branch also ensures there is a consistent Agency position aligned with compliance and enforcement activities with appropriate escalation procedures for complex requests. The Branch also supports the efficient delivery of the FWO's corporate, commercial, and public law advisory functions and administration of the Legal Group's functions. The Branch's workload has increased over time with recent legislative changes and is impacted by award changes and other sector or industry developments.

Table 15: Legal Advice Branch teams, ASL and responsibilities

Advice Branch		
		Budget: \$7.1m
		ASL: 62.2
Team	ASL	Responsibilities
EAS	16.2	<ul style="list-style-type: none"> <li>Provide free, tailored, written technical advice to small business customers regarding the application of National Employment Standards (NES), pay and entitlements under awards and enterprise agreements and record-keeping requirements</li> </ul>
Technical Liaison Officer and Knowledge Management Teams	22.0	<p><b>Technical Liaison Officers:</b></p> <ul style="list-style-type: none"> <li>Research and respond to complex workplace relation enquiries that cannot be addressed by Customer Services and EAS teams</li> <li>Provide practical technical advice (non-legal advice) to FWO customers and FWO teams, including the Compliance and Enforcement Group, Communication and Engagement Branches</li> </ul> <p><b>Knowledge Management:</b></p> <ul style="list-style-type: none"> <li>Manage the FWO's Library (available externally) and KnowledgeNet (internal knowledge database), which house the FWO's suite of technical workplace relations knowledge</li> <li>Monitor Fair Work Commission decisions and major cases, identifies required changes, updates current content and creates new resources</li> </ul>
Principal Lawyer Legal Advice Team (two teams)	9.7	<p>Consists of in-house practicing lawyers, who:</p> <ul style="list-style-type: none"> <li>Provide legal and strategic advice and support to business areas across the FWO on complex legal and legal policy workplace relations issues, the statutory framework, and Agency position</li> <li>Review workplace relations education and advice materials to ensure accuracy and consistency</li> <li>Assist with preparations for inquiries and appearances such as Royal Commissions</li> <li>Provide legal and strategic advice to business areas across the FWO on general legal issues, including public law, information management, and corporate and commercial matters such as IT procurement and contracting and human resourcing</li> </ul>
Projects Practice Management	14.34	<ul style="list-style-type: none"> <li>Provide administration support for the Legal Group, including the coordination of data, reporting, and invoicing related to external legal expenditure</li> <li>Manage various projects related to Legal Group's work</li> </ul>

## Legal Compliance and Enforcement Branches 1 and 2

Historically, Legal Compliance and Enforcement was a single Branch within the Legal Group that operated with comparatively limited resources, considering the size and complexity of the Agency’s litigation practice, particularly in recent years. In addition to formal litigation, the practice provides legal and strategic advice that informs the Agency’s compliance and enforcement approach, both generally and in relation to specific matters.

The FWO’s legal practice is characterised by several key features:

- A combination of both high-volume and large-scale, high complexity litigation and compliance and enforcement advisory work in a changing legislative and regulatory environment
- The FWO has had approval since 2009 by the Office of Legal Services Coordination (OLSC) through the Attorney-General’s Department, to conduct in-house litigation as solicitor on the record, using in-house capabilities, reducing reliance on external providers
- Due to OLSC approval, additional professional and ethical rules apply
- A comparatively more junior staffing profile which, with requisite staff and risk management obligations on senior staff (particularly at EL2 and SES levels) as compared to other regulators.

The FWO’s litigation practice is now spread across two branches to manage legal and other risks more effectively by ensuring caseloads within each Branch are set at a level more in line with other regulator and private litigation practices.

Table 16: Legal Compliance and Enforcement Branch teams, ASL and responsibilities

Legal Compliance and Enforcement Branches		Budget: \$19.7m	ASL: 56.1
Team	ASL	Responsibilities	
Branch 1	Legal Team A	15.6	<p>Consists of in-house lawyers, who:</p> <ul style="list-style-type: none"> <li>• Support the FWO’s compliance and enforcement functions by delivering strategic and legal advice on request throughout the investigative process, including: <ul style="list-style-type: none"> <li>– Advising the FWO on its position on compliance with workplace laws and specific legal issues</li> <li>– Advising the FWO in relation to appropriate enforcement actions, such as statutory notices, enforcement undertakings and conduct of litigation</li> </ul> </li> <li>• Provide legal and legal policy framework advice related to compliance and enforcement matters</li> <li>• Prepare and conduct litigation to enforce compliance with workplace laws and resolve instances of outstanding entitlements and penalties, including supporting small claims matters</li> <li>• Enforce the specific requirements for non-compliant entities resulting from litigation matters</li> <li>• Advise on or develop Agency guidance material, templates, or other resources to ensure Agency delivery of compliance and enforcement outcomes and implementation of legislative reform</li> <li>• Conduct all debt recovery legal action (Legal Team D)</li> </ul>
	Legal Team B	12.1	
Branch 2	Legal Team C	10.3	
	Legal Team D	18.1	

## Group operational challenges and initiatives

The Legal Group noted a range of existing operational challenges in relation to their processes, systems, and services. This Group is working to respond to these challenges and achieve greater efficiency through less reliance on external legal providers and the delivery of process improvement and technology initiatives. The Group has undergone several structural changes to address these challenges and consistently reviews their operational practices and procedures.

### Operational challenges

Operational challenges that may be impacting the efficiency and effectiveness of the Legal Group are outlined in the table below.

**Table 17: Legal Group operational challenges**

Key Areas	Operational Challenges
Capability	<ul style="list-style-type: none"> <li>Staff can find it challenging to build and maintain their knowledge and capabilities to address the scale and scope of the Group's functions. This is predominantly due to the scale and frequency of legislative change</li> </ul>
Workload	<ul style="list-style-type: none"> <li>Experiences a high-volume workload in many service areas, such as:               <ul style="list-style-type: none"> <li>Compliance notice litigation</li> <li>Large corporate underpayment cases</li> <li>Internal legal advisory services concerning recent legislative changes which have been increasing in scale and frequency</li> <li>Resource intensive ABCC matters (for example, litigation cases)</li> </ul> </li> <li>It is difficult to utilise workload and resource management levers when litigation matters have already commenced. This is because professional practice requirements, responding to respondent applications, and court procedures impact the work required to be conducted</li> <li>Limited in the Group's ability to plan for legislation changes</li> </ul>
Budget	<ul style="list-style-type: none"> <li>Does not receive additional funding for every significant addition to its workload</li> <li>Required to promptly advise on Agency position and actions following legislative change, while meeting court deadlines</li> <li>Applied budgeting constraints in relation to travel expenses, the scale of litigation matters, and the use of external legal providers</li> </ul>
Recruitment and Retention	Experienced difficulties with recruiting and retaining legal staff, as enterprise agreement rates are not generally competitive in the market

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## Current, recent and upcoming initiatives

The Legal Group is delivering a range of initiatives to improve the efficiency of services for external and internal stakeholders (see below).

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**Figure 17: Legal Group initiatives**

Current, Recent and Upcoming Initiatives

### Legal Group

- ▶▶ Setting up a centralised referral, triage and allocation process for compliance notice litigation referrals
- ▶▶ Deploying Bundledocs software for more efficient digital legal briefs and to enhance efficiency of referrals from inspectors
- ▶▶ Working with Compliance and Enforcement Group to pilot three initiatives to manage compliance notice workflow by assessing suitability for referral, piloting calculation assistance in compliance notices, and via exploring small claims as an alternative pathway for certain compliance notice matters
- ▶▶ Reviewing internal legal compliance notice litigation processes to streamline processes and delegate decision making
- ▶▶ Streamlining and improving legal and technical advice functions by centralising these functions in the Advice Branch



# Corporate Group

## Structure and Workforce

 **3**  
branches

 **15**  
teams

 **123**  
ASL

## Budget

**\$20.1m**

**Group Budget  
2023-24**

(\$52.1m incl. CEO office,  
enterprise and project  
costs)

**12.5%**

**Percentage of total  
FWO budget**

(labour and non-labour  
departmental budget)

**26.5%**

**of the FWO budget  
relates to property  
& information  
technology**

**Technology  
branch has the  
largest budget  
in the Corporate  
Group**

## Core Functions

### People

- Recruitment
- Payroll management
- Capability development

### Technology

- Management of internal and external facing technology applications

### Corporate Services

- Financial services
- Accountability and risk
- Assurance
- Property
- Information Governance

**82%**

of FY23 APS Employee  
Census respondents said  
they would recommend  
the FWO as a good place  
to work

 **3**

Eligible data breaches  
reported to the Office of  
the Australian  
Information  
Commissioner in FY23

## What We Heard

### • Technology improvements

Ageing applications have been replaced, and initiatives are underway to simplify the technology landscape and adapt DEWR's cyber hub model

### • Increased recruitment

Expanded remit and increased attrition rates drive further recruitment

### • Technology capability gap

A reliance on contractors for technology functions due to difficulties with attracting and retaining technology staff

### • New budget constraints

APS bargaining will generate additional budget constraints (wages and leave)

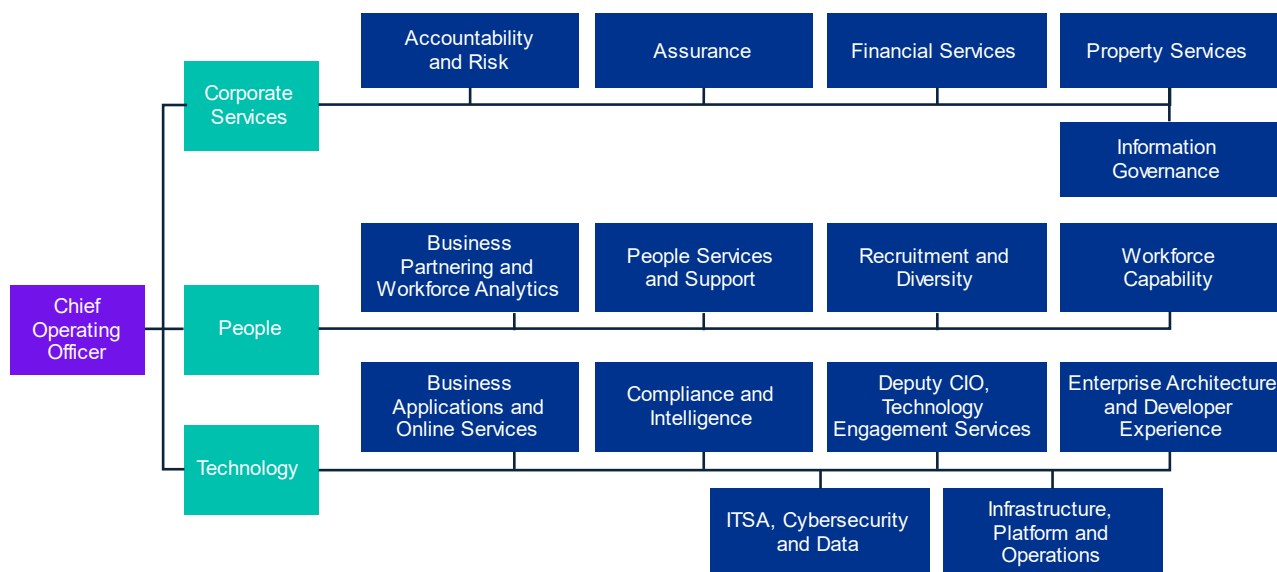
 **5/5**

FWO groups mentioned  
budget or resourcing  
constraints as a  
significant challenge to  
capacity building,  
technology initiatives and  
effective service delivery

## 2.6.5 Corporate Group

The Corporate Group is responsible for delivering corporate functions, such as HR, technology, finance, and budgeting. The Corporate Group also drives positive Agency performance, culture, and reform initiatives. This Group's work supports the other FWO branches to deliver their functions, addresses the needs of the FWO workforce and ensures the sustainability of the FWO as an organisation. The FWO has shared services arrangements with DEWR in relation to various security, technology, telephone and procurement functions. It also manages an agreement with the whole-of-government SDO for the use of their SAP finance system to enable payroll and other financial management functions.

Figure 18: Corporate Group organisational structure



### Corporate Services Branch

The Corporate Services Branch consists of five teams with specific corporate functions as outlined in the table below.

Table 18: Corporate Services Branch teams, ASL and responsibilities

Corporate Services Branch		
		Budget: \$5.8m
		ASL: 38.5
Team	ASL	Responsibilities
Accountability and Risk	6.6	<ul style="list-style-type: none"> <li>Provide risk management, counter fraud, governance and accountability related functions, including managing conflict of interest controls and cases</li> <li>Responsible for the Corporate Plan and Annual Performance Statement</li> <li>Manage and monitor physical security across FWO locations</li> </ul>
Assurance	9.1	<ul style="list-style-type: none"> <li>Manage customer feedback and customer complaints sent directly or indirectly to the FWO</li> <li>Manage and support the internal audit function and the Audit and Risk Committee</li> </ul>
Financial Services	8.0	<ul style="list-style-type: none"> <li>Manage the finance and procurement related functions for the FWO</li> </ul>

Team	ASL	Responsibilities
Information Governance	10.0	<ul style="list-style-type: none"> <li>Be responsible for the FWO's obligations under privacy, FOI and information management legislation</li> </ul>
Property Services	4.8	<ul style="list-style-type: none"> <li>Manage the Emergency Management function and maintain the fleet of vehicles</li> <li>Manage the FWO's property (buildings and vehicles) across metropolitan and regional offices in Australia</li> </ul>

## People Branch

The People Branch is responsible for supporting the current FWO workforce via workforce capability, payroll management, workplace safety and other related functions, and securing the future FWO workforce via recruitment functions. This Branch is made up of four different teams with specific functions, which are outlined in the table below.

**Table 19: People Branch teams, ASL and responsibilities**

<div style="display: flex; justify-content: space-between; align-items: center;"> <span style="font-size: 1.2em; font-weight: bold;">People Branch</span> <div style="border: 1px solid black; border-radius: 15px; padding: 5px 15px; background-color: #00a68a; color: white;">Budget: \$4.7m</div> <div style="border: 1px solid black; border-radius: 15px; padding: 5px 15px; background-color: #00a68a; color: white;">ASL: 26.5</div> </div>		
Team	ASL	Responsibilities
Business Partnering and Workforce Analytics	5.8	<ul style="list-style-type: none"> <li>Work with business areas and managers to identify and address people issues for example, attraction and retention challenges</li> <li>Provide reporting support on resource allocation</li> </ul>
People Services and Support	8.6	<ul style="list-style-type: none"> <li>Deliver payroll functions via the Department of Finance's SAP system</li> <li>Manage workplace safety, code of conduct investigations, and public interest disclosures</li> </ul>
Recruitment and Diversity	7.0	<ul style="list-style-type: none"> <li>Deliver recruitment functions, and work to increase the degree of diversity and inclusion in the workforce</li> </ul>
Workforce Capability	5.1	<ul style="list-style-type: none"> <li>Manage the centralised Learning and Development system, develop and procure learning content, and leads Agency capability projects for example, compliance and enforcement capability program</li> </ul>

## Technology Branch

The Technology Branch delivers and manages the FWO's technology applications and is comprised of six teams.

Table 20: Technology Branch teams, ASL and responsibilities

Technology Branch			
		Budget: \$9.0m	ASL: 48.5
Team	ASL	Responsibilities	
Business Applications and Online Services	2.0	<ul style="list-style-type: none"> <li>Maintain and update the FWO's business applications and online services</li> <li>Develop business technology solutions to improve external user experiences</li> </ul>	
Compliance and Intelligence	11.4	<ul style="list-style-type: none"> <li>Ensure compliance with DTA standards and other relevant requirements for technology applications and processes</li> <li>Monitor and gather intel on the performance and efficiency of existing technology applications and processes</li> </ul>	
Customer and Collaboration	8.9	<ul style="list-style-type: none"> <li>Maintain and update the FWO's external, customer-facing technology systems</li> </ul>	
Deputy CIO, Technology Engagement Services	8.2	<ul style="list-style-type: none"> <li>Engage with internal and external stakeholders to support ongoing processes and new initiatives</li> <li>Deliver technology strategies and plans, as well as a digital business strategy to support the ongoing improvement of ongoing and new technology processes</li> </ul>	
Enterprise Architecture and Developer Experience	2.0	<ul style="list-style-type: none"> <li>Develop, apply, and raise awareness of the core architecture requirements for integrating existing and new technology into the FWO's infrastructure</li> <li>Maintain and update the FWO's technology applications and systems</li> </ul>	
ITSA, Cybersecurity and Data	5.0	<ul style="list-style-type: none"> <li>Evaluate existing cyber security risks</li> <li>Action risk management strategies and initiatives to improve the FWO's cyber security</li> <li>Manage the storage and security of data across all business areas</li> </ul>	
Infrastructure, Platform and Operations	11.0	<ul style="list-style-type: none"> <li>Manage the FWO's network synergies with DEWR's cyber hub model</li> <li>Maintain and update the FWO's technology applications and systems</li> </ul>	

## Group operational challenges and initiatives

The Corporate Group noted a range of existing operational challenges in relation to their processes, systems and services. This Group is working to respond to these challenges and achieve greater efficiency through the delivery of technology, human resources and corporate services related initiatives.

### Operational challenges

The operational challenges impacting the efficiency and effectiveness of the Corporate Group are outlined in the table below.

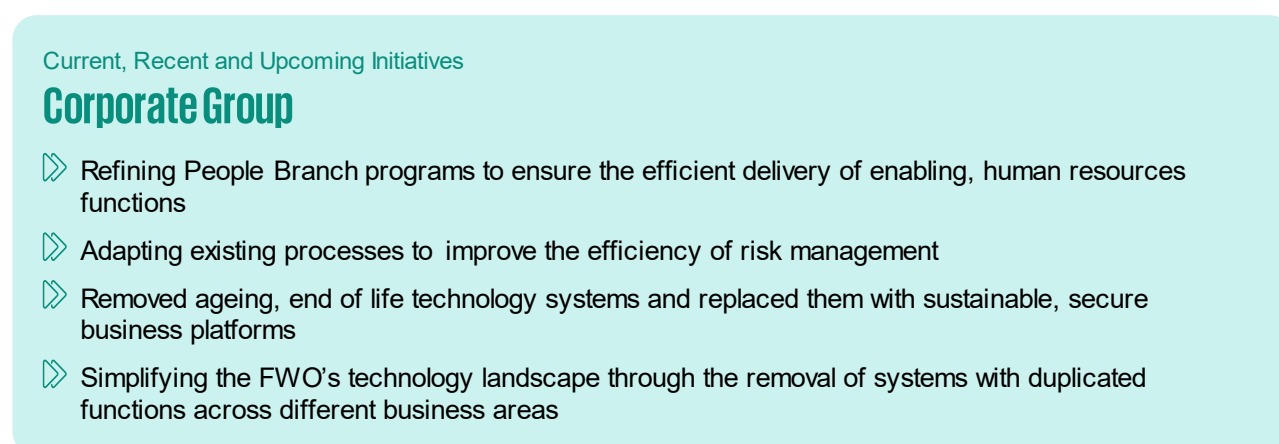
**Table 21: Corporate Group operational challenges**

Key Areas	Operational Challenges
Technology	<ul style="list-style-type: none"> <li>The FWO faces a range of technology challenges that reduce overall efficiency, such as:               <ul style="list-style-type: none"> <li>Ability to adopt and implement the latest technology solutions is constrained by funding, available technical skillset and reliance on DEWR services</li> <li>Ongoing challenges with recruiting and retaining technology staff leading to a reliance on contractors with skills not available in the Branch.</li> </ul> </li> </ul>
Budget	<ul style="list-style-type: none"> <li>Agency-wide budget constraints result in cost reduction measures that impact many areas, such as:               <ul style="list-style-type: none"> <li>Resourcing for high workload areas</li> <li>Capability building initiatives</li> <li>Travel</li> <li>Existing programs</li> <li>Investment towards efficiency related technological improvements.</li> </ul> </li> </ul>
Staffing Levels	<ul style="list-style-type: none"> <li>Additional staff are required to fulfil the FWO's expanded remit, however the Agency is experiencing a period of increased staff attrition.</li> <li>Consequently, inadequate staffing levels for several high-demand areas are generating additional workload pressures.</li> </ul>

### Current, recent and upcoming initiatives

The Corporate Group is currently delivering a range of initiatives to improve the efficiency of the FWO's existing systems and processes.

