



Adelaide CBD and Inner Metro Campaign Report

June 2018

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ADELAIDE CBD AND INNER METRO CAMPAIGN

WHAT DID WE FIND?



45% of businesses were non-compliant with their obligations under workplace laws



29% of businesses were not paying their employees correctly



23% of businesses were non-compliant with record keeping and pay slip requirements



\$54 701 recovered for 113 employees from 24 businesses

WHERE DID WE GO?

125 BUSINESSES AUDITED
IN ADELAIDE CBD AND
SURROUNDING SUBURBS



ADELAIDE CBD
NORTH ADELAIDE
NORWOOD
KENT TOWN
BROMPTON

COMPLIANCE AND ENFORCEMENT OUTCOMES



7

FORMAL
CAUTIONS



6

INFRINGEMENT
NOTICES



3

COMPLIANCE
NOTICES

Summary

The Fair Work Ombudsman (FWO) conducted an education and compliance campaign in the Adelaide CBD and surrounding suburbs.

Due to the high number of requests for assistance from those suburbs, a campaign was considered warranted.

Of the 125 businesses audited:

- 56 (45%) were not compliant with either monetary, record keeping or payslip requirements
- 36 (29%) were not paying their employees correctly
- 29 (23%) were not compliant with record-keeping and pay slip requirements
- \$54 701 was recovered from 24 businesses on behalf of 113 employees.

The campaign resulted in the following compliance and enforcement outcomes:

- seven formal cautions
- six infringement notices were issued totalling \$4500
- three compliance notices were issued to three businesses totalling \$8576 on behalf of 25 employees.

The campaign's methodology

To assist with communication of the campaign, the FWO contacted relevant stakeholders and discussed the planning, delivery and promotion of the campaign. The campaign received coverage through a number of local media outlets including ABC Radio and the Adelaide City Messenger. Local media coverage also ensured that information about both the campaign and the FWO spread beyond the businesses included in the campaign.

Fair Work Inspectors contacted, and where appropriate, visited businesses in the central and inner suburbs of Adelaide, including North Adelaide, Norwood, Kent Town Brompton and Hackney. Time and wages records were assessed for compliance with the Fair Work Act 2009 (the Act), the Fair Work Regulations 2009 (the Regulations) and the applicable award or agreement. Where breaches were identified, Fair Work Inspectors required businesses to rectify the issue and provide proof of having done so (including back-paying any underpaid employees).

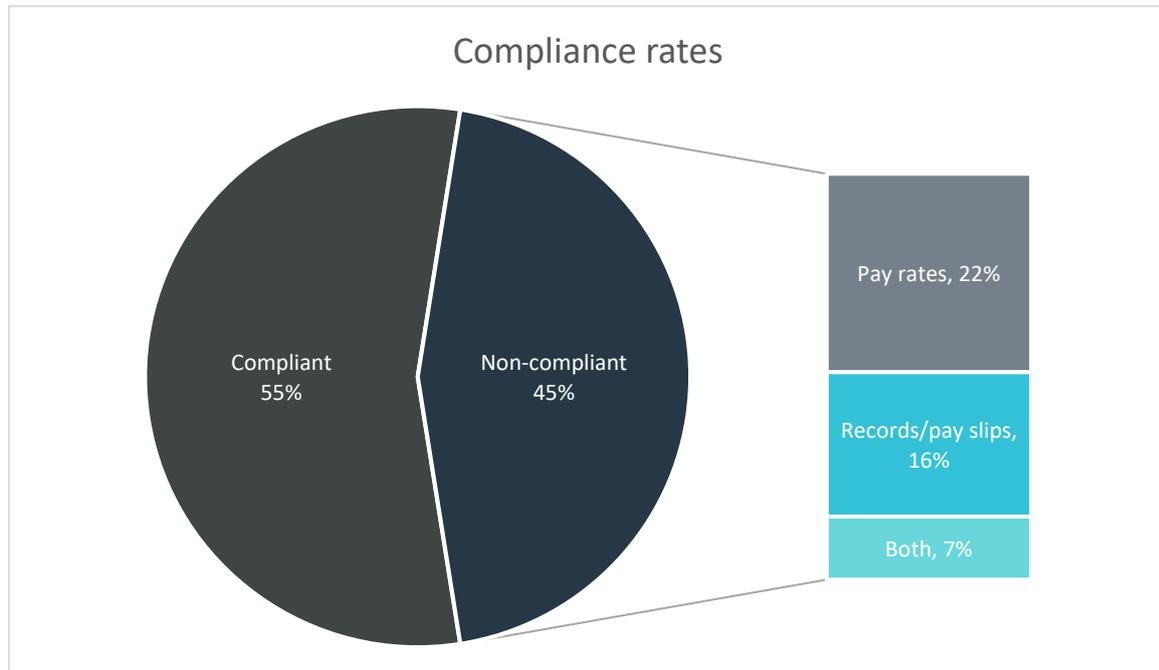
The predominant modern awards applicable to businesses in the region were:

