

GPO Box 9887
SYDNEY NSW 2001

25/03/2025

Sue Woodward AM
Commissioner
Australian Charities and Not-for-profits Commission (ACNC)

By email: [REDACTED]@acnc.gov.au

Dear Sue

Exchange of Letters between the Fair Work Ombudsman and the Australian Charities and Not-for-profits Commission

I write to formalise and strengthen the ongoing relationship between the Fair Work Ombudsman (FWO) and the Australian Charities and Not-for-profits Commission (ACNC). The aim is to maximise the impact of our mutual and respective regulatory efforts through efficient and effective information sharing, cooperation and joint activities.

FWO's role

The FWO is the independent national workplace relations regulator. Its purpose is to promote harmonious, productive, cooperative and compliant workplace relations in Australia. This includes investigating alleged contraventions of the *Fair Work Act 2009* (FW Act) and taking appropriate enforcement action. These alleged contraventions may involve registered charities governed by the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act).

ACNC's role

The ACNC is the national regulator of charities. As the independent Commonwealth regulator of charities, the ACNC is responsible for registering new charities as well as administering the national regulatory framework for registered charities. This includes helping charities understand and meet their obligations through information, guidance, advice and other support. The ACNC also investigates and takes appropriate enforcement action into alleged contraventions of the ACNC Act and the *Australian Charities and Not-for-profits Commission Regulations 2022* (ACNC Regulations). Most registered charities are national system employers within the meaning of the FW Act.

FWO information sharing

On request by the ACNC or by way of proactive disclosure, and subject to compliance with our privacy and information disclosure obligations¹ and section 718 of the FW Act, the FWO may disclose information to the ACNC. In particular, the FWO may disclose information to the ACNC if the FWO reasonably believes the disclosure is likely to assist with the administration or enforcement of the ACNC Act, the ACNC Regulations and *Charities Act 2013* (Charities Act) or another Commonwealth, state or territory law.

¹ See [Privacy Policy](#) and [Information Access Policy](#).

Types of information which may be suitable for disclosure include:

- a) Information about findings of contraventions of the FW Act, or enforcement outcomes that occur as a result of a FWO investigation or inquiry, involving a registered charity
- b) Information about a FWO investigation involving a registered charity or a Responsible Person² for a charity
- c) Information to support planning and delivery of joint regulatory activities and site inspections.

The ACNC can request access to information held by the FWO by email to isu@fwo.gov.au. The FWO will consider the individual circumstances of each request. To assist with this, the ACNC should clearly identify the information they are seeking and provide reasons for why the requested information is likely to assist in the administration or enforcement of the ACNC Act (or any other Commonwealth, state or territory law).

The ACNC will consider whether or not to investigate and take compliance and enforcement action in accordance with the ACNC Act and its [Compliance and Enforcement Policy](#).

ACNC information sharing

On request by the FWO or by way of proactive disclosure, and subject to compliance with the ACNC's secrecy provisions in Division 150 of the ACNC Act and our privacy obligations³, the ACNC may provide information to the FWO.

Much of the information that the ACNC holds is "protected ACNC information" which is defined in s 150-15 of the ACNC Act as information that:

- was disclosed or obtained under or for the purposes of the ACNC Act; and
- relates to the affairs of an entity; and
- identifies, or is reasonably capable of being used to identify, the entity.

A disclosure of protected ACNC information can only be made if one of the exceptions in Division 150 of the ACNC Act applies. In particular, s 150-40 of the ACNC Act provides that an ACNC officer may disclose protected ACNC information if:

- (a) The disclosure is to an Australian government agency; and
- (b) The ACNC officer is satisfied that the information will enable or assist the Australian government agency to perform or exercise any of the functions or powers of the agency; and
- (c) The disclosure is for the purpose of enabling or assisting the Australian government agency to perform or exercise any of the functions or powers of the agency; and
- (d) The disclosure is reasonably necessary to promote the objects of this Act.

When protected ACNC information is disclosed to the FWO for a particular purpose, it must only be used and disclosed by FWO for that original purpose or in connection with that original purpose. More information about the on-disclosure of protected information is contained in subdivision 150-D of the ACNC Act.

² See [Responsible People - board or committee members | ACNC](#), the term Responsible Person refers to someone responsible for governing a charity. See also section 205-30 of the ACNC Act.

³ See [Privacy policy | ACNC](#) and [Operational Procedure: Referrals and information exchange | ACNC](#).

Types of information which may be suitable for disclosure include:

- a) Information held by the ACNC involving alleged contraventions of the FW Act, particularly where there is potential for a FWO investigation (including concurrently with an ACNC activity).
- b) Information about ongoing ACNC investigations involving potential non-compliance with the FW Act.
- c) Information to support planning and delivery of joint regulatory activities and site inspections.

The FWO can request access to information held by the ACNC by email to compliance@acnc.gov.au. The ACNC will consider the individual circumstances of each request. To assist with this, the FWO should clearly identify the information they are seeking and provide reasons for why the requested information will enable or assist the FWO to perform or exercise any of its functions or powers.

The FWO will consider whether or not to investigate and take compliance and enforcement action in accordance with its [Compliance and Enforcement Policy](#).

Engagement and relationship oversight

The FWO and the ACNC will engage with each other regularly to share information in accordance with each agency's information sharing powers and obligations.

To ensure strategic oversight of our collaborative efforts, this will involve:

- a) Quarterly meetings between Steve Ronson (Executive Director - Operations, FWO), Dan Crick (Executive Director - Employer Assistance and Compliance Branch, FWO), Louise Peters (Executive Director – Engagement & Communications, FWO), Rachel Smith (Director – Advice Services and Education and Public Affairs) and Michelle Cozadinos (Director – Compliance), or persons occupying those positions), and other relevant FWO and ACNC officers, to
 - share information about current investigations
 - collaborate on opportunities for joint education, communications and/or engagement activities and amplification of outreach
 - support each other by sharing learnings and experiences as regulators.
- b) Bi-annual meetings between Anna Booth (Fair Work Ombudsman) and Sue Woodward AM (ACNC) to provide strategic oversight of the relationship.

The frequency of meetings and nominated representatives may be changed by agreement of the ACNC and the FWO to ensure the interactions are meeting their intended aims.

Shared responsibilities

The FWO and the ACNC each commit to:

- a) Promoting each other's public facing information, education, tools and resources where appropriate.
- b) Collaborating on the development of public facing materials related to our joint regulatory activities, including media releases and reports.
- c) Cooperating in communicating and managing any identified risks.
- d) Undertaking an annual review of information sharing provisions outlined in this arrangement.
- e) Absorbing any expenses incurred as a result of this arrangement.
- f) Contacting each other to discuss and resolve any concerns, including in relation to the operation of this arrangement, with the contact persons as outlined below.

This Exchange of Letters (EOL) will commence on the date of this letter and remain in place for a period of 3 years.

ACNC

Name: Michelle Cozadinos

Role: Director Compliance

Ph: [REDACTED]

E: [REDACTED]

Name: Rachel Smith

Role: Director Advice Services, Education and Public Affairs

Ph: [REDACTED]

E: [REDACTED]

FWO

Name: Steve Ronson

Role: Executive Director - Operations

Ph: [REDACTED]

E: [REDACTED]

Name: Glenn Jordan

Role: Director – Inspector Support

Ph: [REDACTED]

E: [REDACTED]

We look forward to your response regarding the proposed arrangements.

Yours sincerely

[REDACTED]

Anna Booth

Fair Work Ombudsman