**Figure 19: Corporate Group initiatives**



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## 2.7 Organisational alignment and duplicated functions and capabilities

There can be legitimate reasons for separating like functions and capabilities, for example where focused effort and leadership is required. However, this can also result in additional structural layers, smaller span of control and increased cost.

There are several instances of potential duplicated functions or capabilities and/or opportunities for better organisational alignment across the FWO. Some examples of this are described in greater detail below and include:

- Customer enquiries and advice
- Calculations
- Investigations.

### 2.7.1 Customer enquiries and advice

There is some opportunity for better organisational alignment of customer enquiry and advisory functions across teams. For example, across the FWO Infoline and EAS teams. The FWO Infoline is a base-funded function that provides over the telephone and online general advice and assistance to all workplace participants regarding workplace relation matters. It employs low-cost resources to deliver high-volume services to a greater number of customers. In contrast, the EAS is a specifically funded terminating measure that provides free written advice for small businesses tailored to their circumstances. This assists the businesses with their compliance with workplace obligations for the benefit of their employees. The EAS utilises higher-cost resources to deliver lower-volume, higher-complexity services with a higher level of specificity in the advice function and greater reliability for employers (who can refer to the written advice in future). While both teams manage incoming enquiries and provide advice to the public, there is potential for duplication between services is managed through existing internal referral arrangements, including for My Account queries from small businesses.

### 2.7.2 Calculations

The Large Corporates Branch and the Compliance Branch have teams that share similar functions leading to calculation outputs related to wage entitlements. These calculation outputs support the FWO's work in relation to compliance matters, such as wage underpayment matters. The Calculation team in the Compliance Branch primarily supports the Compliance and Enforcement Group in relation to calculations for small to medium sized employers or smaller scale assessments. The team also supports the Industrial Compliance Branch and completes calculations for significant investigations relating to large employers.

The Data Assessment and Analytic team in the Large Corporates Branch includes capability to undertake technology assisted calculations for large-scale investigations and litigations as part of a broader data analytic service offering. While there are similarities between the core skillsets for both teams, there is a degree of specialisation required for Large Corporates' calculation activities. For example, team members within the Data Assessment and Analytic team require data science or equivalent tertiary qualifications.

### 2.7.3 Investigations

Investigation-related capabilities are evident across the Compliance and Enforcement Group and the Large Corporates and Industrial Compliance Group. While these different areas have different focuses, all Fair Work inspectors under the Fair Work Act fulfil similar responsibilities. These include conducting investigations, collecting evidence and delivering enforcement outcomes.

## 2.8 Collaboration and partnerships

With a team dedicated to strategic engagement, the FWO invests in stakeholder engagement and considers this function to be mature.

As outlined previously, the FWO operates within a broader Australian workplace and industrial relations ecosystem. While there are some significant barriers, such as legislation preventing some data sharing between agencies, the FWO has existing arrangements, including formal MoUs with numerous government agencies and other regulators. These arrangements cover, for example, information sharing protocols and other activities where the FWO collaborates and contributes to Government priorities that intersect with its remit and regulatory priorities. This includes for example:

- Supporting the PALM Scheme, an important temporary migration program to address unskilled, low-skilled, and semi-skilled labour shortages across rural and regional Australia. This allows Australian businesses to hire workers from Pacific Island countries and Timor-Leste where there are not enough local workers available
- Participating in IDCs and taskforces, such as the Respect@Work council and Shadow Economy and Phoenix taskforces
- Participating in certain operations, such as AFP investigations of human trafficking, where there is a workplace relations element.

The FWO also convenes reference groups in line with its regulatory priorities. For example, reference groups have been established for the agriculture industry and the fast food, restaurants and cafes industry, which include broad representation from across unions, employers, and community groups relevant to particular focus industries.

Despite being involved in a wide range of cross Government activities (including over 20 inter-departmental committees or forums), the FWO appears to approach its own remit quite independently. However, the FWO is a relatively small organisation that must prioritise its effort within finite resourcing.

Although there are good working officer level relationships on certain elements such as communications, there are limited active formal collaboration agreements or significant levels of senior engagement between the FWO and the Fair Work Commission. Notable recent examples of formal inter-agency collaboration include the new return referral arrangements recently formalised between the Fair Work Commission, the AHRC and the FWO to refer specific unresolved matters

involving serious or systemic unlawful conduct to the FWO for possible investigation and enforcement action, and the finalised principles relating to identifying and correcting errors in data.

There also appears to be some duplication of functions and capabilities across the two key organisations. For example, both organisations run call centres and appear to field a large number of calls for the other (in part potentially due to confusion amongst the public around their respective roles and how they differ). They both also offer education products to the public and maintain wage databases that are available for use by the public to different degrees. The FWO's database sits behind pay, leave, notice and redundancy and shift calculators that anyone can access through its website.

Meanwhile, the Fair Work Commission has developed an Application Programming Interface (API) for organisations to integrate wages data directly into accounting software, payroll systems and other digital pay tools. However, it does not provide the rules from when conditions apply, unlike the FWO's PACT, which is an educative tool that helps users find their award, and identify their classification and hourly rates of pay. The PACT also helps users apply award conditions, such as overtime, penalties, allowances, and a range of other conditions, to calculate a worker's take home pay.

Other actors in the workplace and industrial relations ecosystems also have some shared objectives with the FWO around promoting harmonious workplaces, protecting employees, and supporting employers to do the right thing. These include various workers unions, employer groups, industry and peak bodies, professional bodies and providers of products and services, such as financial management information systems and payroll services.

The FWO has some formal agreements and has delivered grants to select organisations (for example, to provide additional industrial relations advice during the COVID-19 pandemic). There also appears to be senior and working officer level interaction with some of these organisations. These relationships are leveraged to seek feedback and input on FWO initiatives, and to extend the reach of the FWO's messaging through the networks of these organisations. However, there may be more opportunities to harness their potential influence and impact in progressing the FWO's objectives (for example, in delivering workplace relations related education or advice).



Emerging theme  
**Collaboration and  
partnerships**

The FWO participates actively in a number of whole of government activities, such as taskforces, where the objectives align or intersect with its focus areas. However, there is little evidence of the FWO effectively leveraging its relationships within the broader workplace and industrial relations ecosystem to progress its objectives. The FWO may be missing opportunities for collaboration, innovation and efficiencies in delivery of outcomes.

For example, there does not appear to be a formalised governance structure or active senior levels of engagement with the Fair Work Commission. There would also appear to be some duplicated functions across the FWO and the Fair Work Commission (for example call centres, delivering education and wages databases). The FWO also does not appear to be harnessing the full extent of potential influence and impact of other actors in the broader workplace relations ecosystem.

## 2.9 Regulatory posture, tools and performance

This section outlines the FWO's regulatory tools, posture and performance with regards to enforcement and compliance.

### 2.9.1 Tools

The FWO has a range of statutory enforcement methods available to respond to cases of potential non-compliance. These include:

- **Infringement notices or fines** – issued to employers who breach their responsibilities in relation to record-keeping and pay slips. However, the FWO considers the impact of the employer's non-compliance and their previous record of meeting requirements before issuing a fine for breaching the previously mentioned responsibilities.
- **Compliance notices** – issued to respond to potential wage underpayment cases and as a cost-effective alternative to litigation processes. Compliance notices can only be utilised in relation to suspected contraventions of specific provisions or terms, such as terms in enterprise agreements and other workplace regulations. Additionally, Fair Work Inspectors must establish reasonable belief that an employer has underpaid an employee/s before a compliance notice can be issued. Compliance notices can be used to direct employers to undertake specific actions to resolve any direct consequences of the contravention, such as making any necessary payments. The FWO may pursue court action in relation to cases where an employer accepts the compliance notice but does not fulfil its requirements.
- **Litigation** – used to address very significant instances of potential non-compliance in terms of the scale, depth, and duration of the suspected breaches of legislated requirements. Additionally, the FWO will utilise litigation if the public would benefit from formal proceedings, for example for specific or general deterrence. This may involve resolving an untested legal issue or to recover underpayments from uncooperative and non-compliant entities. The FWO is more likely to pursue litigation against entities with consistent non-compliance despite previous intervention and/or suspected acts of non-compliance against vulnerable cohorts.



- Enforceable undertakings** – may be accepted by the FWO instead of litigation. This may occur where the FWO forms a reasonable belief that a person has contravened the Fair Work Act, and where “the benefits to the recipients of the preparedness of the FWO to accept an undertaking is the avoidance of the considerable costs involved in court proceedings and the avoidance of the payment of a penalty”.<sup>22</sup> Enforceable undertakings are formal legal agreements between the FWO and another entity that can be enforced through court action and require the other entity to resolve any identified areas of non-compliance and maintain compliance with Australian workplace laws through specific actions. This enforcement tool is often utilised to achieve long-term changes in the compliance behaviour of an entity, such as initiating mechanisms to ensure their continued compliance in the future.

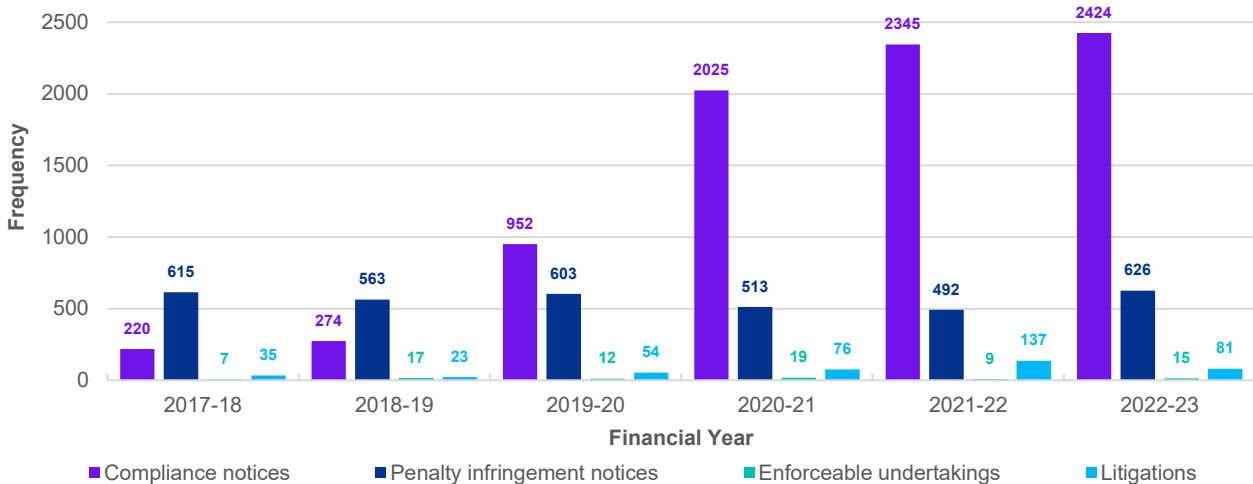
The FWO also employs tools of a less formal nature, such as a letter of caution where the threshold for using the above tools are not met but the FWO needs to put a business on notice about its actions.

## 2.9.2 Regulatory posture

In recent years, the FWO’s regulatory posture has shifted significantly to respond to systemic non-compliance and mounting public concern. Previously, the FWO had primarily employed education, alternative dispute resolution and mediation mechanisms. The former FWO CEO, Sandra Parker, led a transition to a stronger regulatory posture in 2019, which involved the increased use of compliance notices and litigation.

Annual data in relation to the use of enforcement mechanisms (see figure below) over the past five or so years demonstrates the significant changes made to the FWO’s compliance and enforcement policy settings. In particular, there has been a dramatic increase in the number of compliance notices (from 220 in 2017-18 to 2,424 in 2022-23) and litigations (which peaked at 137 in 2021-22 up from 35 in 2017-18). These higher figures reflect the FWO’s current Compliance and Enforcement Policy and are also reflected in its target Key Performance Indicators (KPIs) (see section below).

Figure 20: FWO’s Regulatory posture as demonstrated by compliance and enforcement<sup>23</sup>



<sup>22</sup> *Hindu Society Of Victoria (Australia) Inc v Fair Work Ombudsman* [2016] FCCA 221 (Hindu Society) at [18] (per Judge Riethmuller)

<sup>23</sup> Fair Work Ombudsman and Registered Organisations Commission, 17 September 2018, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2017–18*, Australian Government, pg. 21, <https://www.fairwork.gov.au/sites/default/files/migration/1439/fworoce-annual-report-2017-18-final.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 20 September 2019, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2018–19*, Australian Government, pg.24, <https://www.fairwork.gov.au/sites/default/files/migration/710/fworoce-annual-report-2018-19-final.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 18 September 2020, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2019–20*, Australian Government, pg.22, <https://www.fairwork.gov.au/sites/default/files/migration/710/fworoce-annual-report-2019-2020.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 20 September 2021, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2020–21*, Australian Government, pg.21, <https://www.fairwork.gov.au/sites/default/files/2021-10/fworoce-annual-report-2020-2021.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 21 September 2022, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2021–22*, Australian Government, pg.21,

The FWO's shift in regulatory posture has also contributed to significant changes in the Agency's performance outcomes, as outlined in the table below. The Agency's regulatory impact has grown considerably in recent years, as demonstrated by the growth in total monies recovered through regulatory activities (\$509 million in 2022-23 compared to \$29.7 million in 2017-18) and the number of workers back paid in relation to wage underpayment cases.

The FWO's expanded focus beyond small and medium sized enterprises, linked to increased self-reports from large corporates, as well as funding for compliance monitoring of large remediation programs, have been important drivers for these outcomes. Large corporate employers also have much larger numbers of employees, and correspondingly high amounts of monies involved (Coles allegedly underpaid 7,805 employees a total of \$113.8 million between January 2017 and March 2020).<sup>24</sup>

**Table 22: FWO's regulatory outcomes<sup>25</sup>**

Financial Year	Total monies recovered (\$m)	Workers back paid	Completed disputes <sup>26</sup>
2017-18	29.7	13,367	28, 275
2018-19	40.2	17,718	29, 130
2019-20	123.5	25,583	21, 914
2020-21	148.4	69,735	18, 696
2021-22	532	384,805	18, 622
2022-23	509	251,475	15, 770

<https://www.fairwork.gov.au/sites/default/files/2022-10/fworoce-annual-report-2021-22.pdf> , Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, pg.19,

<https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

<sup>24</sup> Fair Work Ombudsman, 10 January 2023, *Media release: FWO takes actions against Coles Supermarkets*, Australian Government, [https://www.fairwork.gov.au/newsroom/media-releases/20211202-coles-media-release#:~:text=The%20Fair%20Work%20Ombudsman%20has,a%20total%20of%20\\$24115%20million](https://www.fairwork.gov.au/newsroom/media-releases/20211202-coles-media-release#:~:text=The%20Fair%20Work%20Ombudsman%20has,a%20total%20of%20$24115%20million)

<sup>25</sup> Fair Work Ombudsman and Registered Organisations Commission, 17 September 2018, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2017-18*, Australian Government, pg.11,

<https://www.fairwork.gov.au/sites/default/files/migration/1439/fworoce-annual-report-2017-18-final.pdf> , Fair Work Ombudsman and Registered Organisations Commission, 20 September 2019, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2018-19*, Australian Government, pg.13, <https://www.fairwork.gov.au/sites/default/files/migration/710/fworoce-annual-report-2018-19-final.pdf> , Fair Work Ombudsman and Registered Organisations Commission, 18 September 2020, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2019-20*, Australian Government, pg.9,

<https://www.fairwork.gov.au/sites/default/files/migration/710/fworoce-annual-report-2019-2020.pdf> , Fair Work Ombudsman and Registered Organisations Commission, 20 September 2021, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2020-21*, Australian Government, pg.9, <https://www.fairwork.gov.au/sites/default/files/2021-10/fworoce-annual-report-2020-2021.pdf> , Fair Work Ombudsman and Registered Organisations Commission, 21 September 2022, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2021-22*, Australian Government, pg.14,

<https://www.fairwork.gov.au/sites/default/files/2022-10/fworoce-annual-report-2021-22.pdf> , Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, pg.8,

<https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

<sup>26</sup> The number of completed disputes does not account for all of the FWO's regulatory work. A significant share of the FWO's total recoveries is derived from other regulatory activities, such as processing self-reports.

### 2.9.3 Performance

The Australian Government has set out best practice principles that underpin its expectations of regulators in Australia:<sup>27</sup>

- Continuous improvement and building trust
- Risk based and data driven
- Collaboration and engagement.

#### Ministerial statement of expectations and regulator statement of intent

A new statement of expectations has been signed by the Minister and received by the FWO (25 October 2023).<sup>28</sup> The FWO is yet to produce a statement of intent in response (see section 2.2 Strategic context for further details). The Minister reiterated the FWO's statutory functions, and noted the Agency is expected to efficiently respond to legislative change and support the implementation of workplace reforms. The Minister also noted the FWO should address a range of key responsibilities to ensure alignment with best practice principles and modern regulatory standards, including:

- Providing ongoing support for stakeholders
- Providing clear, concise, relevant and accessible information, resources and advice
- Working together with the Fair Work Commission to deliver a more integrated service to users in areas of joint responsibility and in public outreach
- Reviewing and adjusting existing regulatory approaches, policies, protocols and operating procedures to respond to the FWO's operating environment
- Appropriately using the FWO's full range of enforcement powers and tools, while also seeking to resolve workplace issues using voluntary means where it is appropriate to do so.

The Minister also noted the FWO is expected to provide significant support in relation to the Government's policy priorities, such as addressing the gender pay gap, job insecurity and areas for improvement in the workplace relations framework. Recent reforms to the Fair Work Act have informed expectations for the FWO to build tripartism with industry, Government and workers, and to continue to educate and assist vulnerable workers, including workers with disability.

The Minister also acknowledged the importance of the FWO's collaboration with DEWR, existing transparency and accountability measures, and the relationship between the FWO and the Australian Government.

#### KPIs

The FWO measures its annual performance outcomes against a series of KPIs that seek to reflect its core services, functions, and purpose as the national workplace regulator.

#### Development of KPIs

It is usual for organisations to develop and refine performance KPIs over time and in line with their changing needs. In recent years, the FWO's KPIs have undergone significant changes in relation to the qualitative nature of the performance indicators, and the Agency's increased focus on its compliance and enforcement functions. In 2019, the FWO's KPIs were reviewed, and recommendations were provided in relation to the need for qualitative performance indicators to ensure the Agency could produce a detailed performance narrative related to its core services.

The FWO developed five new KPIs in response to these recommendations. KPIs 1-3 were made up of qualitative performance indicators that measured quality and impact in relation to the FWO's delivery of education, assistance and advice related statutory functions. KPIs 4-5 were quantitative performance indicators focused on the timeliness and appropriateness of the Agency's responses to potential non-compliance in relation to the FWO's compliance inquiry and investigation, and enforcement related statutory functions.<sup>29</sup>

<sup>27</sup> Fair Work Ombudsman, 2023, *Regulator performance*, Australian Government, <https://www.fairwork.gov.au/about-us/accountability/reporting-to-parliament/regulator-performance-framework#statements-of-expectations-and-intent>

<sup>28</sup> The Hon Tony Burke MP, Minister for Employment and Workplace Relations and Minister for the Arts, 24 October 2023, *Fair Work Ombudsman Statement of Expectations – 2023*, Australian Government (not publicly available)

<sup>29</sup> Fair Work Ombudsman and Registered Organisations Commission, 20 September 2021, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2020–21*, Australian Government, pp.11-12, <https://www.fairwork.gov.au/sites/default/files/2021-10/fworoc-annual-report-2020-2021.pdf>, Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, pp. 14-19, <https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

## Recent performance

According to the FWO's Annual Report 2022-23, the FWO has assessed its performance as having achieved or partially achieved its KPIs relevant to 2022-23.<sup>30</sup> For example, the FWO assessed KPIs 1 to 4 as having been achieved. The FWO assessed it had only partially achieved KPI 5 (Takes appropriate enforcement action) due to entering into fewer than the targeted number of enforceable undertakings for that year.

