



Quarterly report by the Commonwealth Ombudsman under s 712F(6) of the *Fair Work Act 2009*

FOR THE PERIOD 1 JANUARY TO 31 MARCH 2021

Quarterly report by the Commonwealth Ombudsman,
Michael Manthorpe PSM,
under Part 5–2 of Chapter 5 of the *Fair Work Act 2009*

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INTRODUCTION

Under s 712F(3) of the *Fair Work Act 2009* (the Act), the Commonwealth Ombudsman (the Ombudsman) must review the exercise of examination powers by the Fair Work Ombudsman (FWO) and any member of the staff of the Office of the FWO.

Under s 712AA(1) of the Act, the FWO can apply to the Administrative Appeals Tribunal for an FWO notice if they reasonably believe a person has information or documents that will assist an investigation. The FWO notice may require its recipient to:

- give information to the FWO or a specified staff member of the FWO
- produce documents to the FWO or a specified staff member of the FWO
- attend before the FWO, or a specified staff member of the FWO, who is a Senior Executive Service (SES) employee or an acting SES employee, and answer questions relevant to the investigation.

Under s 712E of the Act, the FWO must notify the Ombudsman that an FWO notice has been issued and provide copies of relevant documents (a report, video and transcript of the examination) as soon as practicable after an examination is completed. Our Office uses these records to review how the FWO and any person assisting the FWO exercises the examination powers under the Act.

Under s 712F(6) of the Act, the Ombudsman must report to the Parliament as soon as practicable after the end of each quarter about examinations conducted by the FWO and reviews conducted by the Ombudsman during that quarter.

SUMMARY OF REPORTING PERIOD

During the period from 1 January to 31 March 2021 (the review period), our Office did not complete any reviews of the FWO's use of examination powers under the Act.

In late March 2021, the FWO advised our Office that one FWO notice was issued during the review period for an examination scheduled for the following quarter. This will be reviewed by our Office in a subsequent quarter, with the results included in the quarterly report for that period.

Due to the time it takes the FWO to develop the materials to be sent to our Office (e.g. video, transcript, and report), it is common for the FWO Notice to be issued and/or the examination to be conducted in one quarter and yet we may not be able to review the examination until the following or a subsequent quarter.