



Australian Government

Fair Work Building
& Construction



30 October 2013

Ms Natalie James
Fair Work Ombudsman
GPO Box 9887
MELBOURNE VIC 3001

Dear Natalie

Arrangements for Investigation of Wages and Entitlements Matters: Fair Work Ombudsman (FWO) and Fair Work Building Industry Inspectorate (FWBII):

I write regarding the arrangements between our agencies for the handling of complaints and investigations relating to wages and entitlements, under the *Fair Work Act* 2009 and relevant Commonwealth awards and agreements.

Initially, in 2006, an exchange of letters between the previous heads of our respective agencies established the institutional arrangements to administer these matters. Subsequent administrative arrangements by the agencies diverted from those principles.

Given my understanding of the Government's policy intentions, reinstatement of these previous long-standing arrangements will best align our practices with this intention. That is, FWO will undertake all wages and entitlements matters arising under *the Fair Work Act* and relevant Commonwealth awards and agreements.

Consistent with this approach I propose that the following framework will relate to wages and entitlements matters which are commenced within the FWBII's jurisdiction and which subsequently need to be referred to FWO:

1. FWO's role will be to investigate those referred matters from FWBII which relate to wages and conditions entitlements under the *Fair Work Act*, other relevant Commonwealth legislation, and industrial instruments;
2. FWO's investigation of such matters will be in accordance with its usual policies and procedures; and
3. The FWO investigation of matters referred by FWBII will be commenced by the relevant FWBII officer contacting the nominated FWO/FWBII liaison officer.

Consistent with this approach, I also propose that FWBII will refer to FWO any current completed investigations for which litigation may be contemplated. I of course recognise that litigation decisions are discretionary matters which would be assessed by your office consistent with relevant FWO litigation guidelines.

I anticipate that the detailed administration of matters to be referred will be discussed on a case by case basis between nominated senior officers of our respective agencies. If at any time there is disagreement between our officers about the dealings in a particular case then you and I can discuss and resolve the matter direct.

Finally, I am keen to ensure a comprehensive sector wide approach is taken to the investigation and enforcement of breaches of the *Fair Work Act* and other instruments in our areas of responsibility. Accordingly I remain actively committed to the use of FWBII's examination powers, as appropriate, in any of these matters where:

- that may be of assistance; and
- is within the powers available to me under the Act.

I would be pleased to meet to discuss these proposed arrangements. My office will contact you to arrange a convenient time.

Yours sincerely

Nigel Hadgkiss
Director
Fair Work Building & Construction