

National vehicle repair and maintenance campaign

Final report – October 2012

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About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent statutory agency, created by the *Fair Work Act 2009* (the Act) on 1 July 2009.

Our vision is fair Australian workplaces, and our mission is to work with Australians to educate, promote fairness and ensure justice in the workplace. We promote harmonious, productive and cooperative workplace relations and ensure compliance with Australia's workplace laws, by:

- offering people a single point of contact for them to receive accurate and timely advice and information about Australia's workplace relations system
- educating people working in Australia about their workplace rights and obligations
- investigating complaints or suspected contraventions of workplace laws, awards and agreements
- litigating to enforce workplace laws and to deter people from not complying with their workplace responsibilities

Education and compliance campaigns that focus on specific industries are a proactive strategy we use to achieve compliance with national workplace laws. They're also effective in recovering employee entitlements, particularly when the campaign targets high-risk areas and industries that employ vulnerable workers.

Education and compliance campaigns have a strong emphasis on engagement with relevant industry associations and unions to deliver national educational campaigns. This approach provides industry-specific knowledge that shapes the educational activities we undertake, and shares information through industry association and union communication channels.

This report covers the background, methodology and results of the National vehicle repair and maintenance campaign 2011-12.

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If you would like further information about the Fair Work Ombudsman's national campaigns please contact, Steve Ronson, Executive Director - Dispute Resolution and Compliance (steven.ronson@fwo.gov.au).

Summary

The Fair Work Ombudsman (FWO) commenced the National Vehicle Repair and Maintenance Campaign (the campaign) in September 2011.

The purpose of the campaign was to assist the vehicle repair and maintenance industry (the industry) comply with workplace laws. We first implemented an industry-wide communication strategy promoting industry specific information and self-help resources at www.fairwork.gov.au/vehicle.

The communication strategy included:

- emailing more than 5000 employers
- sending a letter to more than 19 000 employers
- hosting a webinar to inform employers about their obligations and FWO's online tools and resources
- generating mainstream, industry and social media coverage of the campaign

Between December 2011 and March 2012, we recorded 4067 visits to www.fairwork.gov.au/vehicle

To raise awareness of workplace rights among young industry workers we sent promotional flyers to almost 100 Group Training Organisations to provide to their apprentices.

In January 2012, we selected a sample number of industry employers Australia-wide for an audit of their pay slips and time and wage records.

In August 2012, we analysed the results and this showed that that we had finalised 759 audits and that 445 (59%) employers were found to be compliant and 314 (41%) were found to have contraventions. A further four employers are involved in ongoing investigations.

Of the 314 employers in contravention, 124 (39.5%) had contraventions relating to underpayments and 170 (54.1%) had contraventions relating to time and wage records or pay slip requirements. A further 20 (6.4%) employers were identified as having both underpayment and technical contraventions.

To date, we have recovered \$200,900 for 230 employees.

Background

Between June 2008 and July 2011, 1.6% of all complaints received came from the vehicle repair and maintenance industry. The majority of the complaints (0.8%) came from the general vehicle repairs sector. This sector also had the highest rate of recovery of money on behalf of employees (0.87%). The body, paint and interior repairs sector was the second highest, from which we received 0.72% of complaints.

Table 1: Complaints table

Industry categories	% of total complaints	% of total recoveries
Auto electrical repair	0.10%	0.09%
Body, paint and interior repairs	0.72%	0.72%
Radiator repairs	0.03%	0.02%
Muffler and exhaust system repairs	0.02%	0.02%
General vehicle repairs	0.80%	0.87%
Combined	1.66%	1.71%

We received the majority of complaints from the metropolitan areas of capital cities. However we also received received a high number of complaints from Cairns, MacKay, Gladstone, Sunshine Coast, Tamworth, Albury and Mildura.

Campaign aim and objectives

The aim of the campaign was to target Industry employers and employees covered by the *Vehicle Manufacturing, Repair, Services and Retail Award 2010* (the Award) and promote compliance with the Act, the *Fair Work Regulations 2009* (the Regulations) and the Award.

The campaign objectives were to:

- Work with employer associations, employee representative organisations and other Industry bodies to promote the campaign
- Direct Industry employers and employees to the dedicated resources at www.fairwork.gov.au/vehicle in order to provide them with information about their rights and responsibilities
- Assess a sample number of employers to find out if employees were receiving their correct wages and conditions
- Work with employers to fix any identified contraventions
- Find out how well sole traders and partnerships previously under a state award had moved into the federal system
- Publish a report on the campaign findings

Scope

The Award covers vehicle manufacturing and retail as well as repair and services. However, this campaign only focussed on employers and employees in the repair and maintenance sector. In particular:

- Automotive body, paint and interior repair (body, paint & interior)
- General automotive repair and maintenance (general repair)
- Electrical Services (electrical services)
- Motor Vehicle Clutch & Brake Repair Service (clutch and brake)
- Radiator, Muffler & Exhaust Repair (radiator/muffler/exhaust)

Stakeholder engagement

In September 2011, we wrote to the following stakeholders to tell them about the campaign and invite them to meet with us so we could give them more information.

