



## 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 complaints and investigations handling relating to wages and entitlements matters, under the *Fair Work Act* 2009 or relevant Commonwealth awards and agreements.

Initially, in 2006, an exchange of letters between the previous heads of our 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 or relevant Commonwealth awards and agreements.

Consistent with this 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 or industrial instruments
2. FWO's investigation of such matters will be in accordance with its usual policies and procedures
3. FWO will keep FWBII informed of progress with its investigations.
4. 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 propose that FWBII will also 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 you and I will discuss and resolve the matter direct.

Finally I am keen to ensure a comprehensive sector wide approach is taken to investigation and enforcement of breaches of the *Fair Work Act* and other instruments in our areas of responsibility.

Accordingly you know that 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 discuss these proposed arrangements. My office will contact you to arrange a convenient time.

Yours sincerely

**Nigel Hadgkiss**  
Director  
Fair Work Building & Construction