



Australian Government

Fair Work

OMBUDSMAN

NT –Katherine & Alice Springs Hospitality Industry Audit Program 2011

Summary

In 2010 the Fair Work Ombudsman (FWO) met with the Northern Territory (NT) Chief Minister's Office and discussed suspected non compliance in the NT's hospitality industry. An industry known to employ a number a vulnerable workers, concerns were raised regarding employees being underpaid.

Previously hospitality audits were undertaken in Darwin, and given the results of the Darwin audits, the FWO decided to also undertake audits in the NT regions of Katherine and Alice Springs.

In total 20 employers, 9 in Katherine and 11 in Alice Springs were audited. Five (45%) employers, based in Alice Springs, were found to have monetary contraventions. The audit recovered almost \$50 000 for 136 employees.

Background

In 2010 we held discussions with the NT Chief Ministers Office concerning alleged non compliance in the NT hospitality industry. It was identified that during the dry season a number of employers employ students, back packers and foreign workers, all potentially vulnerable workers, to meet the demands of tourists to the area.

In June 2010 we conducted audits in Darwin, specifically hospitality businesses located on Mitchell Street and in the Wharf Precinct. The [Mitchell Street & Wharf Precinct Audit Program](#) identified 3 (19%) of the 16 employers audited to be non compliant. Two of the 3 non compliant employers had monetary contraventions which resulted in \$39 037 in backpayments for 258 employees.

Considering the findings of the Darwin audit program, we decided to extend the scope to include hospitality businesses in Alice Springs and Katherine. This decision was reinforced as stakeholders expressed particular concern regarding Alice Springs hospitality employees.

Campaign aim & objectives

The aim of the program was to improve compliance with the *Fair Work Act 2009 (the Act)* and *Fair Work Regulations 2009 (the Regulations)* in the Alice Springs and Katherine hospitality industries. The objectives were to;

- assess compliance with record keeping obligations
- assess compliance with pay slip obligations

- ensure employees were receiving their correct base rate entitlements
- educate employers on the various FWO tools available to aid compliance

Stakeholder involvement

In December 2010 we notified the following stakeholders by telephone of our intention to complete hospitality industry audits in Katherine and Alice Springs.

- *Australian Hotels Association*
- *Territory Government*
- *United Voice*

Methodology

We utilised white pages, yellow pages and the Australian Business Register (ABR) to randomly select 20 employers for audit. On 10 January 2011 we notified the employers in writing of their selection for audit. The letter detailed the date of our visit and the information the employer would need to prepare for our visit.

During January and February 2011 we visited the selected businesses in Alice Springs and Katherine and conducted the audits. We assessed compliance with base rates of pay, record keeping and pay slip obligations.

In addition to conducting the audit we also provided employers with educational information packs, directed them to the FWO website self help tools and discussed any queries they had. We spent approximately an hour to two hours with each employer conducting the audit and educating them on their obligations. For every visit conducted we issued the employer with a site visit form.

Where we identified an employer to have a pay slip contravention we asked the employer to sign a compliance commitment form, committing them to rectifying the contravention.

In cases where underpayments were suspected, we requested additional records be sent to our office for further assessment after which we notified the employer of our findings in writing. Employers with underpayment contraventions were requested to back pay the affected employees.

Results

Statistical findings

At 9 February 2012, when the results of this program were compiled, we had completed all 20 audits, of which 15 (75%) employers were found to be compliant and 5 (25%) were found to be in contravention.

Table 1

Audit Results	
Number of audits completed	20
<ul style="list-style-type: none"> • <i>Employers compliant</i> 	15 (75%)
<ul style="list-style-type: none"> • <i>Employers in contravention (voluntary compliance)</i> 	5 (25%)
Total amount recovered	\$49 482
Number of employees paid	136

The five non compliant employers shared a total of nine contraventions. All were identified as having monetary contraventions related to underpayment of hourly rates and penalty rates.

Findings by region

Audits were conducted in the NT regional centres of Alice Springs and Katherine. Of the 11 audits completed in Alice Springs, we found 6(55%) employers to be compliant and five (45%) to be in contravention.

Of the nine audits conducted in Katherine all employers were found to be compliant.