- Restaurant Industry Award 2010
- Hospitality Industry (General) Award 2010
- Hair and Beauty Industry Award 2010
- Clerks - Private Sector Award 2010.

Fair Work Inspectors also provided businesses with information and resources to help them comply with their obligations under Commonwealth workplace laws. In particular, businesses were provided with the online resources freely available on the FWO website www.fairwork.gov.au, including [pay rates](#), content relating to [hiring employees](#), [My account](#) and [online training courses](#).

Key findings

The FWO found that of the 125 businesses audited in the campaign 56 (45%) businesses were not compliant with their obligations under workplace laws.

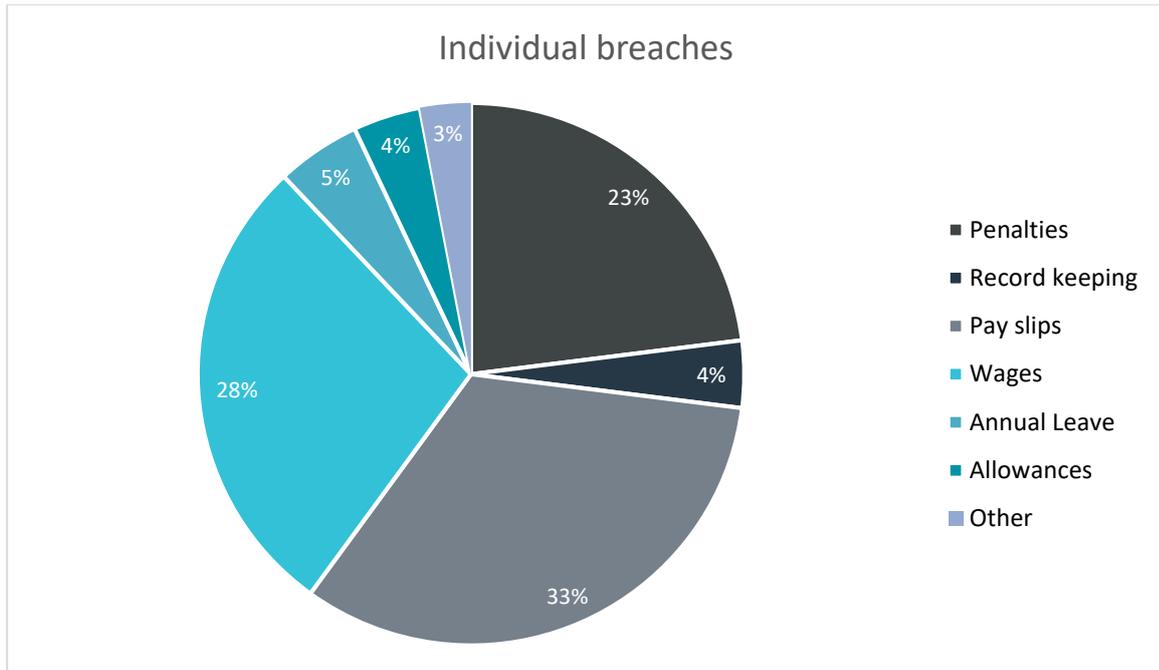


Of the 56 businesses that were non-compliant with their workplace obligations:

- 27 (22%) had breaches relating to pay rates
- 20 (16%) had breaches relating to pay slips or record-keeping
- 9 (7%) had both pay rate and records/pay slips breaches.

This means of all 125 businesses audited in the campaign:

- 36 (29%) businesses were not paying their employees correctly
- 29 (23%) businesses were not compliant with record-keeping and pay slip requirements
- \$54 701 was recovered from 24 businesses for 113 employees.