## Current KPIs

Given recent changes, the FWO has set additional KPIs for 2023-24 to 2026-27 in its Corporate Plan 2023-2027 as outlined in the table below.<sup>31</sup> KPIs 1-4 have not undergone any significant changes since the Agency's response to the 2019 review, but the FWO has divided KPI 5 into four separate indicators for each primary enforcement mechanism and included an indicator for developing regulatory priorities.<sup>32</sup> These KPIs and associated performance measures and targets grouped under the FWO's statutory functions, are outlined in further detail in the table below.

**Table 23: The FWO's KPIs from Corporate Plan 2023-2027**

Statutory function	KPI	KPI description	Performance measures	Performance targets (2023-24)
Provide education, assistance, advice and guidance to employers, employees, outworkers, outworker entities and organisations	KPI 1: The FWO has a positive impact on harmonious, productive, cooperative and compliant workplace relations	The FWO's ability to adequately fulfil its legislated purpose	Annual survey data regarding the percentage of satisfied stakeholders	Greater than 75 percent of stakeholders satisfied for this financial year
	KPI 2: The FWO provides high quality of advice and assistance	The quality of service provided by the Fair Work Infoline	Ongoing customer satisfaction data regarding the percentage of satisfied customer	Greater than 75 percent of customers satisfied for this financial year
Provide education, assistance, advice and guidance to employers, employees, outworkers, outworker entities and organisations	KPI 3: FWO's digital tools are effective	The effectiveness and usage of the FWO's website resources and digital tools	Four surveys are conducted each year to collect data on customer satisfaction and quantitative usage data for the FWO's digital tools	Greater than 75 percent of customers satisfied for this financial year
Promote and monitor compliance with workplace laws and inquire into, and investigate, breaches of the Fair Work Act and take appropriate enforcement action	KPI 4: Percentage of RfAs involving a workplace dispute finalised in average of 30 days	The timeliness of the FWO's responses to workplace disputes	Quantitative data regarding annual performance against this indicator	At least 85 percent of matters resolved within the expected timeframe
	KPI 5: The FWO uses infringement notices as an enforcement action	The FWO's ability to appropriately utilise enforcement mechanisms	Quantitative data regarding the usage of specific enforcement actions	550 infringement notices issued

<sup>30</sup> Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, pp. 14-19, <https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>


<sup>31</sup> Fair Work Ombudsman, 7 August 2023, *Office of the Fair Work Ombudsman Corporate Plan 2023-2027*, Australian Government, pp. 15-16, <https://www.fairwork.gov.au/sites/default/files/2023-08/office-of-the-fair-work-ombudsman-fwo-corporate-plan-2023-24.pdf>

<sup>32</sup> Ibid.

Statutory function	KPI	KPI description	Performance measures	Performance targets (2023-24)
	KPI 6: The FWO uses compliance notices as an enforcement action			2,000 – 2,500 compliance notices issued
	KPI 7: The FWO enters into enforceable undertakings as an enforcement action			15 enforceable undertakings entered into
	KPI 8: The FWO uses litigation as an enforcement action			65-75 new litigations filed
	KPI 9: The FWO will develop regulatory priorities to guide our approach	The FWO's ability to identify and align activities with key priorities	Evidence to demonstrate the formation and release of updated regulatory priorities	Develop and release priorities

KPIs 1-3 reflect baseline requirements for the FWO, such as fulfilling their purpose through the delivery of their core services and functions. KPI 4 utilises timeliness as the sole performance indicator for the FWO's ability to resolve workplace disputes. However, there are additional elements that determine the performance of the Agency in this area, such as the quality of the outcomes delivered for stakeholders. At times, annual performance outcomes for KPI 1 have not been supported by strong evidence due to a lack of responses for stakeholder satisfaction surveys.

The current performance measures for KPIs 5-8 prioritise the annual quantity of enforcement actions over the impact of enforcement actions. For example, the systemic impact of the FWO's enforcement actions in relation to large corporate matters are far greater than similar actions undertaken against small businesses. However, the current quantity-focused performance measures do not recognise this, as they do not distinguish between high-impact, resource-intensive, large corporate matters and lower-impact, small business matters. Such quantitative performance measures may be encouraging the FWO to continually increase the quantity of enforcement actions and generate additional workload pressures in high demand business areas.



**Emerging theme**  
**Regulatory strategy**

The FWO undertakes some proactive work as part of activity it delivers in line with its annual priorities. However, much of its regulatory response is complaints driven and, therefore, reactive. Much of how it measures its performance is also based on reacting and responding to complaints, for example with compliance notices and litigation, rather than on outcomes.

## 2.10 Organisational culture and risk

This Review has not undertaken an in-depth analysis of organisational culture in the FWO. However, consultations with various internal and external stakeholders have provided some insight into organisational culture and how the organisation engages with risk.

A consistent theme that emerged from consultations was the view that the FWO is a relatively risk-averse organisation. Stakeholders' observations around the impact of this cultural element included slow decision making or turnarounds, a level of thoroughness that went beyond what might be reasonably required and a tendency to consult too widely across the organisation on matters. While the appetite and tolerance for risk appears to differ between teams and branches, overall risk appetite and tolerance appears to be relatively low, with avoidance of public criticism a key feature of the FWO's organisational psyche.

A low-risk appetite, in practice, can lead to:

- Delayed decision making as a result of additional layers of approval or decisions being pushed to higher levels than is necessary
- Additional effort, time and resources to complete tasks than is necessary due to an overly thorough approach
- Over-servicing or providing a higher level of service than is warranted in the situation.

Potential impacts of a low organisational risk appetite are evident in some of the FWO's ways of operating. For example, in developing new communications and education materials, internal legal expertise is sometimes utilised to comprehensively check content. Similarly, in the provision of advice, legal expertise is at times drawn upon to review the advice.

In the investigations space, there is an ongoing process of change with some Fair Work Inspectors resisting the introduction of more streamlined approaches and continuing to operate with lengthier, more extensive investigative methods aligned to less efficient risk settings.

Another theme that emerged from consultations is that the FWO's organisational mindset and culture has been shaped by past experience with public criticism. As outlined in earlier sections of this report, the FWO operates within a highly politicised and contested policy environment with many interested and impacted actors, some of which are highly vocal. Conversations with stakeholders also pointed to a common view that the provision of incorrect advice involves significant and serious negative consequences for the FWO.<sup>33 34</sup>

Reputational risk is rightly a key feature in the FWO's risk assessment framework. A Moderate consequence in terms of reputational risk is characterised as 'Ministerial level queries, Ombudsman queries, sustained media or social media commentary'.<sup>35</sup>



Emerging theme

### Organisational culture and risk settings

Generally, there appears to be a tendency toward low tolerance levels for risk taking and avoiding public criticism. This is to be expected considering the genesis of the regulator, the highly politicised environment within which it operates, and levels of media scrutiny and community pressure more generally.

Risk aversion may result in delayed or convoluted decision making, decisions being made at a higher level than they could be, an overly thorough or cautious approach to service delivery or over servicing, and an internally focused culture. Any of these outcomes can drive higher workloads and increased costs.

<sup>33</sup> Noting that all content published by the FWO can potentially be relied upon by the regulated community (which consists of 13 million employees and two million employers nationally), the provision of incorrect information or advice can also have significant consequences for affected workplace participants.

<sup>34</sup> The FWO has recently approved a new Incorrect and Erroneous Advice Policy, and accompanying risk assessment guide, which was not provided for this Review.

<sup>35</sup> Fair Work Ombudsman. *Risk Assessment Framework*. Australian Government.

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## 2.11 Funding

### 2.11.1 Overview

The FWO is a non-corporate Commonwealth entity. The FWO CEO and the Chief Financial Officer (CFO) are responsible for the financial management of the FWO under the PGPA Act. The FWO is funded predominately via departmental appropriation for both operating expenses for business as usual, operations and New Policy Proposals for terminating measures.<sup>36</sup>

In recent years, the FWO has undergone a period of significant transformation, as its remit has shifted in response to the abolition of statutory authorities in the workplace relations sector, new policy settings in relation to large corporates and a need for stricter enforcement action. Consequently, the FWO's financial position has shifted because of these significant changes to its role, responsibilities and key activities. This section provides an assessment of the current state of the FWO's budget, expenses, and revenue to determine the financial performance and position of the Agency.

### 2.11.2 Historic funding

Recent budget measures brought down from the October 2022 and May 2023-24 Budgets include:

- Abolishing the ABCC and transferring functions with additional resources to the FWO (\$69.9 million)
- Paid Family and Domestic Violence Leave – small business assistance (\$2.2 million)
- Secure Australian Job (\$3.1 million)
- Enhancing Pacific Engagement (as part of the PALM Scheme) (\$27.3 million).

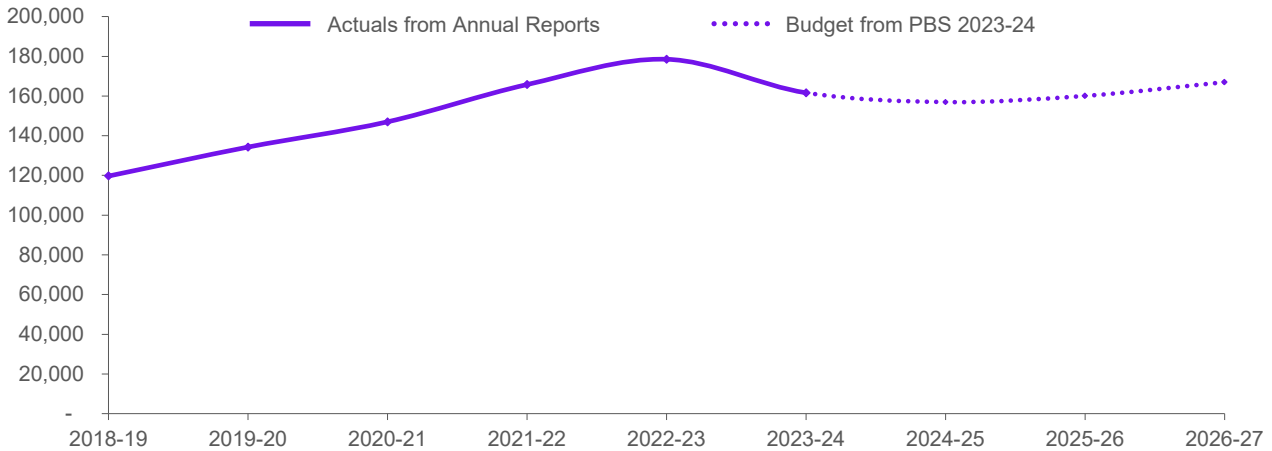
This is in addition to terminating measures provided through MYEFO 2020-21 such as *Helping Businesses Comply* (which responded to the influx of self-reported matters by funding specified Large Corporates and Industrial Compliance Group activities and the EAS) as well as COVID-19 funding (which terminated in 2023-24).

The enterprise agreement and annualised pay increases place additional pressures on the FWO's budget, along with budget savings and reprioritisation measures. A key budget measure introduced by the Government to reprioritise portfolio funding through a 2.5 percent efficiency dividend is a key driver of this Review. Savings and efficiencies of \$15.8 million are required to be met over the next four years. This will start with \$4.1 million in 2023-24 and \$3.9 million thereafter. As detailed in the figure below, the funding appropriated steadily increased until it peaked in 2022-23. The drop in funding after 2022-23 reflects the cessation of a terminating measure (COVID-19 funding), transfers for responsibilities and reprioritisation measures.

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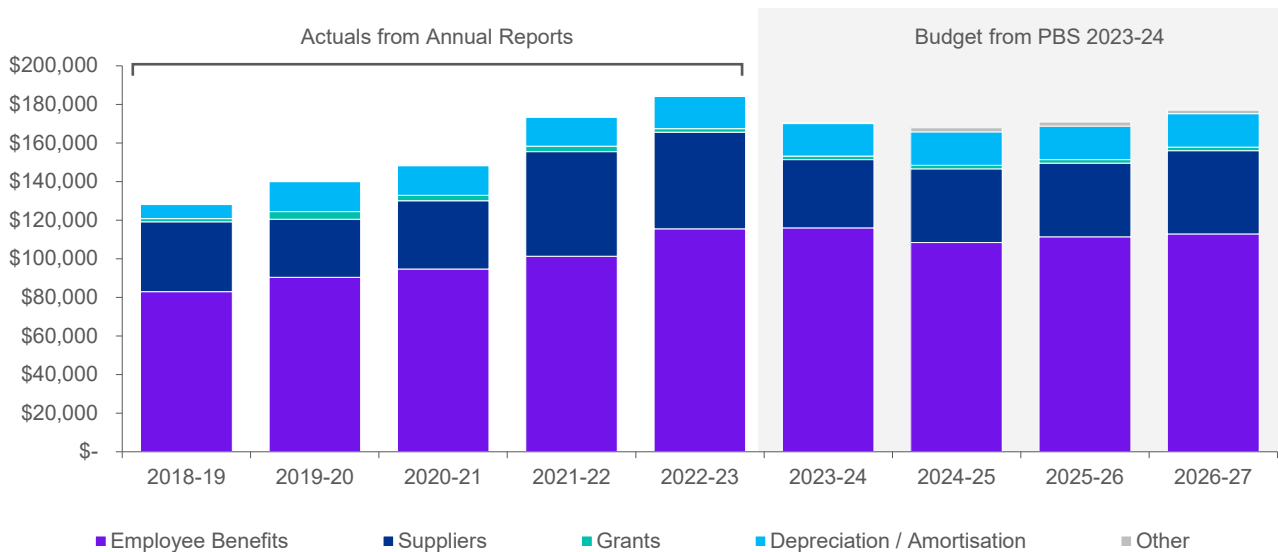
<sup>36</sup> Other source income includes section 74 PGPA Act revenue which is minimal, representing approximately one percent of total funding.

**Figure 21: Appropriation to the FWO, actuals and budget<sup>37 38</sup>**



The figure below depicts the actual expenditure of the FWO, projected budget profile for 2023-24 onwards. On average, 89 percent of the total budget is attributed to employee benefits expenses (64 percent) and suppliers' costs (25 percent).

**Figure 22: Actual and budgeted FWO expenditure<sup>39 40</sup>**



<sup>37</sup> Fair Work Ombudsman and Registered Organisations Commission, 20 September 2019, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2018–19*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/migration/710/fworocce-annual-report-2018-19-final.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 18 September 2020, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2019–20*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/migration/710/fworocce-annual-report-2019-2020.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 20 September 2021, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2020–21*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2021-10/fworocce-annual-report-2020-2021.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 21 September 2022, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2021–22*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2022-10/fworocce-annual-report-2021-22.pdf>, Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

<sup>38</sup> Department of Employment and Workplace Relations, May 2023, *Portfolio Budget Statements 2023-24 Budget Related Paper No. 1.6*, Australian Government.

<sup>39</sup> Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, pg. 80, <https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

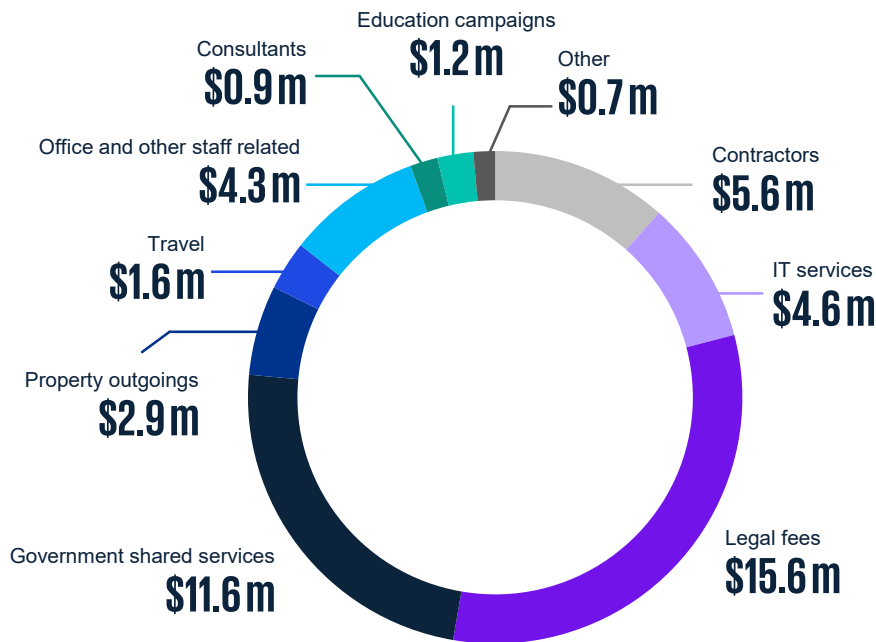
<sup>40</sup> Department of Employment and Workplace Relations, May 2023, *Portfolio Budget Statements 2023-24 Budget Related Paper No. 1.6*, Australian Government.



The share of supplier costs for 2022-23 is provided in the figure below. It highlights the top three suppliers' costs which were:

- \$15.2 million (32 percent) for legal fees
- \$11.6 million (24 percent) for Government shared services
- \$5.6 million (12 percent) for contractors.

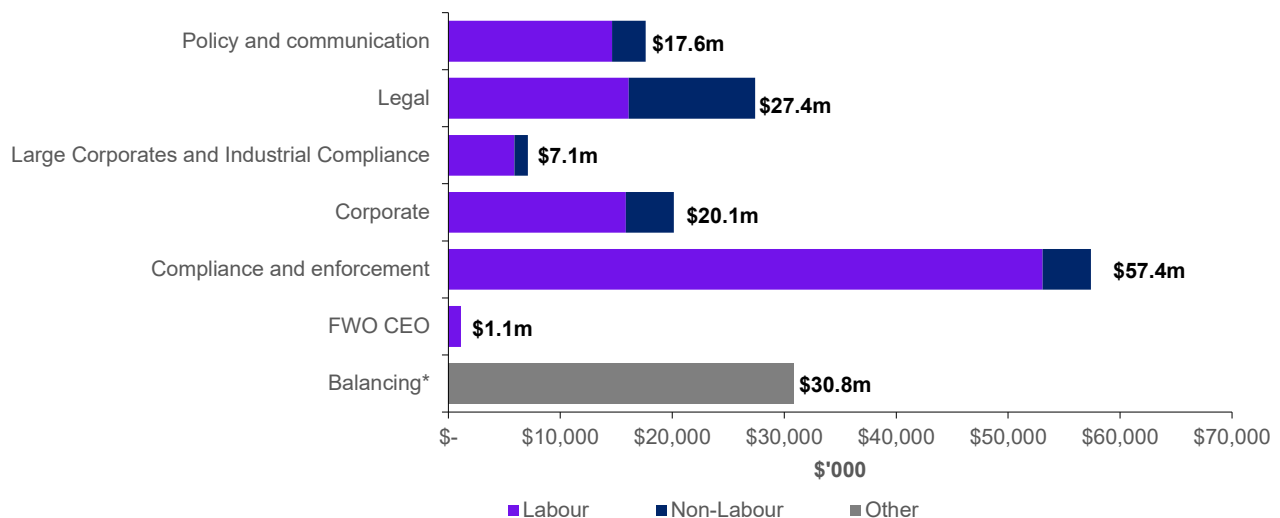
Figure 23: Share of supplier costs in 2022-23



### 2.11.3 Group and Branch funding breakdown

The total budget for 2023-24 for the FWO including corporate enabling functions and FWO CEO office is \$161.1 million. The figure below provides a breakdown of budget by group across labour and non-labour.

