

# Hays Specialist Recruitment (Australia) Pty Ltd

## Compliance Partnership report

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## Summary

The Fair Work Ombudsman (FWO) entered into a compliance partnership with Hays Specialist Recruitment (Australia) Pty Ltd [Hays] on 31 January 2014.

Hays initiated the partnership with the FWO to publicly demonstrate its commitment to compliance with Australian workplace laws and align with its goal to be an employer of choice.

Compliance partnerships are underpinned by a Proactive Compliance Deed (Deed). The public nature of the document means it is an open commitment by Hays to the Australian community, and its staff, that it will promote compliant, fair and productive workplaces.

Key terms of the partnership included:

- communication of the partnership and terms of the Deed to both FWO and Hays staff
- ensuring robust systems and processes are in place to ensure ongoing compliance with workplace laws
- the opportunity to self-resolve employee requests for assistance
- regular reporting to and receiving advice from the FWO.

Under the terms of the partnership, Hays provided the FWO with details about the systems and processes the company had put in place to promote compliance throughout its organisation, including details of the workplace relations training given to Hays staff and managers.

Hays were also accorded the opportunity to self-resolve workplace issues that were brought to the attention of the FWO. During the course of the Deed, eight requests for assistance of a routine-low nature were lodged with the FWO concerning Hays. Seven of the requests were able to be resolved between the parties, without FWO involvement. Of the seven requests that were self-resolved, issues included:

- non-payment of wages for two days' work due to a clerical error
- unlawful deductions
- issues regarding termination of employment
- non-payment of allowances, such as accommodation, due to a clerical error.

One request for assistance that was not self-resolved involved relocation payments in an employment contract. Following assessment of the matter, the FWO decided not to take further action.

The average time taken to resolve requests for assistance was 25.5 days, and the total amount of underpayments was \$505.91.

Overall, the partnership has been positive. Hays engaged in a timely and cooperative way with the FWO throughout the life of the agreement.

While the nominal expiry date of the Deed was 31 January 2016, the terms of the partnership have remained in place as the FWO is both satisfied that Hays is well placed to ensure it remains compliant with its obligations to employees under Australian workplace laws and keen to explore a second generation partnership.

## **About Hays Specialist Recruitment**

Hays is a recruitment company that operates across a number of industries and professions, with 38 locations throughout Australia and New Zealand. The company employs over 1000 recruitment and operations staff throughout Australia. It finds permanent jobs for over 13,000 people per year and fills nearly 65,000 temporary jobs per year.

## Communication of the deed

A key term of the Deed was that both the FWO and Hays undertook to inform their respective staff about the compliance partnership.

Hays conveyed information regarding the terms of the Deed to all of its staff through an internal email. This email ensured all employees knew that Hays was making a public commitment to compliance with Australian workplace laws. Such accountability was supported by Hays including details of the nominated liaison person who employees could contact with queries about their employment conditions or the Deed at any time.

The FWO communicated with staff about the compliance partnership with Hays, the reasons for doing so, and provided the contact details of the nominated agency liaison person.

The FWO also issued a media release on 4 February 2014 to publicly announce the compliance partnership between the FWO and Hays.

# Systems and processes to promote compliance

To ensure compliance with workplace laws, it is essential for employers to have effective systems and processes in place that manage this aspect of the business.

An important component of compliance is the provision of a dispute resolution process that employees have confidence in accessing and that provides an avenue for employees and employers to effectively resolve issues in-house, in a timely manner without the need for third party involvement.

In accordance with the terms of the Deed, Hays provided the FWO with details of the systems and processes the organisation has in place to ensure compliance throughout their network.

Hays also confirmed there were two dedicated employment managers to oversee the compliance by Hays' management staff of its workplace relations obligations.

Hays also maintained a dedicated employment lawyer to provide advice on employment law matters and a Modern Awards Compliance Controller to ensure compliance throughout the organisation with the terms of the various modern awards that apply to Hays and its workers.

Examples of processes Hays have put in place to resolve issues and ensure compliance include:

- an internal email inbox to Hays HR to assist employees and temporary workers with queries they may have about their pay and conditions
- an Intranet which is accessible to all staff that contains an Award Information System. This system provides staff, supervisors and consultants with information on all applicable modern awards and enterprise agreements including copies of the instrument, summary documents on pay and conditions of employment and workplace relations educational material
- data accuracy review, which involves another staff member checking the accuracy of data entered into Hays payroll system (concerning status of employment, award and classification) when a worker commences employment
- conducting regular internal compliance audits, with reports provided to senior management.

