

Between November 2017 and March 2019 we investigated **946** businesses across Australia that had breached workplace laws before

What did we find?



Almost half were non-compliant



Highest industry non-compliance rate of **57%** in Accommodation & Food Services – a priority sector for the FWO



26% didn't pay employees correctly



12% didn't meet pay slip / record-keeping obligations



10% breached both monetary and non-monetary obligations

Most common breaches:



40% minimum hourly rate



26% pay slips



11% penalty rates

Strong enforcement action taken



\$508,034 recovered from **243** businesses for **2,994** employees



1

Enforceable undertaking



Han's Café Mandurah

\$27,086 back-paid to 16 workers. Independent auditors to check all employees paid correctly in 2019 and 2020



2

Litigations



French Baguette Café

faces penalties of up to **\$94,500** (company) and **\$6,300** (director) per contravention



Hans Café Rockingham

faces penalties of up to **\$630,000** (company) and **\$126,000** (general manager) per contravention

Investigations continuing into two other businesses that may also face court action



197

Contravention letters



157

Formal cautions



74

Infringement notices

\$31,480 in fines for pay slip and record-keeping breaches



35

Compliance notices

\$161,607 for 151 employees

National Compliance Monitoring

What we did and why

Between November 2017 and March 2019, the FWO investigated 946 businesses across Australia that we had found to have previously breached Australian workplace laws.

Our findings

Almost half of the businesses (452 businesses, or 48%) were non-compliant with workplace laws:

- 243 (26%) were not paying employees correctly (monetary obligations not met)
- 116 (12%) did not meet pay slip and record-keeping requirements (non-monetary obligations not met)
- 93 (10%) breached both their monetary and non-monetary obligations.

Looking at all the individual breaches of workplace laws made by the 452 employers, the most common breaches identified were:

- underpayment of the minimum hourly rate (40%)
- pay slips not provided as per the *Fair Work Act* and *Fair Work Regulations* (26%)
- failure to pay penalty rates (11%).

Accommodation and food services businesses had the highest rate of non-compliance (57%).

Action taken and next steps

We recovered \$508,034 from 243 businesses for 2,994 employees.

Fair Work Inspectors issued:

- 197 contravention letters
- 157 formal cautions
- 74 infringement notices, totalling \$31,480 in fines for pay slip and record-keeping breaches
- 35 compliance notices, with back payments totalling \$161,607 for 151 employees.

An enforceable undertaking was entered into with T J D Sayoco Pty Ltd, trading as Han's Café Mandurah. Under the terms of the enforceable undertaking, the company was required to back-pay \$27,086 to 16

employees, and to engage independent external auditors to check that all employees received their correct entitlements in 2019 and 2020.¹

Legal action has been taken against two businesses for alleged non-compliance with Australian workplace laws:

- Saveway Store Pty Ltd, which operates 2 French Baguette Cafés (the company faces penalties of up to \$94,500 per contravention, and the director faces penalties of up to \$6,300 per contravention)²
- Tac Pham Pty Ltd, trading as Hans Café Rockingham (the company faces penalties of up to \$630,000 per contravention and the director faces penalties of up to \$126,000 per contravention).³

Investigations into alleged non-compliance with Australian workplace laws by 2 further employers is ongoing and the FWO is considering litigation.

¹ <https://www.fairwork.gov.au/about-us/news-and-media-releases/2019-media-releases/august-2019/20190815-hans-cafe-mandurah-eu-media-release>

² <https://www.fairwork.gov.au/about-us/news-and-media-releases/2020-media-releases/january-2020/20200108-saveway-litigation-media-release>

³ <https://www.fairwork.gov.au/about-us/news-and-media-releases/2020-media-releases/january-2020/20200107-tac-pham-hans-cafe-litigation-media-release>