Figure 24: 2023-24 Budget breakdown by Group

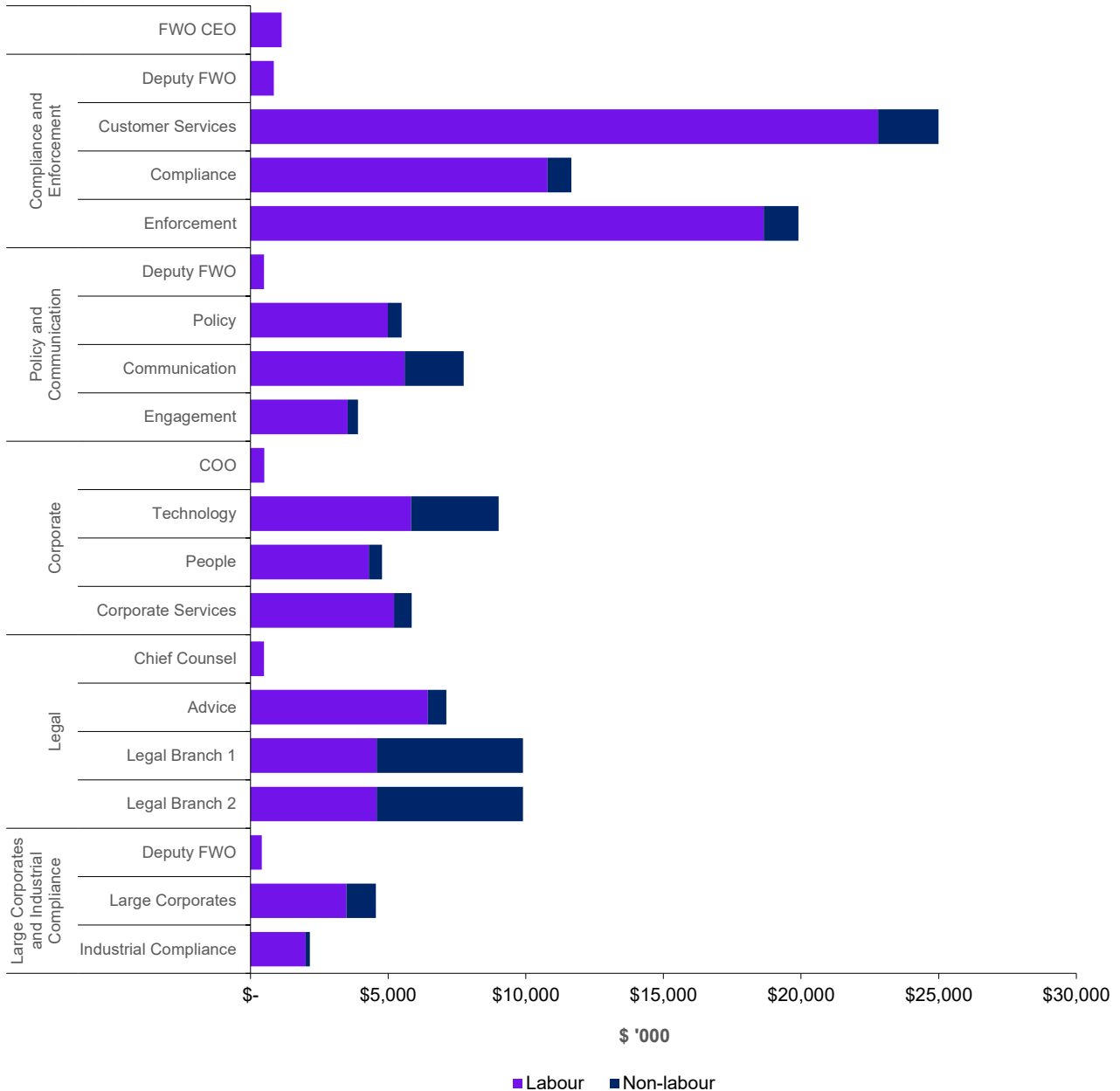


\* Balancing includes corporate enabling functions such as finance, IT and property, as well as the Community Engagement Grants Program and National Labour Hire Registration Scheme.

The figure below provides a funding breakdown at the Branch level for 2023-24. Key observations in this chart include:

- Compliance and Enforcement Group: the Enforcement and Customer Services Branches comprise the larger share of labour budget in this Group
- Corporate: the Technology Branch takes the largest share of labour and non-labour budget in this Group
- Legal: the non-labour budget for Legal Branches 1 and 2 takes a greater share than the labour budget.

**Figure 25: 2023-24 Budget breakdown by Group**



## 2.11.4 Corporate enabling functions

Since 2018-19, the annual revenue from Government for the FWO has been between \$119 million and \$178 million. Total expenses for the FWO have gradually increased from \$128 million per annum to \$184 million in the years under review. Employee benefits and supplier costs represent approximately 90 percent of total expenditure. The FWO's expenses on enabling costs gradually increased from a low of \$5.3 million in 2018-19 to a high of \$23.8 million in 2021-22. In 2022-23, enabling costs represented 13 percent of total operating expenses, up from four percent in 2018-19. Enabling costs included:

- Government shared services arrangements (finance, executive support and corporate management) of approximately \$12 million per annum.
- Property, office, and other staff related supplier costs of over \$7 million. Property costs (excluding office and other staff related costs) were, on average, seven percent of total supplier costs. As a comparison, the ACCC's property costs as a proportion of total supplier costs are, on average, five percent, for the same period.<sup>41</sup> The FWO's proportionate spend increases to 14 percent in 2022-23 when office and other staff related costs are included.
- IT expenses of approximately \$6.2 million per annum, down from \$9 million in 2020-21 to \$4.6 million in 2022-23, reflecting a change in operating arrangements resulting from machinery of Government activities and a shift to shared service arrangements. IT services, telecommunications and software licencing, support, and maintenance were, on average, 14 percent of supplier costs (excluding Government shared services), compared to the ACCC which is 16 percent for information technology and communications.<sup>42</sup>

The FWO's relatively high property costs are a result of its significant national property footprint. The FWO has a presence in 22 offices across Australia, 17 of which are on the east coast of Australia (capital cities including Brisbane, Sydney, Canberra, Melbourne, and Hobart as well as 70 percent of offices located outside capital cities from Cairns to Launceston).

### Emerging theme **Capability constraints**

The FWO appears to be experiencing some capability constraints that impact on its ability to efficiently fulfil its functions as Australia's workplace relations regulator.

As a relatively small government organisation, the FWO has a limited budget for investing in new technology for example. While it has invested in modernising underlying IT infrastructure in recent times, its architecture is still based on historical decisions characterised by multiple disparate business systems that do not currently integrate seamlessly or allow for technology enabled process improvements. Workforce challenges centred on capability development and training, recruitment and retention of staff may also be having an impact on efficiency.

<sup>41</sup> Australian Competition and Consumer Commission, and Australian Energy Regulator, October 2023, *Annual Report 2022-23*, Australian Government, pg. 243, <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>

<sup>42</sup> Australian Competition and Consumer Commission, October 2023, *Annual Report 2022-23*, Australian Government, pg. 243, <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 20 September 2019, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2018-19*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/migration/710/fworoce-annual-report-2018-19-final.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 18 September 2020, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2019-20*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/migration/710/fworoce-annual-report-2019-2020.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 20 September 2021, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2020-21*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2021-10/fworoce-annual-report-2020-2021.pdf>, Fair Work Ombudsman and Registered Organisations Commission, 21 September 2022, *Fair Work Ombudsman and Registered Organisations Commission Entity Annual Report 2021-22*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2022-10/fworoce-annual-report-2021-22.pdf>, Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

## 2.12 Workforce and span of control

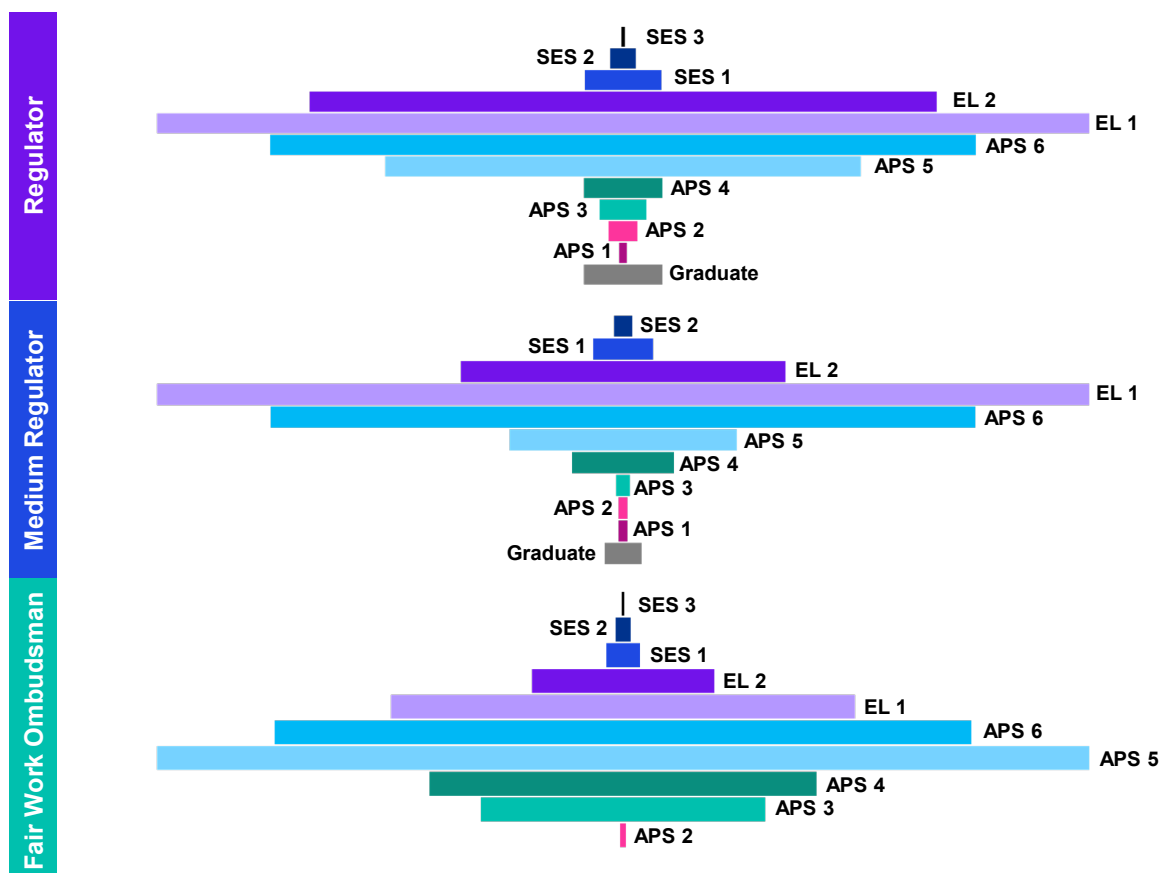
The Australian Public Service Employment (APSE) database<sup>43</sup> collates information on Agency staffing, including trends in size, structure and composition of the Australian Public Service (APS). The following graphs are based on data from the APSE database<sup>44</sup> to provide a comparison of the workforce composition of regulatory and medium sized agencies across all Australian Government agencies. As the FWO is a medium sized regulator, the following Australian Public Service Commission (APSC)<sup>45</sup> definitions are useful comparisons:

- Regulatory – organisations involved in regulation and inspection
- Specialist – organisations providing specialist support to Government
- Medium agency – organisations with 251 to 1,000 employees

- Medium regulatory agency – organisations involved in regulation and inspection, with between 251 and 1,000 employees
- Medium organisational – organisations with less than 1,000 employees involved in the implementation of public policy.

Using the graphs in the figure below as a comparator, it is evident that the FWO’s headcount profile is different to other regulator staffing compositions. The FWO has a larger APS 3 – 5 cohort when analysed against the comparator graphs. Based on discussion with the FWO, the higher composition of staff at APS 3 – 5 is due to the relatively large customer services and compliance and enforcement teams. Elements of these teams are less specialised, more transactional, and compliance focused, compared to some other regulators.

Figure 26: Workforce comparison of the FWO with other like agencies and regulators



<sup>43</sup>Australian Public Service Commission, 10 September 2020, *APS Employment Database interactive interface (APSEDii)*, Australian Government, <https://www.apsc.gov.au/initiatives-and-programs/workforce-information/workforce-data/aps-employment-database-interactive-interface-apsedii> (Accessed 25 September 2023)

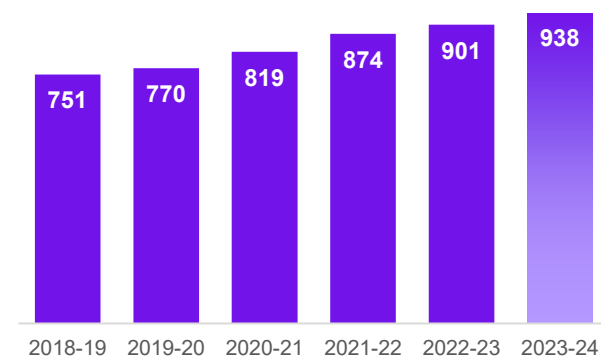
<sup>44</sup>Ibid.

<sup>45</sup>Australian Public Service Commission, 10 February 2023, *APS Agencies - size and function*, Australian Government, <https://www.apsc.gov.au/aps-agencies-size-and-function> (Accessed 10 October 2023)

## Workforce growth and composition

As of September 2023, the actual ASL for the FWO is 904, with the budgeted ASL for 2023-24 at 938.<sup>46</sup> The figure adjacent shows the growth in ASL since 2018-19 reflecting the budgeted amount in the PBS between 2018-19 to 2023-24.<sup>47</sup> The growth in ASL in the last two financial years is consistent with the FWO assuming additional ABCC responsibilities.

**Figure 27: ASL growth from 2018-19 to 2023-24 financial years**



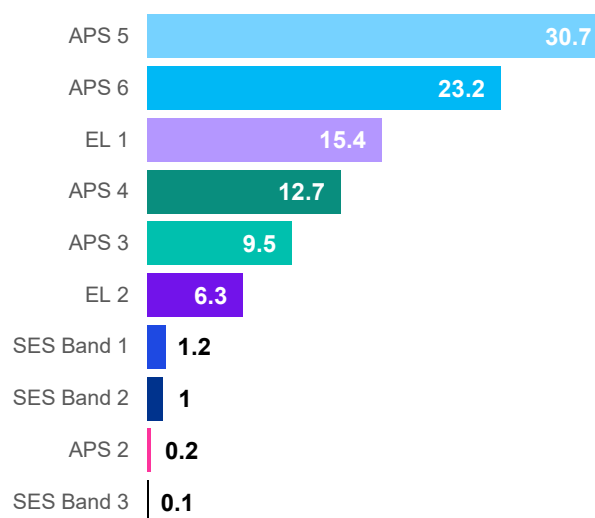
\*Budgeted ASL for 2023-24 is 938

Using the actual ASL as of September 2023, as demonstrated in the graph below, the largest proportion of ASL is at the APS 5 (30.7 percent) and APS 6 (23.2 percent) levels. This is consistent with the APSE analysis above.

In reviewing the FWO's workforce composition, the following key statistics were identified:

- ASL has increased seven percent over time from 874 to 938 between 2021-22 and 2023-24
- ASL increased by three percent between 2021-22 to 2022-23 from the absorption of the ABCC, formation of EAS, the establishment of the Large Corporates and Industrial Compliance Group
- An additional 37 ASL is budgeted for in 2023-24, reflecting the second phase of recruitment for the Industrial Compliance Branch
- A large portion of the FWO's workforce consists of APS 5, APS 6 and EL 1 level staff.

**Figure 28: The FWO workforce composition**



## Proportion of staff by Group

As of September 2023, based on the data provided and highlighted in the figure below, the allocation of staff by Group is as follows:

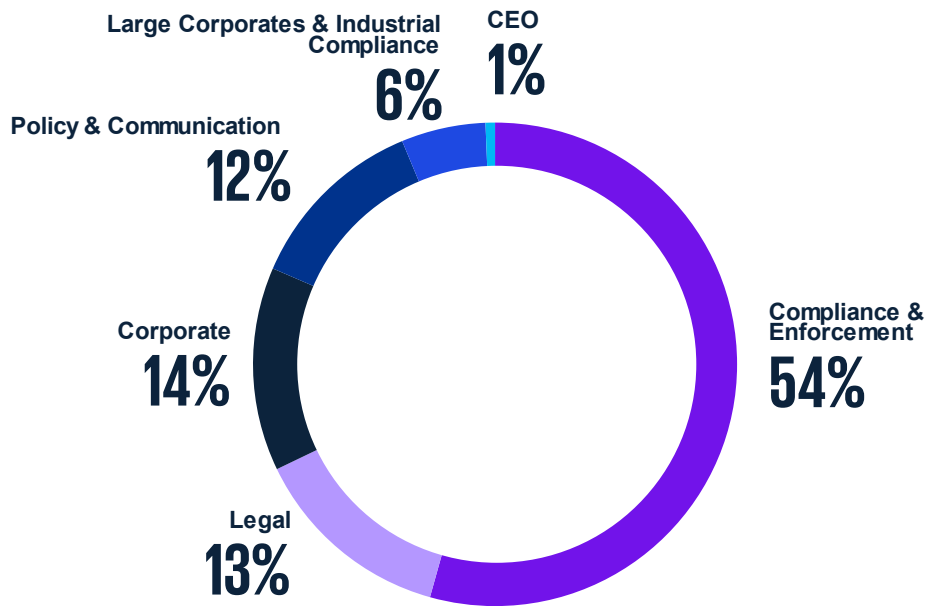
- Compliance and Enforcement - 54 percent
- Large Corporates and Industrial Compliance - six percent
- Policy and Communication - 12 percent
- Legal - 17 percent
- Corporate - 14 percent.

In total, 60 percent of the FWO's workforce is allocated to the compliance and enforcement function. This is acknowledging the additional growth in ASL to occur within the Industrial Compliance Branch with phase two of its recruitment underway. These allocations are consistent with discussions held regarding the prioritisation of the FWO's workload. As acknowledged in the Group and Branch functional summaries, the FWO's workforce from time to time is transferred between branches and groups to meet demand as it increases in key areas.

<sup>46</sup> Fair Work Ombudsman, 30 September 2023, *HR Extract*, Australian Government.

<sup>47</sup> Australian Government, 2019, *Portfolio Budget Statements 2019-20 Budget Related Paper No. 1.6*. (Various Departments including DEWR and Attorney-General), Australian Government, 2020, *Portfolio Budget Statements 2020-21 Budget Related Paper No. 1.6*. (Various Departments including DEWR and Attorney-General), Australian Government, 2021, *Portfolio Budget Statements 2021-22 Budget Related Paper No. 1.6*. (Various Departments including DEWR and Attorney-General), Australian Government, 2022, *Portfolio Budget Statements 2022-23 Budget Related Paper No. 1.6*. (Various Departments including DEWR and Attorney-General), Australian Government, 2023, *Portfolio Budget Statements 2023-24 Budget Related Paper No. 1.6*. (Various Departments including DEWR and the Attorney-General's Department)

Figure 29: Proportion of ASL by Group



## Span of control

The APSC's Optimal Management Structures Guidance 2023<sup>48</sup> identified the optimal number of direct reports appropriate for any work area across the APS. A definition of these service functions is provided by the Optimal Management Structures Guidance:

- Category A - Taskforce and specialist - senior specialist roles, with high level of influence in area of specialisation and operate with considerable autonomy outside direct reporting structures (1:0 - 3)
- Category B - Specialist policy - specialists policy and highly technical functions, with high levels of judgement and risk (1:3 - 7 direct reports)
- Category C - Policy and program development and program delivery - broad policy advice across multiple areas, design and delivery of complex programs, with a distinct area of

expertise with a level of specialisation (1:5 - 9 direct reports)

- Category D - High level service delivery and case management - tailored approaches to delivery of outcomes, with high to medium level of complexity in tasks (1:6 - 9 direct reports)
- Category E - High volume service delivery - Transactional and compliance services that are high volume, with regular and less complex tasks (simple processes replicated across multiple tasks) (1:8 - 15+ direct reports).

The average span of control has been calculated using the FWO organisational chart as of 16 October 2023 with a headcount of 971. This includes all part time staff and contractors, as at that date. Noting, the span of control assessment is a point in time and can change as the FWO prioritises its workforce in line with need.

<sup>48</sup> Australian Public Service Commission, 23 October 2023, *Optimal Management Structures Guidance 2023*, Australian Government, <https://www.apsc.gov.au/initiatives-and-programs/aps-workforce-strategy-2025/workforce-planning-resources/optimal-management-structures-guidance-2023>

**Table 24: Average span of control (Group level)**

Functional Area	SES 2 : SES 1	SES 1 : EL 2	EL2 : EL 1	EL1 : Team members	Better practice comparison
Compliance and Enforcement	1 : 3.0	1 : 4.3	1 : 2.4	1 : 15.2	Category E 1 : 8 - 15+
Large Corporates and Industrial Compliance <sup>49</sup>	1 : 2.0	1 : 2.5	1 : 5.3	1 : 2.2	Category B 1 : 3 - 7
Policy and Communication <sup>50</sup>	1 : 3.0	1 : 4.3	1 : 2.4	1 : 2.3	Category B 1 : 3 - 7
Legal	1 : 3.0	1 : 4.7	1 : 4.1	1 : 3.6	Category B 1 : 3 - 7
Corporate	1 : 3.0	1 : 4.3	1 : 2.3	1 : 2.3	Category B 1 : 3 - 7
Average	1 : 2.5	1 : 4.0	1 : 3.3	1 : 5.1	

This Optimal Management Structures Guidance also considers different agency characteristics around the optimal number of direct reports. These characteristics include: size, maturity, whether the workforce is geographically dispersed, type of work, and employee experience and capability. In assessing the appropriateness of the span of control, the following key characteristics have been taken into consideration:

- The FWO is a medium sized regulatory agency, with a mid-sized number of staff involved in the implementation of public policy, compliance, and enforcement activities
- The FWO operations require some specialist capability to deliver capabilities.

