

Chemist Warehouse compliance partnership

CW Retail Services Pty Ltd [ACN 606 509 791] (Chemist Warehouse) operates a retail pharmacy franchise business with a significant presence in Australia (more than 14,000 staff in 400 plus stores).

Chemist Warehouse entered into a 3-year [compliance partnership](#) with the Fair Work Ombudsman (FWO) in November 2016, after FWO audits and Chemist Warehouse's own review discovered non-compliance across the network. Non-compliance at that time related to payment for online training hours undertaken outside of an employee's working hours.¹

The terms of the partnership were in a Proactive Compliance Deed (PCD).² Its main aim was to ensure compliance across the franchise network by implementing:

- workplace relations resources, training and support for franchisees and employees
- a telephone hotline and email account service for employees to make enquiries, lodge complaints or report potential non-compliance, including underpayment of wages
- independent audits
- referral of requests for assistance by the FWO to Chemist Warehouse for self-resolution
- improvements to Chemist Warehouse's HR systems and processes.

Outcomes of the partnership against each of the key commitments under the PCD are detailed below.

This follows an interim progress report that was published in 2018.³

Communication

Chemist Warehouse met requirements to communicate with franchisees and staff about the compliance partnership (as per Clause 3 of the PCD), including:

- establishment of a dedicated employee hotline and email for confidential enquiries and complaints, and an enquiry register (Clause 7)

¹ FWO report: <https://www.fairwork.gov.au/ArticleDocuments/714/national-compliance-monitoring-campaign-report-number-2.docx.aspx>

² FWO media release: <https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/december-2016/20161201-chemist-warehouse-mr>

³ FWO report: <https://www.fairwork.gov.au/ArticleDocuments/762/chemist-warehouse-proactive-compliance-deed-interim-report.docx.aspx>

- notification about commencement of the PCD sent to franchisees and employees within 14 days along with an advance copy of the FWO media release announcing the PCD⁴
- posting an HR Bulletin on store noticeboards
- in-store briefings for all staff by owners and managers
- displaying the employee hotline and Fair Work Infoline numbers in store
- including PCD and hotline number on the Chemist Warehouse intranet
- inserting a clause about the PCD and hotline number into standard employment contracts.

Chemist Warehouse reports that it continues to offer the confidential hotline service to employees now that the compliance partnership has concluded.

Workplace relations training

Chemist Warehouse appointed its National HR Manager to the role of 'HR Specialist' and instructed them to design and implement ongoing training for franchise directors, managers, supervisors and employees (Clause 11).

563 owners, managers and supervisors completed the training that was rolled out in 2018. Delivered face-to-face by members of the HR team, the program covered:

- the *Fair Work Act 2009* (the Act)
- the National Employment Standards (NES)
- employment contracts
- applying awards in the workplace
- types of employment
- hours of work, overtime and penalty rates
- breaks, time in lieu and allowances
- leave and public holidays.

The Chemist Warehouse HR team continues to field enquiries from directors, officers, managers and supervisors about interpreting awards and employee conditions following the initial training, showing positive engagement with the need to meet workplace obligations.

Other workplace relations training resources and initiatives introduced during the compliance partnership included:

⁴ FWO media release: <https://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/december-2016/20161201-chemist-warehouse-mr>

- an HR Store Pack for employees: displayed in stores and discussed in team briefings, noting the hotline, HR policies and procedures and where to find them, HR Road Map, code of conduct
- HR Internal Guides for managers and employees: on a range of topics, including parental leave and family and domestic violence
- HR News flyers for managers and employees: answering questions about employee entitlements, including leave, breaks, fixed term contracts, casuals, rostering and workforce planning for Christmas
- Manager Briefings: as part of the internal retail management program for new owners and managers, outlining the NES, award principals and conditions, performance management, code of conduct, HR policies, procedures, and resources
- an HR Store Audit Checklist: used in twice yearly store checks, covering records management, employee entitlements, and the hotline
- a New Manager Induction Checklist: on the basics of managing people from an HR compliance perspective, including awards, entitlements, policies and procedures
- an Employee Road Map: showing who and where to go to for assistance
- Workforce Reviews: individual store assessments of workplace practices, terms and conditions and employee engagement, involving one-on-one interviews with employees and a report identifying trends and recommendations for head office and the franchisee.

