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COVID-19 Response Inquiry Panel  
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Dear COVID-19 Response Inquiry Panel

Thank you for the opportunity to make a submission to the Commonwealth Government's COVID-19 Response Inquiry.

The Office of the Fair Work Ombudsman (**OFWO**) is an independent statutory office that promotes harmonious, productive and cooperative workplace relations, including through providing education, assistance and advice about Australian workplace laws as prescribed under the *Fair Work Act 2009* (Cth) (the **FW Act**). The OFWO's functions also include monitoring compliance with those workplace laws, inquiring into and investigating alleged breaches of the FW Act, and taking impartial and appropriate enforcement action when necessary.

The COVID 19 pandemic (the **pandemic**) caused severe disruption for Australian workplaces that was, as with many other facets of daily life, unprecedented. The OFWO had an important role providing support for industry, business and workers through provision of education and advice to assist employers and employees navigate the application of workplace entitlements in rapidly changing workplace environments. Supporting workplaces through and then to recover from the pandemic was the OFWO's overarching priority from the outset of the pandemic until the end of the 2022-2023 financial year. Advice and information on pandemic-related entitlements continues to be available free of charge on the OFWO's website, [www.fairwork.gov.au](http://www.fairwork.gov.au), and via the Fair Work Infoline.

For the OFWO, a key lesson from the pandemic was the importance of agility and flexibility, supported by ongoing investment in technology, and prioritising the safety and wellbeing of customers and staff.

### ***Initial Response***

Demand for OFWO advice and information surged in the immediate months of the pandemic as employers and employees grappled with business closures or reduced operating capacity, working from home arrangements and isolation requirements. From mid-March to June 2020, the average number of calls per day to the Fair Work Infoline (the **Infoline**) increased by 40% and website views increased by 43% compared to the same period in the previous year.

The OFWO responded promptly, first publishing online content relating to COVID-19 and workplace laws via a dedicated page on the OFWO's website on 4 February 2020. Development of up-to-date information was prioritised as the situation rapidly developed and on 25 March 2020 a dedicated Coronavirus and Australian workplace laws website (**coronavirus website**) was launched.

Access to regularly updated information was assisted by an easy-to-navigate and mobile-friendly website format. An automated translation plug-in translated content into over 30 languages and a webpage "Information About Help in Your Language During Coronavirus" ensured information was accessible to Australia's culturally diverse employers and employees. In June 2020, access to information was further enhanced by the launch of a new virtual assistant which provided real-time responses to COVID-19-related questions.

Concurrently, in March 2020 a coronavirus hotline was established through the existing Infoline to prioritise callers with COVID-19-related enquiries. The hotline accounted for 1 in 5 Infoline calls in 2020 and from March 2020 until its retirement in September 2022 more than 133,000 calls were answered.

### ***Evolving Services***

As the pandemic evolved, new online tools and resources were developed to help businesses manage their obligations including template letters to manage JobKeeper obligations and stand downs, as well as updating existing online tools and resources to provide help and guidance on issues like pandemic leave and increased workplace flexibility. Significant resources were directed throughout the pandemic to ensuring content was frequently updated to reflect, for example, changes to awards to support flexibility during the pandemic or government directives impacting workplaces. OFWO's social media and email update

Fair Work Ombudsman – Submission to the COVID-19 Response Inquiry

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subscription channels were used to promote resources and updates. From February 2020 until June 2023, COVID-19 content was viewed more than 13.6 million times.

The OFWO was allocated an additional \$46.3 million over three years to enable the agency to meet the high levels of demand for guidance and information relating to COVID-19 and the workplace. To further support timely access to COVID-19 information and advice, the OFWO established a temporary Workplace Legal Advice Program that provided free, tailored legal advice to eligible businesses and workers through a panel of external law firms on referral from the OFWO. Peak employer and employee organisations were also funded to ramp up their existing workplace relations advice services to assist meeting the increased demand among the workplace community for these services.

The OFWO was also one of several agencies with a regulatory role in the Australian Government's JobKeeper wage subsidy scheme that was administered by the Australian Taxation Office (ATO) and operated from March 2020 to March 2021. The OFWO was responsible for providing general information and assistance on the interaction of the scheme with workplace rights and obligations under the FW Act and associated instruments and, where disputes were unable to be resolved, took enforcement action where necessary, including litigation action, to ensure the integrity of the scheme.

Throughout the pandemic, the OFWO remained transparent about the agency's priorities and approach. The agency's public annual priorities were updated to reflect a commitment to assist businesses through and, later, recover from the impacts of COVID-19. While the OFWO did adjust its services and prioritised allegations of serious non-compliance, we continued to enforce workplace laws in a proportionate manner, being mindful of the regulatory impacts on already struggling workplaces. The OFWO's publicly available Compliance and Enforcement Policy was similarly updated to confirm that a businesses' sophistication, financial position and viability would be considered as relevant public interest factors when deciding whether to commence litigation.

Parties were encouraged to work together to find the most beneficial and workable solutions to suit specific workplaces and circumstances. One of the primary objectives of the JobKeeper scheme was to maintain employment relationships, and this approach was successful, with the majority of enquiries made to the FWO relating to the scheme resolved through provision of information and advice.

### ***Stakeholder engagement***

Stakeholder relationships were leveraged throughout the pandemic to ensure the most up-to-date information and advice was available to the workplace community. In late April 2020, OFWO wrote to key stakeholders to promote assistance available through the coronavirus website, hotline and OFWO's social media and email subscription channels that the agency used throughout the pandemic to publicise COVID-19 resources and updates. Stakeholder engagement was also undertaken to understand the practical impact of COVID-19 and gather feedback on OFWO resources, advice and information.