Assumptions made when undertaking the span of control calculation include:

- Direct reports - all team members APS 6 and below) report directly to an EL 1, all EL 1s report to an EL 2 and EL 2s report directly to an SES Band 1
- Teams - the analysis has been undertaken at a Branch level (the table above provides the average of this analysis, at the Group level)
- Part-time and non-going staff - Individuals on flexible working arrangements and contractors identified on the staff structure have been included in the analysis above.

Given the varying functions between and within the Groups, different better practice benchmarks have been applied in the table above. Overall, the span of control for SES levels and the SES to EL 2 range is lower than better practice, with the exception of the Legal and Policy and Communication Groups. The Executive to Team member ratios are also lower than better practice, with the exception of the Compliance and Enforcement Group, which is at the higher end, and Legal, which is at the lower end of the better practice range.

<sup>49</sup> Note: As acknowledged in the Large Corporate and Industrial Compliance overview above, the Industrial Compliance branch is in its second phase of recruitment. This will mean the ASL allocation for the Group will continue to grow.

<sup>50</sup> Note: The Policy and Communication Group range between Categories B and C. For the purpose of this exercise, Category B has been selected here for the 'better practice' comparison.

# 3 Future State Opportunities

Following the review of the current state and stakeholder consultations, a number of opportunities have been identified to address the aims of this Review.

From the analysis undertaken, there are dependencies and benefits of progressing a combination of these opportunities. This will support the achievement of efficiency gains while ensuring the organisation is structured to be agile and resourced to meet emerging and changing needs.

Noting, there will likely be challenges in achieving the required 2.5 percent efficiency dividend through pursuing only one of the opportunities in isolation, implementing a combination of opportunities may be more appropriate. The figure on the next page links these opportunities to the potential benefits which range from immediate budget savings to future operational improvements.

Progressing these opportunities also needs to be considered within the broader context of factors that are yet to be determined. For example, enterprise bargaining will increase the cost base of the FWO resulting in the need to consider affordability (on top of the 2.5 percent efficiency dividend). The FWO also has a number of terminating measures ceasing on 30 June 2024. If the terminating measures are not continued, the impact on the functions funded through those measures would need to be taken into account when considering progressing the opportunities identified.

The following sections of this chapter will:

- Outline evaluation criteria used for assessing the identified opportunities
- Assess the identified opportunities
- Provide analysis on primary opportunities recommended
- Provide analysis on other identified opportunities.

The opportunities identified in this Review include the following:

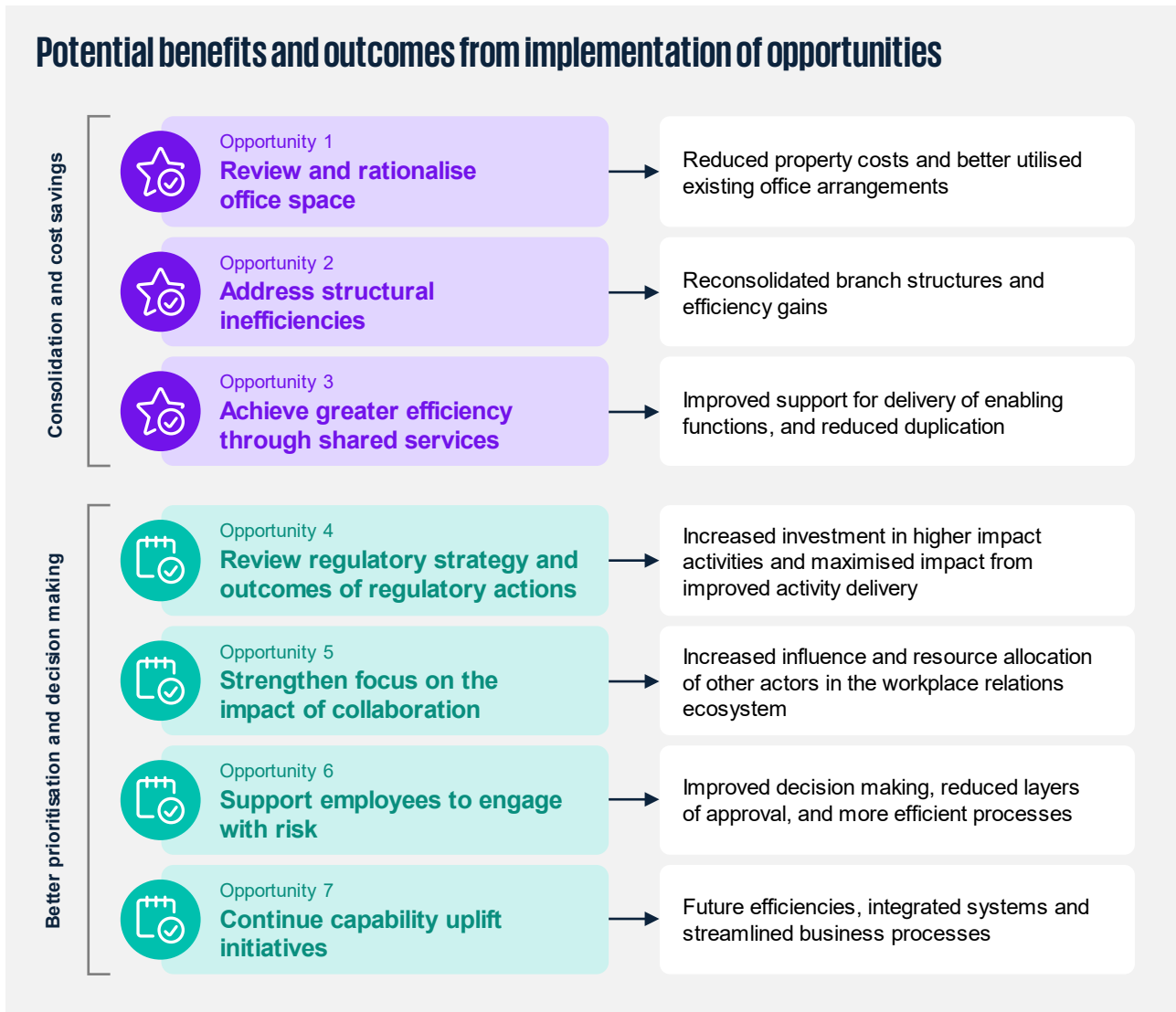
- **Review and rationalise office space (Opportunity 1):** in line with demand and flexible working arrangements
- **Address structural inefficiencies (Opportunity 2):** both horizontally across groups and vertically within organisational units
- **Achieve greater efficiency through shared services (Opportunity 3):** both existing and potential future arrangements
- **Review regulatory strategy and outcomes of regulatory actions (Opportunity 4):** adjust to ensure these are focused on the greatest harm, and are risk-based, strategic and targeted
- **Strengthen focus on the impact of collaboration (Opportunity 5):** to better leverage the influence and resources of other actors in the workplace relations ecosystem
- **Support employees to engage with risk (Opportunity 6):** to allow for devolved decision making, reduced layers of approval and more efficient processes
- **Continue capability uplift initiatives (Opportunity 7):** with potential for future efficiencies.

## Qualifications

- ▷ A range of potential efficiency gains provided over the four years, noting that these are dependent on breadth and depth of the FWO's implementation of the identified opportunities.
- ▷ An increasing cost base in salaries subject to the outcomes of current enterprise bargaining underway, which has not been factored into the analysis below
- ▷ Any examples provided are hypothetical in nature given the number of variables and complexities involved, some of which are outside the scope of this Review
- ▷ The implementation of identified opportunities involve key considerations regarding the costs and approach, for which have not been captured as part of this Review



Figure 30: Potential benefits and outcomes from implementation of opportunities








### 3.1 Assessment criteria for assessing the opportunities

The assessment criteria were developed to assess potential opportunities for achieving efficiencies and to inform the formulation of recommendations for the FWO to consider implementing in the short to medium term. These criteria are aligned to the Review terms of reference and the Australian Government’s commitment to Budget repair and responsible spending. They also support a structured assessment of opportunities.

**Table 25: Assessment criteria**

Criterion	Description
Strategic alignment	Aligns with Australian Government strategic intent, including: <ul style="list-style-type: none"> <li>• Delivery of the FWO’s statutory functions under section 682 of the Fair Work Act</li> <li>• Best practice regulation of workplaces (focusing on the greatest harm, based on continuous improvement and building trust, risk based and data driven, and collaboration and engagement)</li> </ul>
Feasibility	Is able to be implemented: <ul style="list-style-type: none"> <li>• Immediately or within the Forward Estimates timeframe</li> <li>• With no significant new investment from Government</li> <li>• With no significant disruption to the FWO’s existing operations</li> </ul>
Fiscal impact	Will deliver additional positive fiscal impact (savings) immediately or within the forward estimates timeframe (targeting total \$15.8 million in savings over four years) with the 2023-24 Budget as the baseline.
Service delivery	Will not adversely affect the FWO’s ability to carry out its statutory functions under section 682 related to service delivery, including: <ul style="list-style-type: none"> <li>• Educating workers and businesses about their rights and obligations</li> <li>• Monitoring compliance with the Fair Work Act</li> <li>• Taking enforcement action where necessary</li> <li>• Assisting employees to recover entitlements</li> </ul>
Risk	Promotes a healthy engagement with risk while not over-exposing the FWO or the Australian Government, including to reputational damage that could impact on the public’s trust and confidence in the regulator or Government. Will not adversely affect the FWO’s ability to fulfil its obligations in relation to Legal Services Directions or its general obligation to most effectively use its resources

Assessment	High	Med-High	Med	Low-Med	Low
Symbol					
Description	High degree of alignment to the criteria	Relatively high alignment to the criteria	Moderately aligned to the criteria	Relatively low alignment to the criteria	Low degree of alignment to the criteria

## 3.2 Opportunity assessment summary

The table below provides a high-level assessment of each opportunity, using the evaluation criteria outlined in the previous section. Both the opportunity and identified examples of opportunities are assessed in this table from a high degree of alignment to the criteria to a low degree of alignment to the criteria (refer to the explanation provided in the table on the previous page).

Table 26: Multi-criteria assessment matrix

There is opportunity to...		Strategic alignment	Feasibility	Fiscal impact	Service delivery	Risk
1. Rationalise the FWO's national property footprint and better utilise existing office arrangements to reduce costs associated with property	For example...	●	◐	◐	◐	◐
	Consolidate and rationalise property footprint in 2023-24	●	◐	◐	●	●
	Consolidate and rationalise properties (size and composition) up to 2026-27	●	◐	◐	◐	◐
	Rationalise overall office footprint to match demand	●	◐	◐	◐	◐
2. Address structural inefficiencies both horizontally across groups and vertically within organisational units	For example...	●	●	◐	●	●
	Consolidate duplicated and align functions and capabilities	●	●	●	●	●
	Adjust spans of control	●	●	●	●	●
3. Achieve greater efficiency through shared services – review and adjust existing shared and external services arrangements and implement potential future arrangements	For example...	●	◐	◐	◐	●
	Review enabling services for any 'grow back' of shared services capability	●	●	◐	●	◐
	Leverage the Fair Work Commission's Modern Awards Pay Database API	●	◐	◐	●	◐
	Explore other externally delivered transactional services	●	◐	◐	◐	◐

There is opportunity to...		Strategic alignment	Feasibility	Fiscal impact	Service delivery	Risk
<b>4. Review regulatory strategy</b> and outcomes of regulatory actions and adjust to ensure these are focused on the greatest harm, and are risk-based, strategic and targeted	<b>For example...</b>	●	●	🕒	●	●
	Evaluate impact to understand effects of activities	●	🕒	○	●	●
	Reduce or cease activities that deliver low or minimal impact and value	●	●	🕒	●	●
	Continuously improve delivery of activities to maximise impact and value	●	●	🕒	●	●
<b>5. Strengthen focus on collaboration</b> to better leverage the influence and resources of other actors in the workplace relations ecosystem	<b>For example...</b>	●	🕒	🕒	●	●
	Defer to DEWR representation in inter-departmental committees	●	🕒	🕒	●	●
	Collaborate with other workplace relations actors in education delivery	●	🕒	🕒	●	●
	Work closely with Fair Work Commission at SES level to identify future opportunities for collaboration	●	●	🕒	●	●
<b>6. Support employees to engage with risk</b> to allow for devolved decision making, reduced layers of approval and more efficient processes	<b>For example...</b>	●	●	🕒	●	●
	Review delegations and decision making frameworks	●	●	🕒	●	●
	Identify ways to empower staff to make decisions commensurate with their level	●	●	🕒	●	●
<b>7. Continue capability uplift initiatives</b> with potential for future efficiencies	<b>For example...</b>	●	🕒	🕒	●	●
	Modernise business-facing systems to streamline process and enable automation	●	🕒	🕒	●	●
	Build on work done to introduce capability framework to manage performance	●	●	🕒	●	●

## 3.3 Primary opportunities recommended

### 3.3.1 Primary Opportunity 1 – Rationalise office space



To reduce costs associated with property, there is opportunity to rationalise the FWO's national property footprint and better utilise existing office arrangements.

**Total potential efficiency impact of up to \$5.4 million**

#### Rationale

The FWO currently operates from 22 offices across Australia, 17 of which are situated on the east coast. Furthermore, the FWO maintains a sizeable presence outside the capital cities, operating across 14 locations. Compared to other regulators, this is a large office footprint outside the capital cities relative to the FWO's size (refer to analysis in Appendix C).

However, it is noted that the selection of the FWO's office locations partly reflects the nature of its work that differs from other regulators, given the specific industry interests, for example, in agriculture. It also reflects the historic circumstances inherited from over a decade of changing Government priorities by successive governments. Given the legacy nature of the FWO's current office footprint, existing arrangements may not reflect the optimal model for an independent agency regulating workplaces in modern Australia.

Recent and forthcoming changes to the FWO call for an evaluation of its current office footprint that better reflects:

- Government priorities and expectations
- The evolving nature of Australian workplaces resulting from technological and demographic change requiring different forms of presence and engagement (digital and physical)
- More broadly, the changing nature of APS ways of working using more flexible and hybrid work arrangements.

There is opportunity for the FWO to review existing office leasing arrangements to achieve both operational efficiencies and fiscal savings and a

more optimal and dynamic office footprint. Currently, the FWO's property spend accounts for on average seven percent (\$2.8 million) of total supplier costs per year (over 2017-18 to 2022-23). Savings could be achieved by rationalising office space and footprint, where appropriate, to strategically meet the FWO's operating environment and practices. The FWO is and can continue to employ alternative models such as co-location and hybrid working arrangements. Both approaches would align with the FWO, and broader APS, workplace transformation policies and programs regarding more flexible, adaptive and responsive working arrangements.

Considerations in identifying potential offices to be rationalised include, but are not limited to:





- Workstation utilisation across all offices
- Time to expiry of lease
- Proximity to another FWO office
- Cost per square metre.

It is acknowledged that the opportunity to rationalise FWO offices is not solely dependent on lease expiries and potential cost savings. Other considerations must also be considered in terms of service delivery, workforce, political and reputational impacts. An assessment should be undertaken on the feasibility to reduce office space, in all locations, including consideration of cost per workstation, the number of workstations the FWO needs to service its ASL and be sufficiently agile to meet an evolving remit of FWO functions. This is particularly relevant across capital city locations where the property costs are significant. This may have a greater impact on savings with less risk to service delivery and any potential impact on accessing staff across non-capital city locations.


#### Opportunity analysis summary

The table below summarise the opportunity analysis for Opportunity 1 (Review and rationalise office space) against each assessment criterion. The underlying analysis, supporting the above opportunity assessment is presented in the following analysis section.

Table 27: Opportunity 1 (Review and rationalise office space) analysis summary

<b>Opportunity 1</b> ▶ <b>Review and rationalise office space</b> in line with demand and flexible working arrangements		
Criterion	Assessment	Summary
Strategic alignment		<p>There is a high degree of alignment with Government and FWO strategic priorities, including:</p> <ul style="list-style-type: none"> <li>• The intent of the Commonwealth Property Management Framework (CPMF) in maximising value for money outcomes on a whole-of-government basis in relation to leasing arrangements</li> <li>• The CPMF’s 14m<sup>2</sup> occupational density target in new or renewed leasing arrangements</li> <li>• The value that the FWO’s employees place on flexible working arrangements, with the 2023-24 Corporate Plan noting that “hybrid work is now the default position for most of our workforce”<sup>51</sup></li> </ul>
Feasibility		<p>There is a relatively high degree of alignment regarding the feasibility of this opportunity, noting:</p> <ul style="list-style-type: none"> <li>• The number of leasing arrangements that have recently expired or are due to expire within the next 18 months, reducing the need to break lease agreements</li> <li>• Rationalisation of office space can be implemented within the upcoming forward estimates period</li> <li>• Alternative working models are available to be implemented, such as hybrid work arrangements and agency co-location, acknowledging work required to ensure the FWO’s culture and performance can be maintained within a fully remote environment</li> </ul>
Fiscal impact		<p>There is a relatively high degree of alignment regarding fiscal impact of the rationalisation of the FWO’s office footprint, noting that:</p> <ul style="list-style-type: none"> <li>• A positive fiscal impact within the forward estimates of up to \$5.36 million including reduction in leasing arrangements and property operating costs</li> <li>• Potential for other expenses associated with property to be reduced.</li> </ul> <p>However, it is acknowledged that additional short-term costs may be incurred to realise this opportunity, including:</p> <ul style="list-style-type: none"> <li>• Potential break lease clauses, make good provisions and other like costs</li> <li>• Additional resources to manage property rationalisation costs associated with staffing relocations, possible workforce restructure and uplift to technology infrastructure</li> </ul>
Service delivery		<p>There is a relatively high degree of alignment regarding service delivery, noting:</p> <ul style="list-style-type: none"> <li>• The rationalisation of the FWO’s office footprint should not adversely affect core service delivery</li> <li>• Adequate resourcing should be provided to any impacted staff to continue their existing working arrangements and maintain service delivery standards, acknowledging the potential fiscal impact of this.</li> </ul>

<sup>51</sup> Fair Work Ombudsman, 7 August 2023, *Office of the Fair Work Ombudsman Corporate Plan 2023–2027*, Australian Government, pg.9, <https://www.fairwork.gov.au/sites/default/files/2023-08/office-of-the-fair-work-ombudsman-fwo-corporate-plan-2023-24.pdf>

Criterion	Assessment	Summary
		However, there is a risk that the consolidation and rationalisation of office space may impact on staff retention and talent attraction
Risk		<p>There is a relatively high degree of alignment to the risk criteria associated with this opportunity noting that in reducing the FWO's office footprint, the FWO would need to manage potential risk related to:</p> <ul style="list-style-type: none"> <li>• Staff retention and talent attraction</li> <li>• Operational capability and performance</li> <li>• Compliance with Government's strategy to deliver services in the regions</li> </ul>

## Analysis

As noted in the CPMF, expiring leases present an important opportunity for agencies to assess the footprint of each tenancy, right-size where necessary, and re-negotiate rent where possible.<sup>52</sup> Over the next four years, 20 office leases are due to expire, noting there are two Melbourne lease arrangements, with one being subleased to DEWR. Of these, 14 are non-capital city locations, while the remaining six are in capital cities.

For example, in 2023-24, there are eight office leases that have expired or that are due to expire including Hobart, Perth, Warrnambool, Coffs Harbour, Orange, Mount Gambier, Wagga Wagga and Cairns. A further seven office leases will expire near the end of 2024-25, including Sydney, Darwin, Brisbane, Bunbury, Launceston, Rockhampton and Traralgon.