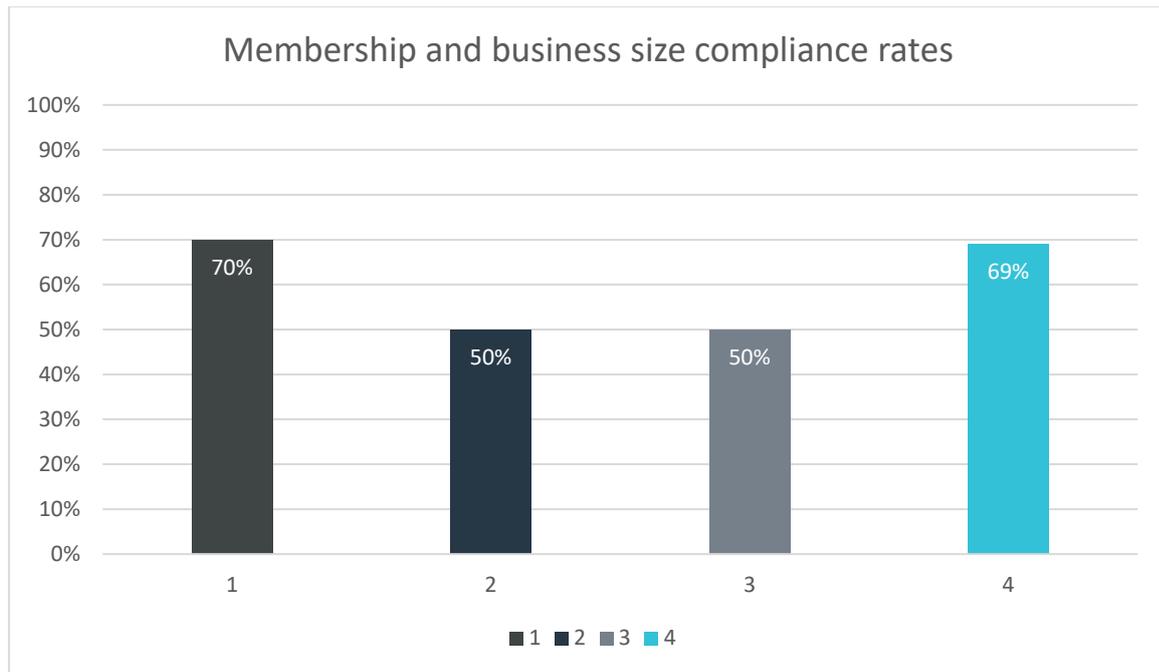
The 56 businesses that were non-compliant with workplace laws had a total of 84 individual breaches. Of these breaches, the most common were:

- pay slips (33%)
- underpayment of hourly rates (28%)
- penalty rates (23%).

Businesses provided the following reasons for non-compliance:

- they were unaware of the correct award coverage or conditions
- they missed the July wage increase
- they received incorrect advice from a third party including bookkeepers and accountants.

Membership and business size



The FWO finds that businesses are more likely to be compliant with workplace laws when they have access to specialised workplace relations advice such as through membership to an employer organisation, access to accounting or legal advice or a dedicated human resources professional within the business. Larger businesses are more likely to have the resources to employ a human resources or payroll professional in house.

Consistent with the FWO's experience across our campaigns, businesses that were members of an industry or employer association had a higher compliance rate (70%) than businesses that were non-members (50%). Larger businesses (with 15 or more employees) had a higher compliance rate (69%) than smaller businesses (50%). Again, this is consistent with the FWO's general findings across campaigns.

Compliance and enforcement outcomes

The campaign resulted in the following compliance and enforcement outcomes:

- seven formal cautions
- six infringement notices totalling \$4500
- three compliance notices resulting in \$8576 back-pay for 25 employees.

Examples of the types of matters we utilised compliance and enforcement tools for are contained in the case studies below.

Case study – formal caution

Formal cautions are issued when the FWO has found instances of non-compliance and it is considered appropriate to put a business on notice that future non-compliance could result in the FWO seeking financial penalties. If the FWO becomes aware of any further instances of non-compliance, the fact that the business was issued with a formal caution (in writing) will be taken into account in deciding whether to commence civil legal proceedings against the business, and it may be used as evidence in any penalty determinations.

Fair Work Inspectors audited a beauty therapy business in the Adelaide CBD, assessing time and wages records against the Hair and Beauty Industry Award 2010 and the Act. They found that the business engaged a casual employee as a Salon Assistant, and paid them a flat rate of pay for all hours worked, including weekends, that was below the minimum award rate for Monday to Friday hours.