Throughout the pandemic, the OFWO worked collaboratively with Government stakeholders including the ATO, Department of Health and work health and safety authorities to coordinate and cross-promote COVID-19 information and ensure that advice and information available was clear and consistent across Government. Wide consultation was also undertaken in relation to OFWO's vaccination related guidance including with unions, industry groups, and other government agencies, including Safe Work Australia, the Attorney-General's Department (AGD) (the OFWO's portfolio department at the time), DEWR and the Office of the Australian Information Commissioner. An important pillar of OFWO's COVID-19 response was collaboration across Government with the AGD, the Treasury, the Fair Work Commission, and the ATO to ensure consistent information was provided to the community and that the respective roles of each agency were clear.

### ***Frameworks to support OFWO's response***

The OFWO's capacity to meet the increased demand for information and advice as the pandemic evolved was enabled through a focus on flexibility, a considered investment in technology and a focus on supporting staff and customers. Internal framework bodies were established to assist the OFWO to divert resources to the COVID-19 pandemic while also continuing to provide core education, advice and compliance and enforcement services.

Internal staff with previous experience working on FWO's public telephone services were quickly seconded back to Infoline roles to support the influx of calls. Customer-facing staff received regular training and were supported to assist callers during a challenging period of heightened distress within the broader community. New additional staff were also recruited and external staff from other agencies were seconded to assist with critical work.

The safety and wellbeing of OFWO staff throughout the pandemic was also of the utmost importance. Investing in increased IT system capacity and remote technology enabled staff to deliver services remotely wherever possible. An internal Crisis Action Team was established to enact COVID-19 safe measures to reduce the risks the pandemic posed for staff. This included implementing a phased approach to closing the OFWO's 22 office locations to the public and moving staff to remote working arrangements.

On-site investigative field work and in-person engagements were suspended in the interests of protecting the health and wellbeing of FWO staff and employees and employers. The agency transitioned wherever possible to digital interactions, including community engagement services like webinars which sought to ensure we remained connected to key workplace relations stakeholders and participants during the pandemic. An internal COVID-19 Taskforce was established to coordinate this transition, marshal expertise within the agency and work across government to support a joined-up response.

### ***Winding down COVID-19 services***

A flexible and agile approach agency-wide, enabled the OFWO to simultaneously respond to the need for evolving COVID-19 related information throughout the pandemic, as well as manage emerging issues like underpayments in the large corporate and university sectors and return record levels of unpaid entitlements to employees.

OFWO's services have now moved to covid-normal arrangements. Supporting workplaces as they continued to recover from the impacts of COVID-19 and transition back to business as usual remained a priority into 2022-23. Following a consistent downward trend of COVID-19 enquiries, the dedicated hotline was retired toward the end of 2022 and the coronavirus website in June 2023. In recognition that workplaces may continue to face challenges managing COVID-19, key information continues to be available on OFWO's main website in a specific Coronavirus and Workplace Laws section, including links to information available from other government bodies. This information continues to be reviewed and updated as needed to ensure the community has access to reliable and up to date information.

The OFWO's ability to quickly respond to an immediate increase in demand for our services in an uncertain and continually evolving environment was enabled through redeploying resources and adopting new ways of working, supported by internal implementation frameworks. The implementation frameworks put in place to support OFWO staff's ability to continue providing services will hold us in good stead and mean the OFWO is well positioned to again respond swiftly should any future disruptions to Australian workplaces occur.

The significant increase to IT system capacity invested in during the pandemic is being maintained to support an ongoing flexible working environment for OFWO staff, and ongoing work health and safety measures continue to be taken to lessen any sustained risks COVID-19 poses to FWO staff and customers. A number of technology solutions adopted during the pandemic proved to be valuable additional channels to reach broader audiences and have now been incorporated into our ongoing work. For example, the establishment of an ongoing program of workplace relations webinars and the migration of the coronavirus website virtual assistant to our main website to assist with general enquiries.

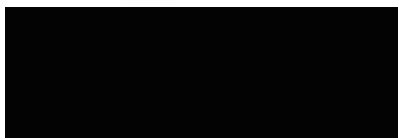
### ***Ongoing assistance***

The OFWO recognises the lasting impacts of COVID-19 on the workplace, particularly the move toward remote work and flexible ways of working. This is still a live issue in many workplaces as employers and workers discuss the optimal arrangements for their workplace. Industrial instruments such as awards and workplace agreements have consultation clauses that should be followed in the case of workplace change. There are also tools available, such as the Fair Work Commission's Collaborative Approaches Program, which provides a supportive framework for interest-based approaches to collaboration, problem-solving and dispute resolution.

COVID-19 also reinforced the importance of working with stakeholders and taking a linked-up approach with other government agencies to ensure the Australian community had access to up-to-date information and support as the pandemic evolved. Throughout the pandemic, multi-stakeholder and tripartite approaches facilitated flexibility in awards and proved to be an effective way to manage disruption and change. The OFWO intends to take an enhanced tripartite stakeholder approach that will be valuable in providing a linked-up approach to supporting the workplace community as Australian workplaces continue to recover from and move beyond the disruption of the COVID-19 pandemic.

We trust the information included in this submission is of assistance to the Panel. For further information you are welcome to contact [REDACTED] on [REDACTED] or via [REDACTED]

Yours sincerely,



Anna Booth

Fair Work Ombudsman

12 December 2023