A further consideration to non-renewal of office leases is their proximity to other offices, including capital cities, where the FWO has established offices. For example, several offices are located within a three-hour radius of a capital city office, including Wagga Wagga, Newcastle, Launceston, Toowoomba, Bunbury, Bendigo and Traralgon. Outside of the capital cities, those offices with the lowest square meterage are also the ones with the highest cost per square meter (\$/m<sup>2</sup>). These include, for example, Warrnambool (\$372/m<sup>2</sup>), Orange (\$151/m<sup>2</sup>) and Traralgon (\$123/m<sup>2</sup>).

Through a process of natural attrition (that is by not renewing leases), up to 14 office locations could potentially be rationalised. In doing so, the FWO could achieve up to \$0.4 million in potential savings over the forward estimates. This is highlighted in the table below.

There is also opportunity for the FWO to renegotiate capital city office lease arrangements, where possible, to rationalise further its office

space. The CPMF provides guidance on an occupational density target of 14m<sup>2</sup> of usable office area per occupied workstation, noting that all new leases are expected to meet the occupational density target.<sup>53</sup> By rationalising office space within the 14m<sup>2</sup> density target and leveraging other hybrid work arrangements (aligned to current operating practices), further efficiencies and savings can be achieved.

There is opportunity to review and reduce capital city leasing arrangements in Perth, Sydney, Brisbane, and Melbourne over the next four years. Brisbane and Sydney have the most expensive lease arrangements at \$1,170/m<sup>2</sup> and \$1,004/m<sup>2</sup> respectively. Renegotiating these lease arrangements to right-size, where appropriate, and within the 12 to 14m<sup>2</sup> density target may generate greater cost savings, due to property costs being significantly higher in metropolitan areas compared to those outside the capital cities. Further consideration by the FWO regarding capital lease arrangements will be required.

Additional cost savings can also be realised in property operating expenses. Property operating expenses have been quantified from the FWO's current contract with JLL for property operating expenses services. It excludes JLL's property management services. The table below provides an estimated efficiency gain of property operating expenses in line with the natural attrition approach taken in this analysis related to 14. This provides an average saving of \$1.25 million per annum for an indicative total saving of \$5 million over four years.

Additional efficiency gains may also be achieved with the reduction of the FWO's office footprint through other shared service arrangements with DEWR regarding IT infrastructure, however this has not been quantified here.

**Table 28: Potential efficiency gain for office rationalisation**

Financial Year	2023-24	2024-25	2025-26	2026-27	Total
Offices impacted	6	8	13	14	14
Lease costs	\$0.03	\$0.06	\$0.13	\$0.14	<b>\$0.36</b>
Property operating expenses	\$0.34	\$1.45	\$1.60	\$1.61	<b>\$5.00</b>
Total potential efficiency gain	<b>\$0.37</b>	<b>\$1.51</b>	<b>\$1.73</b>	<b>\$1.75</b>	<b>\$5.36</b>

\* The figures in this table represent millions of dollars. For example, \$0.03 = \$0.03m.

<sup>52</sup> Department of Finance, December 2022, *Commonwealth Leasing Strategy: Resource Management Guide No. 500*, Australian Government, <https://www.finance.gov.au/sites/default/files/2022-12/RMG%20500%20-%20December%202022.pdf>

<sup>53</sup> Ibid.



## Key cost assumptions

Key costing assumptions made as part of this analysis include:

- **Assumption 1:** Natural attrition of office leasing arrangements, meaning no lease renewal or forced cessation of lease arrangements
- **Assumption 2:** Additional costs flowing from break lease clauses, make good provisions and other costs have been excluded. Such costs, if incurred, will reduce the potential efficiency gain
- **Assumption 3:** Lease arrangements that have expired prior to 1 January 2024 have not already been renewed
- **Assumption 4:** Property operating expenses are calculated from an average cost per square meter (\$717/m<sup>2</sup>) derived from the annual cost of JLL property operating contract divided by total leased and sub-leased square meterage (16,527m<sup>2</sup>).

## Financial considerations

Opportunity 1 (Review and rationalise office space) may involve the following financial considerations:

- Potential for reduced property costs, including lease management, and shared services
- Any break lease clauses and make good provisions that are in place, resulting in increased costs in the short term
- Increased short-term resourcing required to support and implement any reduction in the office footprint
- Impact on workforce resources including increased resources to manage potential office closures
- Shifting the cost base from fixed to variable (for example, potential for increased travel costs to meet operational needs vs. maintaining a lease to have a permanent physical presence).

## Implementation considerations

Opportunity 1 (Review and rationalise office space) may involve the following implementation considerations:

- Review and identify leasing arrangements due to expire within the four-year period and identify alternative options, such as co-location and/or hybrid work arrangements
- Identify which office spaces exceed workforce demand for a physical working environment in relation to their size or proximity to other available office space
- Consider the impact of any proposed changes and potential barriers in relation to the consolidation or rationalisation of office spaces, including potential staff retention and relocation costs, capability uplift to technology infrastructure for remote working arrangements, political and reputational impacts, and operational and service delivery impacts
- Impacts of implementation of other opportunities, in particular Opportunity 2 (Address structural inefficiencies) in addressing structural efficiencies, which may compromise the FWO's ability to support and implement a well-planned approach to reducing its office footprint, and conducting genuine and effective consultation with employees and relevant unions in line with APSC guidance<sup>54</sup> and any existing workplace agreements as is expected by model employers.

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<sup>54</sup> Australian Public Service Commission, 6 October 2022, *Circular 2022/08: Genuine and effective employee and union consultation in Commonwealth agencies*, Australian Government, <https://www.apsc.gov.au/circulars-guidance-and-advice/circular-202208-genuine-and-effective-employee-and-union-consultation-commonwealth-agencies> (Accessed 13 November 2023)

### 3.3.2 Primary Opportunity 2 – Address structural inefficiencies



To address structural inefficiencies, there is opportunity to consolidate duplicated functions and capabilities and adjust the span of control across teams and branches.

**Total potential efficiency gain of between \$9.7 million to \$16.2 million**

**FTE impact of 18 to 30 FTE**

#### Rationale

As noted in earlier sections of this report, the FWO has undergone substantial change in recent years in response to successive changes to Australia's workplace relations landscape and subsequent workplace laws. These changes reflect the evolving work practices, emerging technologies, post-COVID work expectations and, significantly, change of Government. To reflect changing Government priorities and focus, legislation has also changed.

Through this process, the FWO has acquired (and at times terminated) additional functions, expanding its remit and responsibilities. This has seen growth in ASL as new teams have been created and additional resources have been acquired or absorbed from other agencies. As is the nature of Government, these processes can at times be reactive, leading to horizontal and vertical structural inefficiencies within an organisation. This can result in duplicated functions and effort and misaligned or underutilised capabilities and resources.

The Review identified some structural inefficiencies in the form of duplicated functions and opportunities to align functional capabilities, and capabilities across various teams, branches and groups within the FWO.

Instances of replicated functions and capabilities across teams and branches also reflects the low span of control across several Groups. The creation and absorption of additional functions and capabilities has led to a number of smaller teams being created across several Groups. This has resulted in both vertical and horizontal structural inefficiencies, including maintaining greater level of oversight (for example, EL 1 and EL 2 positions) than would be required with the amalgamation of teams. This, in part, may also reflect the FWO's

current approach to risk as noted in Chapter 2 Current State Assessment.

Given the above, through corporate and strategic planning, it is recommended the FWO review and consider opportunities to rebalance any structural inefficiencies across the Agency and adjust span of control, where appropriate. This should be completed before the end of 2023-24 with the aim of implementing any identified structural changes from 1 July 2024 over the remaining forward estimates.

As a starting point, potential areas the FWO may wish to explore include, but are not limited to:

- Duplicated functions across teams and branches that share like compliance and enforcement activities, could be consolidated and amalgamated, where appropriate
- Duplicated capabilities in calculations, data analytics and technology across various teams, branches and groups could be consolidated, where appropriate
- Consolidate functions and capabilities in customer enquiries and advice, where appropriate, to realise efficiency and enable workforce training opportunities
- Amalgamation of teams and branches to improve span of control and devolve oversight but not accountability, where appropriate
- Evaluate whether there has been 'grow back' or 'shadow' corporate and enabling functions that have been outsourced or delivered through shared service arrangements. For example, evaluating the property and ICT outsourcing arrangements.






In addressing identified structural inefficiencies, the FWO could achieve a more optimal structure that better reflects its current and future functions and responsibilities. Addressing structural inefficiencies and spans of control may also be complemented and enhanced by other opportunities identified within this Review. For example, rationalising the FWO's office footprint may provide opportunities to restructure and consolidate certain teams and/or branches.

## Opportunity analysis summary

Opportunity 2 (Address structural inefficiencies) is rated between a relatively high to a high degree of alignment against all criteria.

The underlying analysis supporting the above opportunity assessment is presented in the following analysis section.

**Table 29: Opportunity 2 (Address structural inefficiencies) analysis summary**

<b>Opportunity 2</b> ▶ <b>Address structural inefficiencies</b> both horizontally across groups and vertically within organisational units		
Criterion	Assessment	Summary
Strategic alignment		<p>There is a high degree of alignment with Government strategic priorities, including:</p> <ul style="list-style-type: none"> <li>The whole-of-government APS reform agenda, including building the capability of the APS, and devolving decision making to the lowest practicable level</li> <li>APSC advice in relation to maintaining the optimal span of control for each type of activity</li> </ul>
Feasibility		<p>There is a high degree of alignment with feasibility, including the ability to be implemented within the upcoming forward years, pending employee and union consultation requirements.</p> <p>However, implementation may involve some costs (for example if redundancy packages are involved)</p>
Fiscal impact		<p>There is a relatively high degree of alignment regarding fiscal impact of noting:</p> <ul style="list-style-type: none"> <li>There is potential for savings to be realised, but will require making some positions excess to requirement and difficult resourcing decisions</li> <li>Level of savings achieved will correlate to the number and seniority of positions that are removed</li> <li>Any savings achieved will also depend on whether these are replaced by additional, lower-level positions</li> </ul>
Service delivery		<p>There is a high degree of alignment regarding the service delivery impact noting:</p> <ul style="list-style-type: none"> <li>The rationalisation of ASL should be able to be achieved without impacting service delivery</li> <li>Any restructure will have some level of disruption on operations</li> </ul>
Risk		<p>There is a high degree of alignment to the risk criteria due to:</p> <ul style="list-style-type: none"> <li>Improving span of control allows for maintaining accountability while devolving responsibility the lowest appropriate level</li> <li>Levelling of decisions and facilitating a less risk-averse culture that empowers staff to make decisions</li> </ul>

## Analysis

For the analysis provided below, the Review has provided both potential low-end and high-end scenarios. The analysis assumes any potential rationalisation of FTE begins on 1 July 2024 at the earliest (noting the obligations for consultation under the current enterprise agreement). The analysis assumes an average staffing cost of \$172,000 (per FTE, per annum) based on an average of APS5, APS6, EL 1 and EL 2 salaries (including on costs and indexation). The analysis excludes the costs of potential severance payments and other associated costs.

Any efficiency gains and FTE impact identified will require further analysis and will necessarily be at the discretion of the FWO. This will need to balance any associated operational efficiency and capability and service delivery risks.

The low-end scenario outlined in Table 30 below assumes the implementation of both of the other primary opportunities (Opportunity 1 Review and rationalise office space and Opportunity 3 Achieve greater efficiency through shared services) in combination with this opportunity. An efficiency gain of up to \$9.7 million over the four years impacting 18 FTE could be achieved under this scenario. This is based on implementation starting on 1 July 2024,

with 2023-24 savings absorbed across the remaining three years.

The high-end scenario is agnostic of any other opportunities being implemented and it assumes the total 2.5 percent efficiency dividend is delivered by this opportunity. It identifies a potential efficiency gain of up to \$16.2 million impacting 30 FTE over four years. This is based on implementation starting on 1 July 2024, with 2023-24 savings absorbed across the remaining three years.

Both scenarios provide a range for the FWO to consider when addressing structural inefficiencies and span of control issues that exist across the Agency.

**Table 30: Low end potential efficiency gain and FTE impact of Opportunity 2 (Address structural inefficiencies)**

Financial Year	2023-24	2024-25	2025-26	2026-27	Total
Efficiency gain	\$0.00	\$3.18	\$3.23	\$3.30	<b>\$9.71</b>
FTE Impact	0	18	18	18	<b>18</b>

\* The figures in this table represent millions of dollars. For example, \$1.90 = \$1.90m.

**Table 31: High end potential efficiency gain and FTE impact of Opportunity 2 (Address structural inefficiencies)**

Financial Year	2023-24	2024-25	2025-26	2026-27	Total
Efficiency gain	\$0.00	\$5.29	\$5.39	\$5.49	<b>\$16.18</b>
FTE Impact	0	30	30	30	<b>30</b>

\* The figures in this table represent millions of dollars. For example, \$5.29 = \$5.29m.

## Key costing assumptions made as part of this analysis include:

- **Assumption 1:** Structural changes can be implemented from 1 July 2024 at the earliest and therefore the efficiency gain and FTE impact for 2023-24 is zero
- **Assumption 2:** Costs calculated from the average salary of APS5 to EL2 (\$172,000) and include base salary plus on-costs (superannuation, long service leave and training as well as human resource, operational services, desktop ICT and property operating expenses) and indexation
- **Assumption 3:** Any identified potential cost savings do not include any severance costs that may be required, depending on the positions identified
- **Assumption 4:** The low-end scenario assumes the implementation of both of the other primary opportunities (Opportunity 1 Review and rationalise office space and Opportunity 3 Achieve greater efficiency through shared services) in combination with this opportunity
- **Assumption 5:** The high-end scenario assumes no other opportunities are explored and implemented.

## Financial considerations

Key financial considerations for Opportunity 2 (Address structural inefficiencies) include:

- Rationalise positions to achieve savings, including any initial costs for severance (if required)
- Upcoming salary increases for APS workforce, placing additional pressures on the budget
- The timing of changes and minimising impact on current priorities.

## Implementation considerations

Key considerations in implementing the suggested structural changes include:

- Can occur from 1 July 2024 at the earliest, pending the FWO completing review and required consultation processes
- Genuine and effective consultation with employees and relevant unions in line with APSC guidance<sup>55</sup> and any existing workplace agreements as is expected by model employers – this will also help manage reputational risk that could arise from a lack of consultation in this type of workplace change
- Achieving efficiencies through consolidating functions and/or adjusting span of control will necessarily involve reducing the overall number of positions at certain levels
- Under subsection 29(3) of the Public Service Act, an ongoing APS employee can be terminated on the grounds that the employee is excess to the requirements of the Agency
- Whether to offer voluntary or involuntary redundancy<sup>56</sup> packages (which may involve additional cost)<sup>57</sup> or achieve reduced positions through natural attrition (which could take more time, meaning efficiencies may take longer to be realised)
- The impact of any workforce changes on the FWO's ability to adapt and respond to deliver on future demands (such as, for example, introduction of criminal penalties in relation to wage theft from the Closing Loopholes Bill) and respond to changing Government priorities.

<sup>55</sup> Australian Public Service Commission, 6 October 2022, *Circular 2022/08: Genuine and effective employee and union consultation in Commonwealth agencies*, Australian Government, <https://www.apsc.gov.au/circulars-guidance-and-advice/circular-202208-genuine-and-effective-employee-and-union-consultation-commonwealth-agencies> (Accessed 13 November 2023)

<sup>56</sup> Note: The FWO's Enterprise Agreement contains provisions for redundancy.

<sup>57</sup> As per the Fair Work Act, the amount of the redundancy pay equals the total amount payable to the employee for the redundancy pay period. Redundancy pay period is based on an employee's period of continuous service with the employer on termination. For example, an employee who had worked for their employer for at least 10 years would be entitled to a redundancy pay period of 12 weeks, which would require the employer to pay the employee's base rate of pay for ordinary hours of work across a 12-week period. Fair Work Commission, 31 March 2023, *Redundancy Pay*, Australian Government, <https://www.fwc.gov.au/documents/resources/nes-redundancy-pay.pdf> (Accessed 3 November 2023)

### 3.3.3 Primary Opportunity 3 – Shared services arrangements



To achieve greater efficiency, there is opportunity to review and adjust existing shared and external services arrangements and implement potential future arrangements.

**Total efficiency gain of up to \$0.9 million.**

#### Rationale

The FWO manages several shared service arrangements to support the delivery of enabling functions, such as IT services, financial management, HR, property management and telecommunications. These are provided through MoUs with third parties, such as JLL and Telstra as well as Government agencies such as DEWR, DFAT and Department of Finance. Despite these arrangements, the Review has identified some potential instances of 'grow back' in which internal capabilities or functions overlap or shadow existing shared services arrangements.

The FWO's IT strategy, amongst other things, has focused on shifting reliance away from physical infrastructure and leveraging cloud-based technologies. The continued implementation of this strategy presents an opportunity to ensure the shared service arrangement with DEWR is fit-for-purpose, commensurate with the FWO's operational needs and reflects the investment to drive efficiencies. Nevertheless, it is noted that transitioning to cloud-based arrangements can be an expensive process, requiring some significant investment and often requiring external expertise to implement.

Furthermore, there are also existing activities undertaken by other teams within the FWO that place unnecessary constraints on the Agency. For example, as identified in Chapter 2, there appears to be potential synergy between the Fair Work Commission's Modern Awards Pay Database (MAP) API and the FWO's Pay and Conditions Tool (PACT). There is opportunity here for the FWO to partner with the Fair Work Commission through a shared service arrangement to deliver

this functionality across both entities that reduces cost and effort. It would be achieved through an improved API for PACT and enable the FWO to deploy its limited resources elsewhere. It is acknowledged that implementation of such an arrangement, at least in the short-term, may involve significant barriers and cost implications. The costs centre around the need to source external expertise to complete such a project.

The FWO could assess the efficacy of all shared service arrangements, ensure value received is maximised and re-negotiate the terms and conditions, and offerings under each MoU. In addition, the FWO should consider contestability of current functions to ensure the most effective mechanism for delivery is maintained (for example, in-house versus outsourced arrangements). One example is the potential for the Legal Group to explore opportunities to better use contracting arrangements for some functions that are higher volume, lower value. This is not withstanding that the Legal Group already uses a contracting arrangement for legal advice and support. While the opportunity to achieve additional savings may be limited, such a scenario may provide greater contestability and challenge to the FWO's legal advice. It may also free up resources to be deployed on low volume, high value compliance, enforcement and litigation issues.






There is also potential for the FWO to explore other high-volume, low-impact transactional services that could be delivered externally. Such an exercise may identify other opportunities to achieve greater operational efficiencies, where appropriate, provided that this occurs within the guidance and spirit of the APS Reform agenda. This includes consideration of the Government's new APS ERP approach announced in November 2023.<sup>58</sup> The FWO could maximise the efficiency and utility of its limited resources through existing shared services and potential future arrangements. The Agency should review its service delivery arrangements to identify opportunities to adapt existing shared services or procure additional support.

<sup>58</sup> Senator The Hon Katy Gallagher, Minister for Finance, 28 November 2023, *Media Release: 28 November 2023 – A new approach for back-office functions in the Australian Public Service*, <https://www.financeminister.gov.au/media-release/2023/11/28/new-approach-back-office-functions-australian-public-service>

## Opportunity analysis summary

The table below provides a summary of the opportunity analysis for Opportunity 3 (Achieve greater efficiency through shared services).

**Table 32: Opportunity 3 (Achieve greater efficiency through shared services) analysis summary**

<b>Opportunity 3</b> ▶ <b>Achieve greater efficiency through shared services – both existing and potential future arrangements</b>		
Criterion	Assessment	Summary
Strategic alignment		There is a high degree of alignment with Government strategic priorities and is consistent with core principles of good government such as ensuring value for money and contestability in functions and service delivery. It is also consistent with the intent of the Australian Government's shared service program which aims to drive productivity increases and support efficiency, mobility and collaboration.
Feasibility		There is a moderate degree of alignment with feasibility of Opportunity 3 (Achieve greater efficiency through shared services) due to its dependence on implementation of the other opportunities.
Fiscal impact		There is a moderate degree of alignment regarding fiscal impact, noting that: <ul style="list-style-type: none"> <li>Maximising opportunities within shared service arrangements is dependent on implementation of elements of the other primary opportunities</li> <li>Opportunity 3 (Achieve greater efficiency through shared services) provides a smaller fiscal impact in comparison to Opportunity 2 (Address structural inefficiencies)</li> </ul>
Service delivery		There is a relatively high degree of alignment regarding the service delivery impact of Opportunity 3 (Achieve greater efficiency through shared services), noting minimal impact on service delivery. There may be some potential increase in operational efficiency, particularly in relation to addressing 'grow back'.
Risk		There is a high degree of alignment with risk for this opportunity, as risk of re-negotiating shared service arrangements is assessed as minimal.

