

O'SULLIVAN,Jeremy

From: O'SULLIVAN,Jeremy
Sent: Thursday, 4 April 2019 3:40 PM
To: MCALARY-SMITH,Lynda; PARKER,Sandra; CAMPBELL,Michael; HANNAH,Kristen; MACFARLAN,Meg; FOGARTY,Anthony
Cc: ROBERTSON,Greg; MALISHEV,Fiona; CHAFFER,Nicky; DENNIS,Janine

s.22 - Irrelevant to request

Sensitive: Legal

Dear all – thank you for the very productive discussion yesterday, s.22 - Irrelevant to request

s.22 - Irrelevant to request I also attach for your information, the settled advice s.22

s.22 (the second attachment) which I requested and received today, and which informs the basis of the FWO's decision on Uber, s.22 - Irrelevant to request

s.22 - Irrelevant to request

Regards

Jeremy O'Sullivan | Chief Counsel
Fair Work Ombudsman

s.22 - Irrelevant to request

GPO Box 9887 Canberra ACT 2600 | 224 Bunda St, Canberra ACT 2600

s.22 - Irrelevant to request



Australian Government

Fair Work

OMBUDSMAN

GPO BOX 9887
MELBOURNE VIC 3001

7 June 2019

s.22 - Irrelevant to request

Completion of investigation

Dear **s.22 - Irrelevant to request**

I refer to the investigation conducted by the Fair Work Ombudsman (**FWO**) concerning Uber Australia Pty Ltd (**Uber**) and the status of 11 workers performing delivery duties (the **Drivers**) using the Uber rideshare platform. We are writing to notify you of the outcome of our investigation.

After considering all the information and evidence arising from our investigation, including:

- (a) Uber's responses to the FWO's Notice to Produce Records or Documents (the **Notice**) received 18 October 2017 and 12 December 2017;
- (b) Drivers' contracts; log on/log off records; Australian Business Number (**ABN**) documents; and payment statements/banking records;
- (c) Uber/Driver communication's involving Uber software application communication logs and messaging pertaining to Driver guides; assistance, advice, offers, promotions, rewards and resources information; Uber pricing schedules; vehicle inspection cards and Incident reports;
- (d) media and social electronic and published communications including the Uber website; and
- (e) the record of interviews with Drivers who participated in this investigation;

the FWO has determined that there does not appear to be any formal or operational obligation on Drivers to perform work for Uber, that being a key aspect of what courts have described as

'the irreducible minimum of mutual obligation' which must exist to create an employment relationship between Uber and the Drivers.

Therefore, on the available evidence, the FWO does not have jurisdiction to warrant any further action at this time.

Yours sincerely,



Greg Robertson
Director General Protections
Fair Work Ombudsman

Released under the
Freedom of Information Act
by the Fair Work Ombudsman



Australian Government

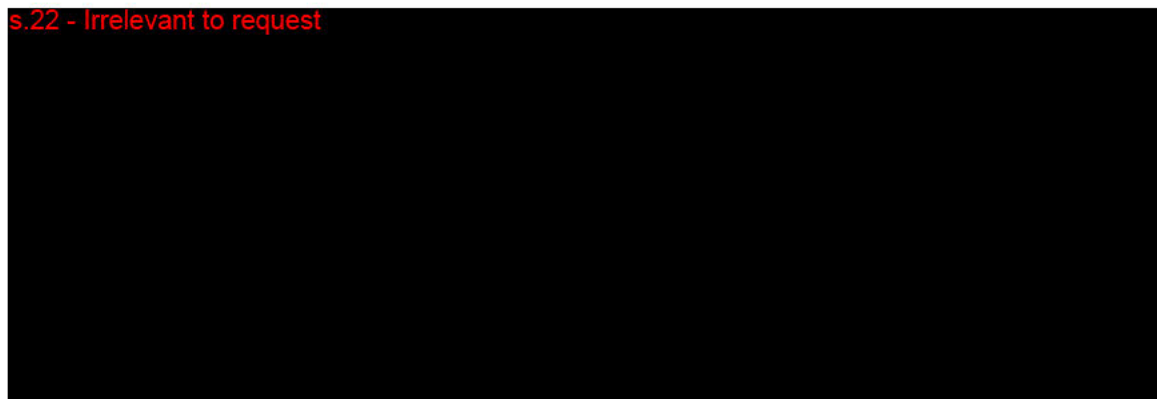
Fair Work

OMBUDSMAN


GPO BOX 9887 MELBOURNE VIC 3001

7 June 2019

s.22 - Irrelevant to request



Outcome of investigation

Dear  s.22 - Irrelevant to request

This letter is to confirm our discussions on Friday 7 June 2019, about the outcome of the FWO investigation into the status of your engagement, performing delivery duties using the Uber rideshare platform with Uber Pty Australia Ltd (**Uber**).

We are an independent and impartial government agency, which means we do not act for either side in workplace disputes.

For information about how we deal with workplace disputes, see our Compliance and Enforcement policy at www.fairwork.gov.au

After considering all the information and evidence arising from our investigation, including:

- (a) Uber's responses to the FWO's Notice to Produce Records or Documents;
- (b) Your contract with Uber; log on/log off records; Australian Business Number documents; and payment statements/banking records;
- (c) Uber/Driver communication's involving Uber software application communication logs and messaging pertaining to Driver guides; assistance, advice, offers, promotions, rewards and resources information; Uber pricing schedules; vehicle inspection cards and Incident reports;
- (d) Media and social electronic and published communications including the Uber website; and
- (e) Record of interview with yourself

the FWO has determined that there does not appear to be any formal or operational obligation on Drivers to perform work for Uber, that being a key aspect of what courts have described as

'the irreducible minimum of mutual obligation' which must exist to create an employment relationship between Uber and the Drivers.

Therefore, on the available evidence, the FWO does not have jurisdiction to warrant any further action at this time.

If you would like to discuss this letter please contact me on s.22 - Irrelevant to request

s.22 - Irrelevant to request

Yours sincerely,

s.22 - Irrelevant to request

Fair Work Inspector
Fair Work Ombudsman

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Freedom of Information Act
by the Fair Work Ombudsman