When FWO inspectors interviewed the employee, they discovered that the worker held qualifications in Beauty Therapy, and performed the duties of a Beauty Therapist on a regular basis. This meant that the business had under-classified the employee, and should have been paying a much higher rate of pay. The total amount owing to this employee was calculated to be just over \$2800.

The Inspectors educated the employer about the award's classification structure, and issued a formal letter of caution to ensure the employer was aware of its responsibility to keep up to date with current wage rates and to deter non-compliant behaviour in the future. The employer back-paid the employee and amended their classification level to accurately reflect the duties being performed.

Case study – infringement notice

An infringement notice is a fine given to a business for non-compliance with record-keeping or pay slip requirements of the Act and the Regulations.

A total of \$4500 in infringement notices were issued during the campaign.

Fair Work Inspectors visited a restaurant in an Adelaide CBD dining precinct. When interviewed on site, the employer revealed that no rosters or time sheets were kept, and the business didn't issue pay slips to employees.

The FWO provided the employer with extensive guidance on the record-keeping requirements of the Act, including providing a range of fact sheets and templates to assist improvement of its practices.

Inspectors issued two infringement notices, each for \$1800, for the failure to maintain records and for failing to issue pay slips as required by the Act and the Regulations.

The employer was advised that a future follow up audit would occur and any future non-compliance would be grounds for consideration of the FWO commencing legal proceedings.

Case study – compliance notice

A compliance notice is a written notice legally requiring a business to rectify breaches of the Act. Failure to comply with a compliance notice results in the FWO commencing legal proceedings.

Three Compliance Notices were issued in this Campaign, resulting in a total of \$8576 being recovered for 25 employees.

Fair Work Inspectors audited a restaurant in a popular food precinct strip and found a number of monetary and technical breaches of both the Restaurant Industry Award 2010 and the Act. As the employer had paid staff a low flat rate of pay, these breaches included underpayment of the minimum ordinary rate of pay, evening and weekend penalty rates, as well as overtime. Further breaches disclosed by the inspectors related to meal breaks and split shift entitlements under the award as well as record keeping and payslips contraventions.

As there were multiple breaches of the award, the FWO issued a compliance notice which resulted in the back payment of \$2487 to affected workers. The employer was also provided with educational resources to help ensure the business complied with all record keeping and payslips obligations in the future.

Conclusion

The campaign revealed 45% of businesses in the Adelaide CBD and Inner Metro area were not fully compliant with their workplace obligations.

Larger businesses and members of employer associations were more compliant with their workplace relations obligations than small businesses, which often lack ready access to professional support. This demonstrates the importance of FWO's continuing focus on providing advice and assistance to small businesses.

All businesses found to be non-compliant during this campaign will be considered for inclusion in the FWO's ongoing National Compliance Monitoring Program; a program the FWO has developed to regularly check back on businesses that have been found to be non-compliant in campaign activities.

The FWO provides a range of free resources to educate employers on their obligations and encourages businesses to use the information, tools and resources available at www.fairwork.gov.au to ensure compliance with workplace laws. The FWO also encourages employers to contact the Fair Work Infoline and others, such as their employer association, for assistance and advice on workplace relations matters when they need more help. The Fair Work Infoline includes a dedicated Small Business Helpline to provide tailored advice to small business employers. It can be contacted on 13 13 94.

The website contains online learning modules that cover an array of topics, including a record-keeping and payslip module, which helps employers (especially small business without HR support) learn how to make, update and manage employment records for their business.

Employers involved in the campaign are provided with information about how they can keep up to date and receive personalised information about workplace law and employment issues by registering for [My account](#) and subscribing for [email updates](#).

The FWO will continue to work with businesses across Adelaide and South Australia to encourage sustained and conscious compliance with workplace laws.

About the Fair Work Ombudsman

The Fair Work Ombudsman 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.

Each year the Fair Work Ombudsman runs proactive campaigns to assist employers and employees understand their rights and obligations under Commonwealth workplace relations laws.

These campaigns can focus on particular industries, regions and/or labour market issues and are conducted on national or regional levels.

This report covers the background, method and findings of the Adelaide CBD and Inner Metro area campaign.

For further information and media enquiries please contact the media team at media@fwo.gov.au

If you would like further information about the Fair Work Ombudsman's campaigns please contact Glenn Jordan, Executive Director - Proactive Compliance and Education at glenn.jordan@fwo.gov.au