## Analysis

It is assumed for the analysis for Opportunity 3 (Achieve greater efficiency through shared services) that a targeted 2.5 percent potential efficiency gain (\$0.9 million) across current shared service arrangements can be achieved over the four years (refer to the table below). This excludes existing arrangements with Service Delivery Office (SDO) managed by Department of Finance and property operating services provided by JLL (addressed in Opportunity 1 Review and rationalise office space). It is noted that potential savings achieved may be offset by acquisition of additional external services in addressing 'grow back' or other activities.

Dependencies exist between this opportunity and the implementation of the other primary opportunities, with regards to demand for shared service arrangements and external services.

Should elements of the other primary opportunities be implemented, this may see a higher potential efficiency gain achieved over the four years. For example, as outlined in Opportunity 1 (Review and rationalise office space), the reduction of the FWO's office footprint through rationalisation may reduce property operation expenses managed by JLL of up to \$5 million over four years. Potential savings may also result from the rationalisation of office space with a reduction in demand for IT infrastructure and

associated services. However, this has not been quantified in this Review.

Equally, depending on measures implemented by the FWO in realising other opportunities, the share of shared service arrangements and external services may be expanded. This may negate any potential cost savings achieved through the reduction of other shared service arrangements and external services. For example, developing a shared and integrated wage calculator API in partnership with the Fair Work Commission may require external services to support such a project. Another example is the FWO's strategy to transition to cloud-based services. As noted in the rationale, doing so may incur further costs in the short-term, before realising longer-term efficiencies.

Opportunities exist for additional analysis to be undertaken by the FWO. Furthermore, identifying and quantifying the opportunity of other externally delivered transactional services has not been done in full other than to the potential examples for the FWO to explore further.

**Table 33: Potential efficiency gain across shared service arrangements**

Financial Year	2023-24	2024-25	2025-26	2026-27	Total
Efficiency gain	\$0.13	\$0.26	\$0.26	\$0.26	\$ 0.91

\* The figures in this table represent millions of dollars. For example, \$0.13 = \$0.13m.

### Key cost assumptions

Key cost assumptions of the analysis include:

- **Assumption 1:** A 2.5 percent efficiency across shared service arrangements is achieved
- **Assumption 2:** JLL property operating service is excluded as this is accounted for in Opportunity 1
- **Assumption 3:** Arrangements with the Department of Finance for SDO services are excluded, as there is negligible opportunity for efficiency gains in that arrangement.

### Financial considerations

Opportunity 3 (Achieve greater efficiency through shared services) will involve the following financial considerations:

- Existing cost base for shared and external services arrangements
- Expected cost base for potential future arrangements and reflecting the efficiency improvements made.

### Implementation considerations

Opportunity 3 (Achieve greater efficiency through shared services) will involve the following implementation considerations:

- Renegotiate MoUs with existing shared service providers
- Identify suitable service providers for potential future arrangements
- Address any barriers to further partnership with the Fair Work Commission
- Effective consultation with employees and relevant unions to fulfil obligations and manage risks.



### 3.4 Other opportunities for consideration

The Review has identified other opportunities that the FWO could consider implementing. These opportunities are not as closely linked to an immediate saving opportunity. However, they are important options to consider in the context of improving overall operational efficiency and maximising regulatory impact into the future. The table below provides a summary of these additional opportunities and high-level analysis against the assessment criteria.

Table 34: Other opportunity summary analysis






#### Opportunity 4 ▶

**Review regulatory strategy and outcomes of regulatory actions and adjust to ensure these are focused on the greatest harm, and are risk-based, strategic and targeted**

As the FWO has taken on more functions and will continue to do so, the FWO should revisit its current mix of regulatory activities. It will be particularly relevant given the likely addition of criminal penalty outcomes to the FWO's enforcement pyramid in the near future.

For the key functional activities delivered by the FWO, an evaluation and monitoring plan should be developed, including an appropriate cadence of undertaking evaluations. This will enable the FWO to adjust regulatory, risk and financial settings, to continue to focus on high-impact areas. This evidence base will support the adjustment and reporting on KPIs and balance focus between preventative and compliance and enforcement actions.

The evaluation of the impact of each core functional activity in which the FWO invests its resources should be undertaken with a focus on better understanding the associated outcomes. Depending on the results of this assessment, and given expected upcoming changes as well as the broader workplace relations ecosystem context, the FWO may then decide to re-allocate resources across its functions in line with a revised regulatory strategy. This may involve ceasing or reducing the effort allocated to low-impact activities, increasing investment in higher-impact activities and/or improving delivery to maximise impact.

Criteria	Assessment	Summary
Strategic alignment		Regular review and adjustment of the regulatory strategy is in line with the best practice advice in RMG 128 and in particular Principle 1: Continuous improvement and building trust. It is also aligned with the new Minister's statement of expectations for the FWO which emphasises the better practice principles of RMG 128 and regular review and adjustment where necessary.
Feasibility		There should be no significant barriers to implementing this opportunity in 2023-24 or making any resultant changes within the upcoming forward estimates.
Fiscal impact		There would be a cost associated with undertaking such evaluation activities. Depending on decisions made in terms of allocation of resources, there may also be opportunities for savings.
Service delivery		This could support better targeted service delivery.
Risk		As an internal exercise the risk to the FWO and Government is expected to be minimal. The exercise also supports a risk-based approach.

## Opportunity 5 ▶

### Strengthen focus on collaboration to better leverage the influence and resources of other actors in the workplace relations ecosystem






The FWO should continue to assess and identify opportunities to better leverage the influence and resources of other workplace relations actors in some of its activities. A whole-of-workplace relations ecosystem view should be taken to identify duplicated activities or activities in which the FWO is unnecessarily investing. The FWO has limited resources and functions that can be highly reactive to external factors, therefore targeting resources to highest impact (for example, outcomes achieved) will be critical to ensure resources are utilised to the greatest benefit.

Examples might be representation in inter-departmental committees or deep involvement in policy development activities that DEWR is well-placed to deliver. The FWO may also consider identifying other opportunities to partner in the delivery of compliance outcomes. For example, rather than the FWO being solely responsible for educating the nation, it could seek to engage the following more in education and compliance delivery:

- Payroll system or service vendors that may be well placed to assist employers in establishing systems that promote compliance through incorporating better calculation engines and / or linking into the FWO's public facing data for real time updates, as changes are enacted
- Employer and industry groups and employee unions that may be well placed to deliver education on workplace responsibilities and rights
- Professional and other bodies that are responsible for maintaining standards and / or provide education for relevant professions (such as human resources and finance professionals) and roles (such as board directors)
- Vocational education, training and other educational institutions that provide both potential future employers and employees with workplace skills development.

As noted in the strategic context section of this report, the FWO is considering a range of mechanisms to fulfil its aims in relation to tripartism and collaboration, for example:

- Operational collaboration in relation to education and compliance functions
- Collaborating with the Fair Work Commission and the AHRC in relation to strategic cases, dispute resolution, education and advice
- Information sharing to support external, non-FWO processes, such as legal proceedings or enforcement activities.

Criteria	Assessment	Summary
Strategic alignment		Collaboration and engagement is a key principle of the Australian Government's better practice guide for regulators. It calls for regulators to be transparent and responsive, implementing regulations in a modern and collaborative way. It also encourages innovative approaches in considering regulatory issues.
Feasibility		There may be some barriers to implementing this opportunity, particularly in relation to the ability of other actors to collaborate (either due to lack of resources or motivation).
Fiscal impact		Some examples in this opportunity could result in reduced effort, which might manifest in short-term savings. Others are more related to extending reach and may have longer-term implications associated with increased compliance more generally.
Service delivery		This could support better targeted service delivery and an increased reach.
Risk		If trusting and collaborative partnerships are able to be built, risk associated with this opportunity should be minimised. Investing in proactive compliance work is in line with a risk-based approach.

## Opportunity 6 ▶

### Support employees to engage with risk to allow for devolved decision making, reduced layers of approval and more efficient processes

There is an opportunity for the FWO to build on the support it already provides employees to engage with risk. Part of this is about ensuring that decisions are being made at the lowest level appropriate. This fosters accountability and good decision making. It also makes the best use of, and supports the development of, APS capability. A secondary benefit would be the efficiencies to be gained from reducing unnecessary layers of approval, more streamlined processes and reduced bottlenecks.






This could tie in with the capability framework development work that the FWO has already commenced in relation to its inspectorate. The FWO might also consider undertaking a review of its delegations and decision making frameworks and look at identifying other ways it can empower staff at all levels to have a healthy relationship with risk and complete work that is commensurate with their APS level. This would also support implementation of Opportunity 2 (Address structural inefficiencies).

Criteria	Assessment	Summary
Strategic alignment	●	This is in line with the APSC's Optimal Management Structures Guidance 2023 which states that decisions should be made at the lowest appropriate level.
Feasibility	●	There should be no barriers to implementing this, however there are potentially elements of cultural change involved which would require focused attention.
Fiscal impact	◐	There may be a small cost involved in reviewing delegations and decision making frameworks. Longer-term benefits in terms of increased efficiency may present as savings.
Service delivery	●	This should support more responsive service delivery.
Risk	●	This should support the FWO to foster a less risk averse culture.

## Opportunity 7 ► Continue capability uplift initiatives with potential for future efficiencies

As outlined in the previous section, the FWO is already progressing a range of capability uplift initiatives that may be associated with future efficiencies. These include initiatives to modernise business facing systems. Building on the modern technology foundations that it now has in place, the FWO can move towards more integrated systems, streamlined business processes and explore opportunities related to automation and artificial intelligence.

Building on work the FWO has undertaken to introduce a capability framework for its inspectorate, there may be scope to better manage performance and increase efficient work practices through the continued implementation of the framework. There may also be opportunity to extend this into other areas of the organisation.

Criteria	Assessment	Summary
Strategic alignment		This is in line with the Australian Government's current APS reform agenda which emphasises APS capability building and the Australian Government's Data and Digital Government Strategy.
Feasibility		There are funding barriers especially in relation to technology transformation.
Fiscal impact		There will likely be significant cost involved especially in relation to technology transformation.
Service delivery		This should support more responsive service delivery.
Risk		Capability uplift should support better management of risk, for example through reduced human error as a result of manual processes.

### 3.5 Summary of opportunities

The table below provides a summary of the opportunities discussed and analysed above, highlighting potential efficiency gains and any FTE impact over the four years. The table below highlights that no single opportunity can realistically realise the 2.5 percent savings in isolation. In addition, most opportunities identified by this Review will provide differing degrees of operational efficiency and regulatory impact. This will vary on the combination of opportunities decided on and degree to which they are implemented by the FWO.

**Table 35: Summary of opportunities**

#	Opportunity	Potential efficiency gain range	FTE Impact	Operational Efficiency Impact	Maximises Regulatory Impact
1	Review and rationalise office space	Up to \$5.4m	N/A	✓	✗
2	Address structural inefficiencies	\$9.7m to \$16.2m	18 to 30	✓	✓
3	Achieve greater efficiency through shared services	Up to \$0.9m	N/A	✓	✗
4	Review regulatory strategy and outcomes of regulatory actions	N/A	N/A	✓	✓
5	Strengthen focus on the impact of collaboration	N/A	N/A	✓	✓
6	Support employees to engage with risk	N/A	N/A	✓	✓
7	Continue capability uplift initiatives	N/A	N/A	✓	✓



# Appendices

# Appendix A: List of References

KPMG reviewed a large number of internal and publicly available documents and resources for the purposes of this Review. Sources used to inform this Review included:

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# Appendix B: List of Documents Reviewed

KPMG received and reviewed a large number of internal documents and also accessed publicly available documents (such as FWO Annual Reports) for the purposes of this Review. The documents used to inform this Review include:

- Background briefing on recent and upcoming legislative changes
- Background briefing on recent changes to the agency's functions and regulatory posture
- Overview of the agency's purpose and existing priorities
- Organisational structure charts
- Request for Assistance Flowchart diagram
- Terms of reference or charters for the FWO's boards, committees, and sub-committees
- Case studies in relation to the FWO's regulatory activities and impact on national workplace relations
- Recent media statements or articles in relation to the FWO
- Ministerial statement of expectations 2023
- The FWO's Annual Reports from 2017-18 to 2022-23
- FWO Corporate Plans (2021-22, 2022-23 and 2023-24)
- 2021-2024 MOU between the FWO and DEWR in relation to shared services
- 2023-24 Business Plans for the different branches within the FWO
- DEWR's 2023-24 Portfolio Budget Statement
- Budget 2023-24: Budget Paper No. 2
- Hansard records in relation to Education and Employment Legislation Committee meetings
- Budget Estimates 2022-23 in relation to the transfer of additional functions to the FWO
- Policy, capability framework and proficiency map documents for the FWO's Compliance and Enforcement functions and workforce
- Overview of the FWO's Legal Group in terms of its structure, functions, partnerships and workload
- OLSC reports provided by the FWO's Legal Compliance and Enforcement Branches
- Overview of the FWO's Technology Branch in terms of its strategy, technology architecture, and active IT projects
- Briefing on technology efficiency initiatives, such as AI innovation
- Status Report in relation to the FWO's SQL Server Replacement project
- Enquiry and website data from the last five years (2018-19 to 2022-23)
- Breakdown of the FWO's Departmental Appropriation Budget in relation to each group and Branch within the FWO
- Breakdown of additional funding measures provided to the FWO
- The FWO's Capital Budget Report, including the latest budget allocations for specific projects or services and expenditure data for closed projects
- HR report including organisational structure information and ASL data
- FWO APS Census Results 2023
- Overview of the FWO's key contracts with external suppliers
- FWO Capability Review Reports (2018 and the 2020 follow-up report)
- FWO Risk Management Policy and Guidelines (July 2023)
- FWO Strategic Risk Register (January 2023)
- 2019 Review of the FWO's Performance Measures
- Breakdown of additional funding measures provided to the FWO
- Overview of the FWO's interactions and collaboration with relevant stakeholders
- The FWO's Stakeholder Engagement Strategy
- The FWO's submission to the Senate Education and Employment Legislation Committee's Inquiry into the Fair Work Legislation Amendment (Closing Loopholes) Bill 2023
- Property management data in relation to the FWO's existing leases and sub-leases (June 2023)
- Briefing on the FWO's Pay and Conditions Tool

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- FWO Technology Strategy 2021-2023
  - Briefing on the Large Corporates and Industrial Compliance Group's processes

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# Appendix C: Comparator Analysis

This appendix illustrates the key similarities and points of difference between the FWO and other regulators, both domestically and internationally. This analysis provides insights for the FWO to consider in its operations and interaction with the workplace relations community.

The table below presents a summary of key similarities and differences between the FWO and other regulatory agencies.

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**Table 36: Comparator analysis summary**

Commonalities	Differences
<ul style="list-style-type: none"><li>All Australian agencies have offices across the country, with an office in the capital city of each jurisdiction</li><li>All Australian agencies are involved in litigation processes and recovering penalties</li></ul>	<ul style="list-style-type: none"><li>The FWO has 22 offices around Australia, including 14 regional offices. There is at least one regional office in every state and territory except the ACT and NT. Only one other regulator has an additional regional office outside a capital city</li><li>The FWO undertakes a significantly larger number of investigations (over 3,500 compared to 107 by ASIC)</li></ul>

The tables below highlight some indicative quantitative comparisons between the FWO and other regulators. Each regulator has a substantially different remit, noting that direct comparisons of costs or performance indicators may be misleading, and it is difficult to draw any conclusions based on this information..

**Table 37: Comparator analysis - Australian regulatory agencies**

Agency / regulator	Description	Budget	ASL	Office locations	Regulated entities	Throughput figures	Example impact
FWO	Independent statutory agency responsible for promoting fair workplaces in Australia <sup>59</sup>	\$269.24m (2023-2) <sup>60</sup>	901 (2022-23) <sup>61</sup>	22 in total, with eight offices across state and territory capital cities and 14 across regional locations <sup>62</sup>	873,000 businesses nationally <sup>63</sup> (employing 14.1 million people) <sup>64</sup>	2022-23 <sup>65</sup> : 81 litigations commenced and completed 119 litigations continuing 2,893 counts of advice provided to small businesses via EAS 2,424 compliance notices issued 3,536 investigations into complex or significant matters 15 enforceable undertakings 977 targeted compliance activities in high-risk sectors 14,309 anonymous reports received	2022-23 Annual report highlights <sup>66</sup> : \$509m wages recovered 251,475 workers back paid \$17.9m in underpayments recovered \$3.7 m in court-ordered penalties into consolidated revenue 15,770 completed disputes 330,000 enquiries answered

<sup>59</sup> Department of Employment and Workplace Relations, May 2023, *Portfolio Budget Statements 2023-24 Budget Related Paper No. 1.6*, Australian Government.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

<sup>63</sup> ABS Labour Force, September 2023

<sup>64</sup> ABS Counts of Australian Business, June 2023.

<sup>65</sup> Fair Work Ombudsman, 19 September 2023, *Office of the Fair Work Ombudsman Annual Report 2022-23*, Australian Government, <https://www.fairwork.gov.au/sites/default/files/2023-10/office-of-the-fair-work-ombudsman-annual-report-2022-23.pdf>

<sup>66</sup> Ibid.

Agency / regulator	Description	Budget	ASL	Office locations	Regulated entities	Throughput figures	Example impact
Australian Competition and Consumer Commission (ACCC)	Enforces legislation promoting competition and fair trading and regulates national infrastructure <sup>67</sup>	\$325.72m <sup>68</sup>	1,341 (2022-23) <sup>69</sup>	9 office locations in total across state and territory capital cities plus Townsville <sup>70</sup>	2.5m businesses in Australia <sup>71</sup>	2022-23 <sup>72</sup> : 19 consumer and fair trading infringement notices 14 court cases commenced 12 court cases concluded 21 court cases continuing 2,793 mandatory injury reports assessed 463 mergers assessed	2022-23 <sup>73</sup> : \$231.6m total penalties awarded by the court 379,902 Infocentre contacts served
Australian Securities and Investments Commission (ASIC)	Australia's integrated corporate, markets, financial services, and consumer credit regulator <sup>74</sup>	\$861.14m <sup>75</sup> (2023-24)	1,947 FTE <sup>76</sup>	8 office locations across state and territory capital cities <sup>77</sup>	Financial services, consumer credit licensees, authorised financial markets <sup>78</sup>	2022-23 <sup>79</sup> : Over 1,040 surveillances completed 107 investigations commenced 37 criminal litigations completed 50 new criminal litigations commenced 61 civil litigations completed	2022-23 <sup>80</sup> : 89 percent of criminal litigations completed successfully \$2.1m in fines 100 percent of civil litigation completed successfully \$229.9m in civil penalties

<sup>67</sup> Australian Competition and Consumer Commission, and Australian Energy Regulator, October 2023, *Annual Report 2022-23*, Australian Government, <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>

<sup>68</sup> Ibid.

<sup>69</sup> Department of the Treasury, 2023, *Portfolio Budget Statements 2023–24 Budget Related Paper No. 1.15 Treasury Portfolio*, Australian Government, [https://treasury.gov.au/sites/default/files/2023-05/tsy\\_pbs\\_2023-24.pdf](https://treasury.gov.au/sites/default/files/2023-05/tsy_pbs_2023-24.pdf)

<sup>70</sup> Australian Competition and Consumer Commission, and Australian Energy Regulator, October 2023, *Annual Report 2022-23*, Australian Government, <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>

<sup>71</sup> ABS June 2023

<sup>72</sup> Australian Competition and Consumer Commission, and Australian Energy Regulator, October 2023, *Annual Report 2022-23*, Australian Government, <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>

<sup>73</sup> Ibid.

