

# 3rd annual report

Status of the enforceable undertaking between the Fair Work Ombudsman and Coles Supermarkets Australia Pty Ltd

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Australian Government

Fair Work  
OMBUDSMAN

# STATUS OF THE ENFORCEABLE UNDERTAKING BETWEEN THE FAIR WORK OMBUDSMAN AND COLES SUPERMARKETS AUSTRALIA PTY LTD



**805**  
**COLES STORES**



INCREASED THE NUMBER OF STORES WITH 'IN-HOUSE TROLLEY COLLECTION' FROM

**655**  
TO  
**736**



**COMPLAINTS REFERRED TO THE COLES HOTLINE**

**DECLINED FROM 11 IN 2016 TO 3 IN 2017**



THE NUMBER OF UNDERPAYMENTS IDENTIFIED AFTER INVESTIGATION

→ **2016** **5** → **2017** **1**



**TOTAL VALUE OF UNDERPAYMENTS**



**\$17 169.71**



**\$2671.01**



**DOWN OVER 80%**

# Annual report

This is the third annual report regarding the status of the [enforceable undertaking](#) [EU] between the Fair Work Ombudsman (FWO) and Coles Supermarkets Australia Pty Ltd (Coles). A full copy of the annual report is at Attachment A.

## Background

The management of labour supply chains is a key area of focus for the FWO. The FWO has found that non-compliance and exploitation is more likely to occur in labour supply chains featuring:

- relatively low skilled occupations in labour intensive industries
- highly competitive procurement arrangements
- a high proportion of vulnerable workers (such as young workers, or those from a non-English speaking background).

The trolley collection industry features these characteristics and has been an area of focus for some time.

In 2012, the FWO commenced legal proceedings against two sub-contractors operating at several Coles sites, alleging they had underpaid 10 trolley collectors over \$200 000. These employees didn't receive back-pay as the employing companies went into liquidation. Following these legal proceedings, in 2014 Coles entered into an EU with the FWO, publicly declaring it has an "ethical and moral responsibility" to join with the FWO and stamp out exploitation of vulnerable trolley collectors.

One of Coles' commitments was to pay the 10 trolley collectors the amounts they were owed by their former employers. Other key undertakings in the EU include:

1. communicating the existence of the EU to all employees and to Coles' trolley collection service provider, United Trolley Collections (UTC)
2. maintaining and advertising a wage underpayment hotline
3. investigating any trolley collection wage complaints received within 28 days
4. extending the in-house trolley collection model so that trolley collecting is undertaken by direct employees at all stores
5. establishing a \$500 000 "Guarantee" reserve fund, available to be distributed to trolley collectors employed by UTC, or subcontractors to UTC, in the event trolley collectors are found to be underpaid
6. reporting annually to the FWO on complaints received from trolley collectors
7. conducting annual audits of at least of 20% of direct sub-contractors of UTC for each year of the EU, with each audit being independently reviewed and certified by a third party CPA

- designing and implementing a workplace relations training program for staff managing and/or procuring trolley collection services.

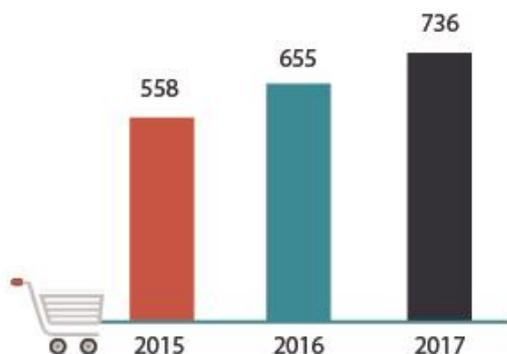
## Coles' progress

Coles is a household-recognised brand, with a total share of over 30% of the \$100 billion that Australians spend in supermarkets and grocery stores annually. The supermarket chain accounts for nearly 60% of Wesfarmers Limited's revenue. In recent years Coles has enjoyed strong growth. The business is expected to continue to grow, in what is a very competitive retail market.

Throughout the life of the EU Coles has demonstrated that it has taken responsibility to influence the critical settings that determine whether unlawful conduct occurs within its labour supply chain.

In December 2014, Coles outsourced trolley collection services at 55% of its stores. Over the past three years Coles' has progressively brought the employment of trolley collectors 'in-house'. As at 31 October 2017, 736 stores had completely brought their trolley collection services in-house. This equates to 90% of Coles stores. At most other stores trolley collection is undertaken by a mix of Coles staff and contractors, the function remains fully outsourced at less than 2% of stores. Where contract arrangements are still in place they are closely monitored by Coles and UTC.

Figure 1 – Number of stores with in-house trolley collection services



The 2017 report discloses Coles' continued improvement in managing its trolley collection service and supply chains.

Coles' 2017 report to the FWO on progress made against the EU includes the following results:

- Four complaints regarding trolley collection wage underpayments were made, three of which were received via the dedicated wage underpayment hotline maintained under the EU. This is a decrease from 11 complaints the previous year.
- The average time to investigate complaints was 12 days, down from 27 days the previous year.
- One underpayment was identified following a complaint received by Coles on the underpayment hotline, down from five instances of underpayment the previous year. As a result, the underpaid employee was repaid \$2671.01 in outstanding wages.

- Workplace training continued to be provided to relevant Coles staff. 22 team members were trained in the past year. Bringing the total number of employees to have received training since the commencement of the EU to 116.

Price Waterhouse and Coopers (PWC) was engaged by Coles to conduct the annual independent audit of trolley contractors engaged by UTC.

- 13 subcontractors, representing 36% of UTC subcontractors, were audited. This included contractors in each state and territory.
- Wages paid to employees were assessed against minimum entitlements contained in the *Cleaning Services Award 2010*.
- The audit period was six weeks, or three pay cycles (a greater period than the one month specified in the EU).
- A total of 53 employees were found to have been underpaid a total of \$8834.69.
- \$28 132.55 in overpayments were also found, affecting 75 employees.
- All underpayments have been corrected and no action was taken to recover any overpayments.

Coles has worked with UTC and its subcontractors to understand how the underpayments arose, no systemic issues were identified. The results of the audits show significant improvements have been made, compared to the previous audits. In 2015, audits found 245 employees were underpaid over \$112 000, and in 2016, 121 employees underpaid \$18 385.

Coles has applied a similar in-housing model to its cleaning services. Previously cleaning services functions were outsourced to contractors. Now cleaning is undertaken entirely in-house. Coles reports it is pleased with the results of its in-housing initiatives to date.

## Conclusion

The FWO acknowledges the progress made by Coles in meeting its EU obligations and sees the significant reduction in underpayments identified through independent audit processes as an indication that Coles is succeeding in its endeavours to put a stop to exploitation in its trolley collection supply chains.

The progress made under the EU is evidence that Coles is taking their ethical and moral responsibility to eliminate exploitation from their labour supply chains seriously.

The EU continues to operate until the end of 2018, after a final annual report and audit report are provided by Coles to the FWO.

As per the terms of the EU, the EU will conclude earlier if Coles finalises the process of taking the trolley collection process in-house.

# Previous reports

[Status report: EU between the FWO and Coles supermarkets - 1st annual report 2015](#)

[Status report: EU between the FWO and Coles supermarkets - 2nd annual report 2016](#)

# Attachment A – Coles third annual report 2017

[Status Report: EU between the FWO and Coles Supermarkets - 3rd annual report 2017](#)