Findings by industry sub-category

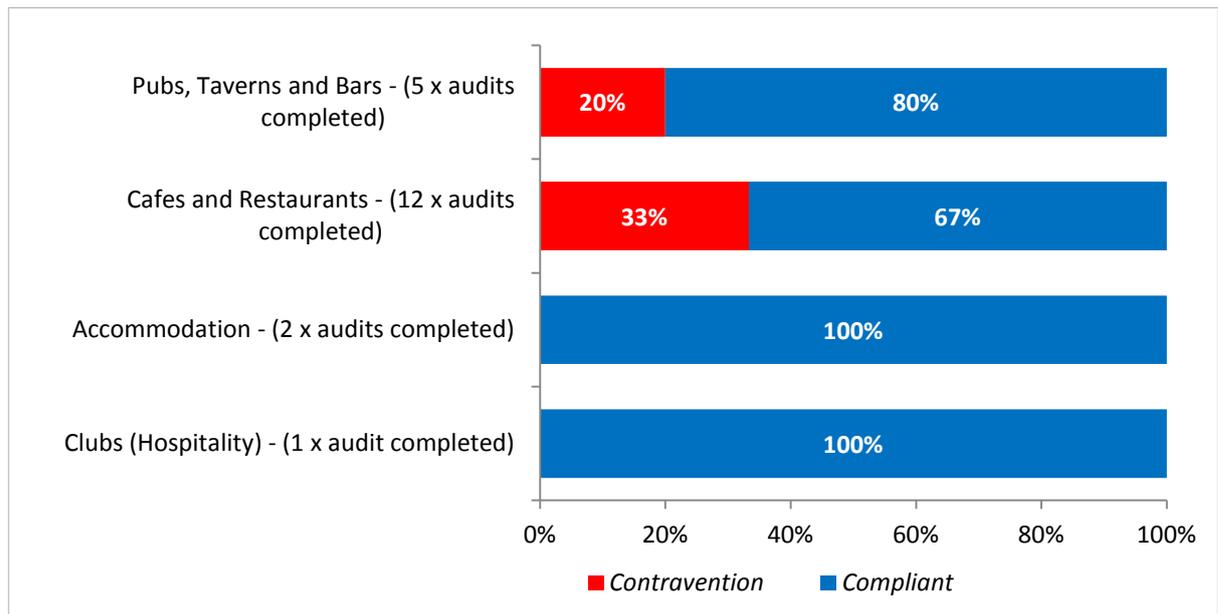
There are 4 sub categories that fall under the Accommodation and Food Services (Hospitality) industry classification code (as per ANZSIC)¹. These sub-categories are as follows;

- Pubs, Taverns and Bars
- Cafe's, Restaurants and Takeaway food
- Accommodation
- Clubs (hospitality)

Businesses were selected for audit across these four industry sub-categories. Chart 1 provides a break down of audit results for these sub-categories.

¹ ANZSIC (Australian and New Zealand Standard Industrial Classification) 2008.

Chart 1: Contravention by industry sub sector



Cafe's & Restaurants recorded the highest rate of contravention with 33%, followed by Pubs, Taverns & Bars (20%). There were no contraventions found in the Accommodation and Clubs categories.

Other findings

We initially found that employers had limited awareness of the FWO. However despite this fact many cooperated with audit requests and were keen to learn about the services and compliance tools the we offer.

The majority of employers were members of the Australian Hospitality Association (AHA) or the Chamber of Commerce. Both organisations assisted their non compliant members to rectify their contraventions.

We were able to attribute all of the underpayment contraventions, to three employer errors, namely;

- employers misclassifying staff, often classifying staff at the introductory level rather than the level required by the modern award.
- employers ignoring transitional arrangements contained within the award
- junior NT employees serving alcohol and not being paid the appropriate adult rate.

As detailed in the findings above, the Katherine employers audited were all found to be compliant. Many employers advised that in order to retain staff in the region they pay rates higher than that contained in the award.

No employers were found to be deliberately underpaying staff and those that were in contravention, rectified the contravention/s in a timely manner.

Conclusion

We consider that the campaign addressed and remedied the concerns expressed by the NT Chief Minister's Office.

Employers were appreciative of the education provided during the audit visits and we believe they now have a better understanding of FWO's role and the services and tools we provide.

Considering the success of this campaign, and the fact that that many employers in the region are unaware of the role of FWO, we are likely to return to Katherine and Alice Springs in the future to audit other industry sectors.

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