<sup>74</sup> Australian Securities and Investments Commission, 13 October 2023, *ASIC Annual Report 2022-23*, Australian Government, [https://download.asic.gov.au/media/b3zf3or3/asic-annual-report-2022-23\\_full.pdf](https://download.asic.gov.au/media/b3zf3or3/asic-annual-report-2022-23_full.pdf)

<sup>75</sup> Ibid.

<sup>76</sup> Department of the Treasury, 2023, *Portfolio Budget Statements 2023–24 Budget Related Paper No. 1.15 Treasury Portfolio*, Australian Government, [https://treasury.gov.au/sites/default/files/2023-05/tsy\\_pbs\\_2023-24.pdf](https://treasury.gov.au/sites/default/files/2023-05/tsy_pbs_2023-24.pdf)

<sup>77</sup> Australian Securities and Investments Commission, 13 October 2023, *ASIC Annual Report 2022-23*, Australian Government, [https://download.asic.gov.au/media/b3zf3or3/asic-annual-report-2022-23\\_full.pdf](https://download.asic.gov.au/media/b3zf3or3/asic-annual-report-2022-23_full.pdf)

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

Agency / regulator	Description	Budget	ASL	Office locations	Regulated entities	Throughput figures	Example impact
						75 new civil litigations commenced 1 court enforceable undertaking 3 infringement notices issued 181 summary prosecutions for strict liability offences	
Australian Energy Regulator (AER)	Regulates energy markets and networks under national legislation and rules <sup>81</sup>	Shares budget with ACCC <sup>82</sup>	Shares resources with ACCC <sup>83</sup>	8 offices located across state and territory capital cities <sup>84</sup>	Energy network service providers <sup>85</sup>	2022-23 <sup>86</sup> : 5 retailer compliance audits 15 industry education activities conducted 33 submissions in relation to rule changes, national policy and legislative processes 519 executive level stakeholder engagement meetings, fostering trust, confidence and buy-in for our work	2022-23 <sup>87</sup> : Protecting consumers and enabling participation: - \$29.4m total penalties from 2 litigated matters and 7 infringement notices Regulative competitive markets: - \$6.2m total penalties from 4 litigated matters and 12 infringement notices

<sup>81</sup> Australian Competition and Consumer Commission, and Australian Energy Regulator, October 2023, *Annual Report 2022-23*, Australian Government, <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>

<sup>82</sup> Ibid.

<sup>83</sup> Department of the Treasury, 2023, *Portfolio Budget Statements 2023–24 Budget Related Paper No.1.15 Treasury Portfolio*, Australian Government, [https://treasury.gov.au/sites/default/files/2023-05/tsy\\_pbs\\_2023-24.pdf](https://treasury.gov.au/sites/default/files/2023-05/tsy_pbs_2023-24.pdf)

<sup>84</sup> Australian Competition and Consumer Commission, and Australian Energy Regulator, October 2023, *Annual Report 2022-23*, Australian Government, <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.



**Table 38: Comparator analysis - International regulatory agencies**

Agency / regulator	Established	Description	Budget	ASL	Office locations	Regulated entities	Throughput figures	Example impact
Gangmasters and Labour Abuse Authority (UK)	2005 <sup>88</sup>	Non-Departmental Public Body of which its role is to protect vulnerable and exploited workers <sup>89</sup>	N/A	124 (Headcount) <sup>90</sup>	1 office (Nottingham) <sup>91</sup>	N/A	2021-22 <sup>92</sup> : 315 investigations enforced of which 241 were GLAA led 197 application investigations tasked 6,024 potential victims identified	GBP 78,922 recovered for workers <sup>93</sup>
Labour Relations Agency (UK)	1976 <sup>94</sup>	Operates as an independent and publicly funded agency that focuses on promoting employment relations <sup>95</sup>	GBP 4.85 million (2021-22) <sup>96</sup>	85 (FTEs) <sup>97</sup>	2 offices (Belfast and Derry / Londonderry) <sup>98</sup>	N/A	2021-22 <sup>99</sup> 10,000 cases created. 5 mediation sessions conducted 10 percent of the total cases dealt with were determined by an industrial or fair employment tribunal	2021-22 <sup>100</sup> 6,000 cases cleared in the fiscal year 14,623 calls handled at its Workplace Information Service

<sup>88</sup> European Labour Authority, November 2018, *Good practice fiche – UK Gangmasters and Labour Abuse Authority (GLAA)*, <https://www.ela.europa.eu/sites/default/files/2021-09/Good%20practice%20fiche%20-%20UK%20Gangmasters%20and%20Labour%20Abuse%20Authority%20%28GLAA%29.pdf>

<sup>89</sup> Gangmasters and Labour Abuse Authority, 2023, *What we do*, <https://www.gla.gov.uk/who-we-are/what-we-do/> (Accessed 30 October 2023)

<sup>90</sup> Gangmasters and Labour Abuse Authority, 12 December 2022, *Gangmasters and Labour Abuse Authority Annual Report and Accounts: 1 April 2021 to 31 March 2022*, <https://www.gla.gov.uk/media/8946/glaa-annual-report-and-accounts-2021-22-web-version.pdf>

<sup>91</sup> Gangmasters and Labour Abuse Authority, 2023, *Contact us*, <https://www.gla.gov.uk/contact-us/> (Accessed 30 October 2023)

<sup>92</sup> Gangmasters and Labour Abuse Authority, 12 December 2022, *Gangmasters and Labour Abuse Authority Annual Report and Accounts: 1 April 2021 to 31 March 2022*, <https://www.gla.gov.uk/media/8946/glaa-annual-report-and-accounts-2021-22-web-version.pdf>

<sup>93</sup> Ibid.

<sup>94</sup> Labour Relations Agency, 2022, *Who we are*, <https://www.lra.org.uk/about/who-we-are> (Accessed 30 October 2023)

<sup>95</sup> Labour Relations Agency, 2022, *Who we are*, <https://www.lra.org.uk/about/who-we-are> (Accessed 30 October 2023)

<sup>96</sup> Labour Relations Agency, 5 July 2022, *Labour Relations Agency Annual Report and Accounts 2021-22*, <https://www.lra.org.uk/sites/default/files/2022-09/Annual%20Report%20%26%20Accounts%202021-22.pdf>

<sup>97</sup> Ibid.

<sup>98</sup> Labour Relations Agency, 2022, *Who we are*, <https://www.lra.org.uk/about/who-we-are> (Accessed 30 October 2023)

<sup>99</sup> Labour Relations Agency, 5 July 2022, *Labour Relations Agency Annual Report and Accounts 2021-22*, <https://www.lra.org.uk/sites/default/files/2022-09/Annual%20Report%20%26%20Accounts%202021-22.pdf>

<sup>100</sup> Ibid.

Agency / regulator	Established	Description	Budget	ASL	Office locations	Regulated entities	Throughput figures	Example impact
Federal Labor Relations Authority (US)	1978 <sup>101</sup>	Operates as an independent organisation that oversees the rights of federal government employees <sup>102</sup>	US\$33.74 million (2023-24) <sup>103</sup>	N/A	1 in capital city (Washington DC) <sup>104</sup>	Regulates labour relations for non-postal federal employees <sup>105</sup>	2021-22 <sup>106</sup> 202 authority arbitration caseload 13 unfair labour practices caseload 75 percent e-filing rate achieved	2021-22 <sup>107</sup> 126 authority arbitration cases closed 67 Authority Negotiability Cases closed 11 unfair labour practices cases closed
The National Labor Relations Board (US)	1935 <sup>108</sup>	Operates as a federal agency that safeguards employee's rights to seek better working conditions and provide remedy against unfair labour practices <sup>109</sup>	US\$299.22 million (2022-23) <sup>110</sup>	N/A	1 in capital city (Washington DC) 32 regional offices <sup>111</sup>	Private sector Trade unions <sup>112</sup>	2021-22 <sup>113</sup> Received 34,781 inquires through its public information program Regional office issued 738 complaints	2021-22 <sup>114</sup> : Issued decision in 243 contested cases Issued decision in 132 unfair labour practice cases 995 employees offered reinstatement

<sup>101</sup> The Office of the Federal Register (OFR) of the National Archives and Records Administration (NARA), and the U.S. Government Publishing Office (GPO), 2023, *Federal Labor Relations Authority*, United States Government, <https://www.federalregister.gov/agencies/federal-labor-relations-authority>

<sup>102</sup> United States Government, (n.d.), *Federal Labor Relations Authority*, <https://www.flra.gov/> (Accessed 30 October 2023)

<sup>103</sup> Federal Labor Relations Authority, (n.d.), *CJ*, United States Government, <https://www.flra.gov/CJ> (Accessed 30 October 2023)

<sup>104</sup> Federal Labor Relations Authority, (n.d.), *Contact*, United States Government, <https://www.flra.gov/contact> (Accessed 30 October 2023)

<sup>105</sup> United States Government, (n.d.), *Federal Labor Relations Authority*, <https://www.flra.gov/> (Accessed 30 October 2023)

<sup>106</sup> Federal Labor Relations Authority, (n.d.), *FLRA FY2022 PAR*, United States Government, <https://www.flra.gov/system/files/webfm/FLRA%20Agency-wide/Public%20Affairs/PAR/FLRA%20FY2022%20PAR.pdf>

<sup>107</sup> Ibid.

<sup>108</sup> National Labor Relations Board, (n.d.), *Who We Are*, United States Government, <https://www.nlr.gov/about-nlr/who-we-are>

<sup>109</sup> National Labor Relations Board, (n.d.), *Who We Are*, United States Government, <https://www.nlr.gov/about-nlr/who-we-are>

<sup>110</sup> National Labor Relations Board, 29 December 2022, *Statement on NLRB Funding in the 2023 Omnibus Bill*, United States Government, <https://www.nlr.gov/news-outreach/news-story/statement-on-nlr-b-funding-in-the-2023-omnibus-bill>

<sup>111</sup> National Labor Relations Board, (n.d.), *Regional Offices*, United States Government, <https://www.nlr.gov/about-nlr/who-we-are/regional-offices>

<sup>112</sup> National Labor Relations Board, (n.d.), *Who We Are*, United States Government, <https://www.nlr.gov/about-nlr/who-we-are>

<sup>113</sup> National Labor Relations Board, 14 November 2022, *NLRB Performance and Accountability Report FY 2022*, United States Government, <https://www.nlr.gov/sites/default/files/attachments/pages/node-130/nlr-b-fy2022-par-508.pdf>

<sup>114</sup> Ibid.

Agency / regulator	Established	Description	Budget	ASL	Office locations	Regulated entities	Throughput figures	Example impact
								US\$51.67 million recovered on behalf of employees as backpay consequential damages, or reimbursement of fees, dues, and fines
Employment Relations Authority (New Zealand)	2000 <sup>115</sup>	Operates as tribunal that focuses on resolving employment relationship problems. <sup>116</sup>	N/A	25 (Headcount) <sup>117</sup>	3 offices (Auckland, Wellington and Christchurch) <sup>118</sup>	N/A	2021-22 <sup>119</sup> : 1,970 applications received 1,170 cases referred for mediation	2021-22 <sup>120</sup> : 211 applicants awarded compensation for personal grievance
Swedish Work Environment Authority (Sweden)	2001 <sup>121</sup>	Operates as a regulatory authority that oversees the application of laws about work environment and working hours by companies and organisations <sup>122</sup>	N/A	N/A	Head office (Stockholm) 11 regional offices <sup>123</sup>	Companies and organisations <sup>124</sup>	N/A	N/A

<sup>115</sup> Employment Relations Authority, 12 May 2023, *Annual Report 2022*, New Zealand Government, <https://www.era.govt.nz/assets/Uploads/era-2023-annual-report.pdf>

<sup>116</sup> Employment Relations Authority, 2023, *About us*, New Zealand Government, <https://www.era.govt.nz/about-us/>

<sup>117</sup> Ministry of Business, Innovation and Employment, (n.d.), *Employment Relations Authority – Member*, New Zealand Government. <https://www.mbie.govt.nz/position-descriptions/boards/employment-relations-authority-member/>

<sup>118</sup> Employment Relations Authority, 2023, *Contact us*. New Zealand Government, <https://www.era.govt.nz/footer/contact-us/>

<sup>119</sup> Employment Relations Authority, 12 May 2023, *Annual Report 2022*, New Zealand Government, <https://www.era.govt.nz/assets/Uploads/era-2023-annual-report.pdf>

<sup>120</sup> Ibid.

<sup>121</sup> Crunchbase, 2023, *Swedish Work Environment Authority*, <https://www.crunchbase.com/organization/swedish-work-environment-authority>

<sup>122</sup> Swedish Work Environment Authority, 14 November 2022, *About us*, <https://www.av.se/en/about-us/>

<sup>123</sup> Swedish Work Environment Authority, 8 November 2023, *Our regional offices*, <https://www.av.se/en/about-us/organisation/our-regional-offices/>

<sup>124</sup> Swedish Work Environment Authority, 14 November 2022, *About us*, <https://www.av.se/en/about-us/>

Agency / regulator	Established	Description	Budget	ASL	Office locations	Regulated entities	Throughput figures	Example impact
Canada Industrial Relations Board (Canada)	N/A	Operates as an independent administrative tribunal that focuses on resolution of disputes and appeals arising under the Canada Labour Code, the Status of the Artist Act and the Wage Earner Protection Program Act. <sup>125</sup>	N/A	16 (Headcount) <sup>126</sup>	4 offices (Ottawa, Montreal, Toronto and Vancouver) <sup>127</sup>	Federally regulated sectors (including broadcasting, chartered banks, postal services, federal crown corporations among others) <sup>128</sup>	2021-22 <sup>129</sup> 1,163 matters received 220 matters related to unfair labour practices	2021-22 <sup>130</sup> 44 percent of the unfair labour practices complaints were resolved without the need for justification 237 days of average processing time

<sup>125</sup> Canada Industrial Relations Board, (n.d.), *About the Board*, <https://cirb-ccri.gc.ca/en/about-us/about-board>

<sup>126</sup> Canada Industrial Relations Board, (n.d.), *Members*, <https://cirb-ccri.gc.ca/en/about-us/members>

<sup>127</sup> Canada Industrial Relations Board, (n.d.), *Contact Us*, <https://cirb-ccri.gc.ca/en/about-us/contact-us>

<sup>128</sup> Canada Industrial Relations Board, 2022, *Canada Industrial Relations Board Annual Report 2021-2022*, [https://cirb-ccri.gc.ca/sites/default/files/2023-02/cirb-ccri-ar-2021-22\\_eng.pdf](https://cirb-ccri.gc.ca/sites/default/files/2023-02/cirb-ccri-ar-2021-22_eng.pdf)

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

# Appendix D: Other Relevant Legislation

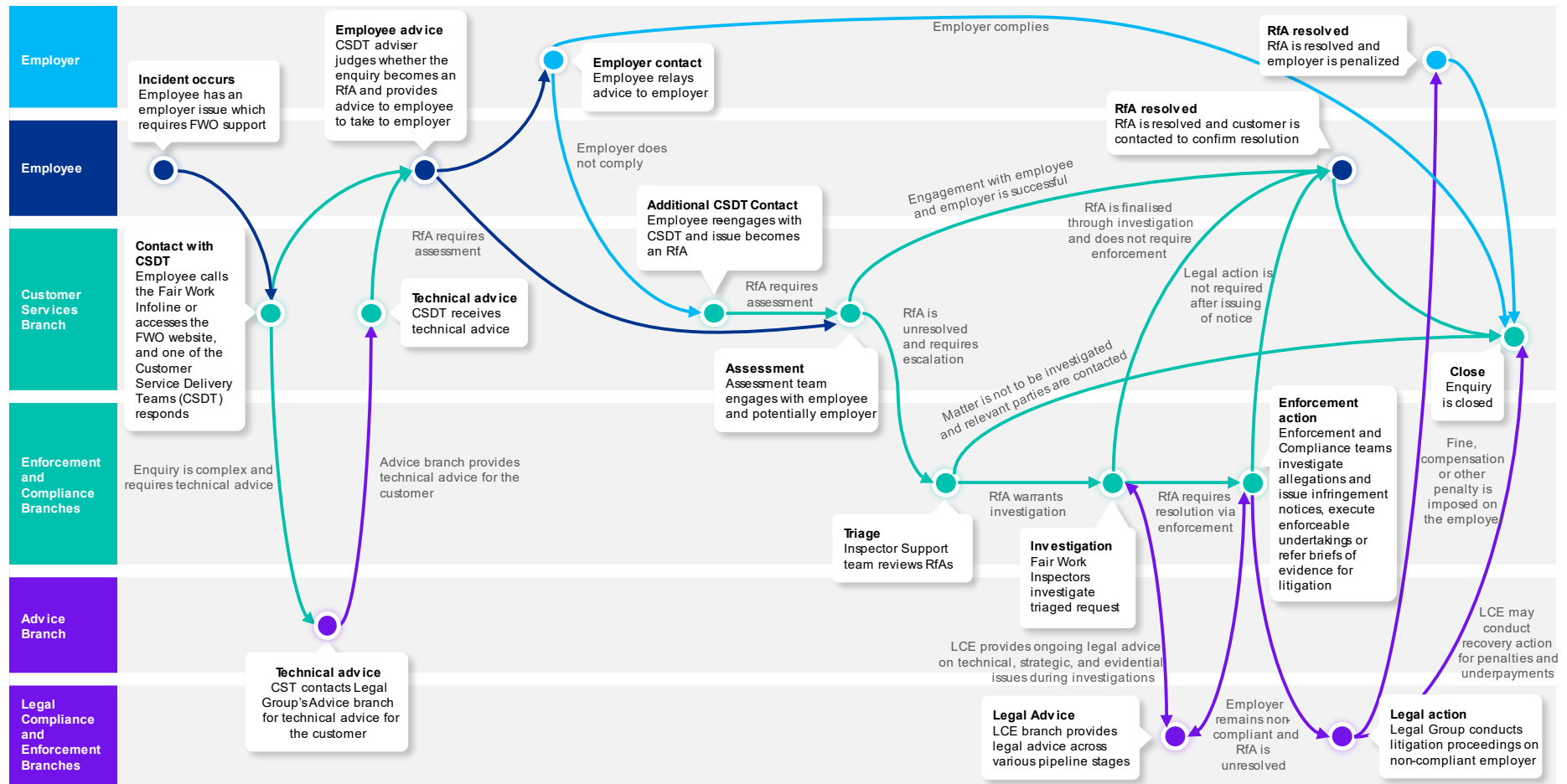
Additional legislation relevant to the FWO discharging its responsibilities are detailed in the table below.

**Table 39: Other relevant legislation**

Legislation	Description
<i>Corporations Act 2001</i>	<ul style="list-style-type: none"><li>Regulates matters including how to register a company and how businesses should behave during insolvency</li></ul>
<i>Corporations Amendment (Corporate Insolvency Reforms) Act 2020</i>	<ul style="list-style-type: none"><li>A recent amendment that affects the process for restructuring and liquidating eligible small businesses</li></ul>
<i>Independent Contractors Act 2006</i>	<ul style="list-style-type: none"><li>Protects the rights of genuine independent contractors to enter into a contract for services</li><li>Prevents interference by any other party</li></ul>
<i>Freedom of Information Act 1982</i>	<ul style="list-style-type: none"><li>Gives members of the public the right to access official documents of the Australian Government and its agencies</li></ul>
<i>Privacy Act 1988</i>	<ul style="list-style-type: none"><li>Regulates how the Australian Government and its agencies use and distribute information they collect about individuals</li></ul>
<i>Competition and Consumer Act 2010</i>	<ul style="list-style-type: none"><li>Covers most areas of the market: the relationships between suppliers, wholesalers, retailers, and consumers</li><li>Promotes fair trading and competition and provides consumer protections</li><li>Enforced by the Australian Competition and Consumer Commission</li></ul>
<i>Public Governance, Performance and Accountability Act 2013</i>	<ul style="list-style-type: none"><li>Covers the governance, performance and accountability of, and the use and management of public resources by, the Commonwealth, Commonwealth entities and Commonwealth companies, and for related purposes</li></ul>

# Appendix E: Detailed Process Flow

Figure 31: Process flow for the Compliance and Enforcement Group and the Legal Group





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