# Workplace relations training

The provision of appropriate workplace relations training to key personnel in an organisation such as managers, supervisors, human resources and payroll staff is key to an organisation's ability to comply with workplace laws on an ongoing basis.

As part of the terms of the Deed, Hays provided the FWO with details of the workplace relations training the organisation provides to operational employees, HR staff and its managers.

The workplace relations training provided to staff is tailored to the role and level of individuals so that it is applicable to their day-to-day duties. For example, new operational employees attend training about the laws related to the recruitment industry and Australian workplace laws. Employees also undertake training on various Hays internal policies, guides and codes of conduct.

Operational managers receive additional workplace relations training in areas such as discrimination, adverse action, visa workers, equal employment opportunity, harassment, bullying and privacy legislation.

Senior managers are provided with ongoing leadership development programs. These programs include workplace relations components on topics such as effective recruiting and managing performance. Senior managers are also provided with regular briefings on legislative changes and emerging workplace relations issues.

# Self-resolution of workplace disputes

The FWO seeks to encourage Australian businesses to manage disputes over workplace entitlements with their employees directly, without the need for the involvement of the FWO or the courts.

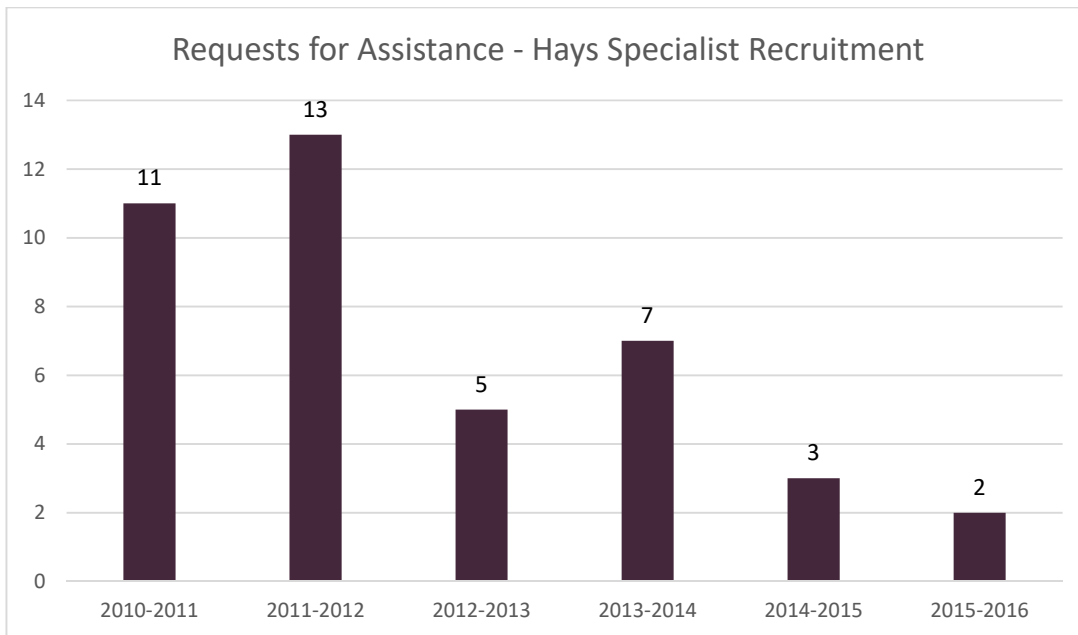
The FWO acknowledges that at times unintentional mistakes may occur or employees may believe that a mistake has occurred.

A primary aim of the compliance partnership has been to empower and enable Hays and its employees to resolve workplace disputes directly.

To facilitate this, the FWO undertook to forward any Requests for Assistance involving a routine-low nature to Hays within seven days. Upon referral, Hays was then required to attempt to resolve each request within 28 days of receipt from the FWO and to provide evidence to the FWO within seven days of the matter being resolved.

The FWO reserved the right to investigate any matter it felt it was in the public interest to do so.

During the life of the compliance partnership, a total of eight requests for assistance were lodged with the FWO. Below is a graph showing the number of requests received in the years prior to and during the deed period.



The FWO did not consider any of the requests received from current or former Hays employees as matters that indicated serious non-compliance or warranted an investigation by the FWO and all were resolved without the FWO's intervention.



The majority of issues raised by employees dealt with issues related to their host employer rather than Hays itself. Of those that related to Hays directly, the issues resulted from administrative errors or changes to work arrangements that had not been updated.

Hays promptly investigated all requests for assistance referred by the FWO and provided a timely response to the FWO on the outcome of each review. The number of requests received by the FWO was low considering the number of employees Hays has and the number of employment transactions that take place annually. It would indicate that robust systems and processes are in place that so few employee requests are made to the FWO.