Systems and processes

Chemist Warehouse implemented system and process changes to address governance issues, particularly to improve recording of hours worked and training attendance (Clause 4). System updates and new systems included:

- an upgraded on-boarding and staff transfer system (myTeam) to simplify employment of new staff under correct terms and conditions and variations to employment arrangements
- an upgraded old payroll system (PayGlobal) to remove restrictions in recording time and attendance in training (system constraints identified as a contributing factor to previous underpayments)
- a new payroll system (Kronos) in 2018 to better administer time, attendance and rostering and compliance with workplace relations obligations under the Act, the NES and awards
- integration between myTeam and Kronos
- a new online training portal for staff induction, requiring completion on-site and within rostered hours
- automated payroll adjustments to reflect national wage increases and ensure minimum hourly rates don't fall below award rates.

Chemist Warehouse reports that franchisee owners and managers appreciate these changes and feel more competent and confident in workplace relations compliance.

In its final report to the FWO, Chemist Warehouse said the compliance partnership has benefited the business and led to continual investment to support compliance with Australian workplace laws.

Self-resolution of workplace disputes

As per clauses 7 and 9 of the PCD, Chemist Warehouse committed to self-resolving employee queries about pay and conditions, including establishing a dedicated employee hotline and email for confidential enquiries and complaints (Clause 7), and managing requests for assistance from current and former employees referred by the FWO (Clause 9).

The HR Services Team resolved 342 individual cases over the three-year period of the PCD, including:

- 141 hotline queries
- 195 email queries
- 6 FWO referrals.

The vast majority (276 cases / 81%) were in the first year of the PCD (prior to introduction of the new payroll system) and related to the unpaid online training issue that had led to the compliance partnership (235 cases / 69%). Other queries were about classification of employment, rosters, leave, termination pay and general HR queries.

Most cases were closed within 28 days as required under the terms of the PCD.

A total of \$99,062.98 was back paid to 118 employees.

Independent audits

Chemist Warehouse was required to engage an independent external accounting professional, auditor or employment law specialist to conduct three audits of its franchise network (Clause 6). The audits were to include a sample of employees from all retail outlets and assess a four-week period per location.

Chemist Warehouse engaged workplace relations specialist legal firm FCB Group, who examined:

- classification and status of employees
- accuracy and consistency of employee records
- correct rates of pay for ordinary hours, loadings, allowances, penalty rates, leave and termination payments
- pay slip and employee records
- training attendance and log-in and log-out times, and payments for training undertaken.

Table 1: Audit findings

	Audit 1 April - May 2017	Audit 2 February - March 2018	Audit 3 July - August 2019
Stores	302	293	312
Staff	998	718	805
Staff underpaid	376 (38%)	204 (28%)	240 (30%)
Total underpayments*	\$9,766	\$1,314	\$459

* Across all three audits the majority of underpayments were under \$1 and due to rounding errors.

Throughout the process, FCB Group worked with Chemist Warehouse, individual store owners or managers and staff to determine how underpayments arose. FCB Group largely attributed underpayments to payroll system deficiencies when the former PayGlobal system was still in place and then manual errors by store managers who were new to the replacement Kronos system.

FCB concluded in their final report that “there are no systemic issues that need to be addressed” and that “CW Retail have a compliant payroll system”.

In its final report to us, Chemist Warehouse reflected on a range of benefits and opportunities arising from the independent audits, including the ability to:

- understand where payroll variances were occurring and make timely adjustments
- identify the need for training and support for individual owners and managers
- adopt specialist advice in implementing sustainable compliance measures.

Chemist Warehouse has indicated that it is continuing to work in partnership with FCB Group to ensure ongoing compliance with workplace laws.

Reporting to the FWO

Chemist Warehouse satisfied its obligation to share reports on hotline enquiries, independent audit results and to provide three annual progress reports (Clause 13), describing:

- actions taken to address the requirements of the PCD, and workplace issues encountered
- outcomes of requests for assistance referred by the FWO
- compliance systems and processes
- workplace relations training undertaken
- benefits and learnings from the compliance partnership.