Eight requests for assistance were referred to Hays during the life of the Deed. Seven of these were able to be resolved between the parties, without FWO involvement. Of the seven requests that were self-resolved, issues included:

- non-payment of wages for two days' work due to a clerical error
- unlawful deductions
- issues regarding termination of employment
- non-payment of allowances, such as accommodation, due to a clerical error.

One request for assistance that was not self-resolved involved relocation payments in an employment contract. Following assessment of the matter, the FWO decided not to take further action.

The average time taken to resolve requests for assistance was 25.5 days, and the total amount of underpayments was \$505.91.

#### Case study – Wage query by current employee

The FWO received a request for assistance from a current employee of Hays. The employee alleged that they were not receiving the correct rate of pay for the work they were undertaking as their role had evolved over time to include more duties which the employee believed entitled them to a higher rate of pay. They had addressed this with the host employer but did not receive a satisfactory response.

The employee lodged a request for assistance with the FWO which was referred to Hays for their attention. Hays liaised with the host employer and informed them that the persons' current duties were indicative of a higher classification than that originally stipulated.

The host employer was informed of the relevant modern award that covered the employee's employment and of the duties of the classifications under that award. The employee's wage rate was adjusted to the correct rate and they were back paid for the period they performed the higher duties. The matter was resolved in 21 days.

# Reporting to the Fair Work Ombudsman

Hays was required to report to the FWO under the terms of the Deed, once after the first 12 months and again at the expiration of the Deed. The reports were to include information on:

- the actions that had been taken by Hays to address the requirements of the Deed
- the requests for assistance received by Hays
- the requests for assistance resolved by Hays
- the average time taken to resolve these
- the average amount of any underpayments identified.

Both of these reports were provided by Hays. The reports contained details on the communication of the Deed, systems and processes in place to promote compliance, details of workplace relations training provided and summaries of the outcome of requests for assistance referred to them.

## Conclusion

The partnership between Hays and the FWO has been a successful and mutually beneficial partnership for both parties. Hays was a cooperative compliance partner and engaged regularly with the FWO on the progression of the Deed.

Hays has had direct access to an executive level liaison person within the FWO to discuss any issues or technical award interpretations, have received feedback on their internal systems and processes and had the opportunity to resolve, in the first instance, any compliance issues with their staff without the intervention of the regulator.

The FWO has also had the opportunity to examine the systems of the company to assure itself that a large company with many staff is continuing to comply with workplace laws and has governance processes in place to ensure ongoing compliance.

Since the formal expiration of the Deed, the FWO has received three requests for assistance from Hays' workers, with one of those being from a worker who refused to get his time sheets signed by his host employer of two days.

While the nominal expiry date of the Deed was 31 January 2016, the terms of the partnership have remained in place as the FWO is both satisfied that Hays is well placed to ensure it remains compliant with its obligations to employees under Australian workplace laws and keen to explore a second generation partnership.

# About the Fair Work Ombudsman and compliance partnerships

The FWO is an independent agency created by the *Fair Work Act 2009* on 1 July 2009. Our main role is to promote harmonious, productive and cooperative workplace relations.

The FWO employs a number of strategies to achieve compliance with national workplace laws. This includes entering into compliance partnerships underpinned by Proactive Compliance Deeds with employers. A Deed is an opportunity for businesses to work with the FWO in a positive and constructive manner and achieve sustainable monitoring arrangements so as to demonstrate commitment to 'fair Australian workplaces' and build a culture of compliance.

Employers may seek to enter into a partnership with the FWO for a variety of reasons. Some of these reasons include:

- ensuring its obligations under the Act are being met
- a method of identifying and minimising business risks with respect to its employees
- to demonstrate that it is a fair Australian workplace and potentially an employer of choice
- to address potential areas of non-compliance with the Act.

A range of activities can be utilised to assist the business meet the intended outcomes of the deed, for example, self-auditing of wages and record keeping, initiatives to engage with employees to improve compliance, and mutually beneficial improvements to employment and business outcomes by focussing on supply chain, brand and franchise relationships.

A business that enters into a deed with the FWO is assigned a dedicated Fair Work Officer who provides support and assistance to the business to ensure they are able to meet the outcomes of the Deed.

A publicly available report is published at the conclusion of each partnership.

For further information and media enquiries please contact FWO media ([media@fwo.gov.au](mailto:media@fwo.gov.au)).

If you would like further information about compliance partnerships please contact Steve Ronson, Executive Director – Communications ([steven.ronson@fwo.gov.au](mailto:steven.ronson@fwo.gov.au)).