- Motor Traders Association of New South Wales (MTA NSW).
- Victorian Automobile Chamber of Commerce (VACC) representing Victoria and Tasmania
- Motor Trade Association of South Australia (MTA SA Inc)
- Motor Trades Association of Queensland (MTAQ)
- Motor Trades Association of Western Australia (MTA WA)
- Motor Trades Association ACT Ltd (MTA ACT)
- Motor Trades Association of Northern Territory Inc (MTA (NT) Inc)
- Australian Manufacturing Workers Union (AMWU)

The MTA SA Inc organised a national telephone conference with the other interstate MTA associations and VACC. The purpose of the conference was to inform the MTA and VACC staff about the Campaign, identify any key Industry specific issues and to seek their assistance in promoting the fair work message and dedicated webpage www.fairwork.gov.au/vehicle.

We also contacted additional stakeholders by letter, which resulted in further opportunities to promote our Campaign (see Appendix 1).

Method

Information and awareness phase

We conducted an information and awareness phase of the campaign from November 2011 to January 2012. During this phase, we communicated with as many Industry employers and employees as possible and directed them to our resources www.fairwork.gov.au/vehicles.

Our communication strategy included:

- Sending an email with a link to the dedicated webpage to the 5125 businesses on the Australian Business Register (ABR) database with email addresses.
- Mailing a flyer containing details of the online employer resources to a further 19,097 vehicle repair and maintenance businesses listed on the ABR database
- Hosting a webinar to inform employers about their obligations and FWO's online tools and resources
- Issuing a media release regarding the campaign which was then picked up by nine media publications
- Arranging for an article to be published in the Australian Accident and Repair Network (AARN) publication.

Following this strategy between December 2011 and March 2012, we recorded 4067 visits to www.fairwork.gov.au/vehicle.

The webinar which we hosted for employers on 18 January 2012 was attended by 100 participants. It provided an overview of the different phases of the campaign,

information about the Award and FWO's online tools. Over 20 participants rated the webinar as 'highly interesting'. On 5 February the webinar was hosted on YouTube and by 7 July 2012, 139 people had viewed the webinar recording.

Figure 1: Brochure

ARE YOU MISSING OUT?

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Life can be hectic when you're doing an apprenticeship or traineeship. You've got work and study, and you're probably juggling sport, family and a busy social life too. So finding out about your workplace rights and conditions is probably the last thing on your mind.

But, what if you want to go on a holiday – how much annual leave do you get? What about your tools and work gear – do you get paid an allowance, or do you have to cover them? And what about taking sick days?

Don't miss out because you don't know the answer!

Go to www.fairwork.gov.au/apprenticestrainees to find out about your workplace rights and conditions.

www.fairwork.gov.au/apprenticestrainees
Fair Work Infoline **13 13 94**
Mon-Fri 8.00am-6.00pm local time

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To raise awareness of workplace rights among automotive apprentices and trainees we sent promotional flyers to almost 100 Group Training Organisations to provide to their apprentices.

Audit phase

In January 2012 we identified a sample number of businesses for audit from the ABR database. We wrote to these businesses requesting copies of their employment records for a consecutive two-week period in October/November 2011.

We checked these records to make sure their employees were receiving their correct rates of pay. We also made sure employers were maintaining time and wage records and issuing pay slips.

Where we found employers to be compliant, we sent them a letter about our findings and closed the file.

Where we identified potential contraventions we contacted the employer to explain our initial finding and in some cases to request further records. Once a contravention was determined, we asked the employer to rectify the contravention. This meant that employers with monetary contraventions were required to pay employees any outstanding money.

Results

Statistical findings

In August 2012, we analysed the results of the audits and this showed that we had completed 759 audits and four employers were subject to further investigation.

Table 2 below shows that of the completed audits, we found 445 (59%) employers were compliant and 314 (41%) had contraventions.

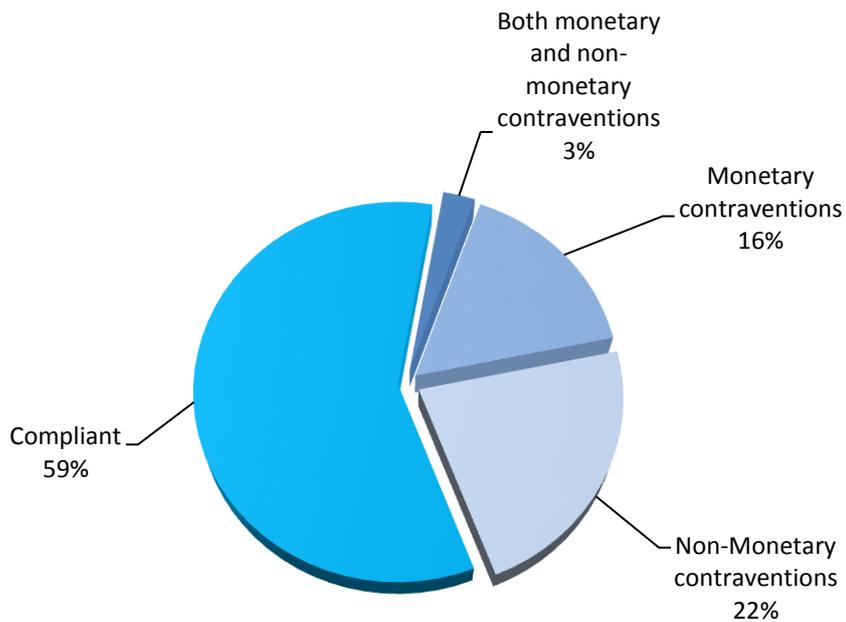
To date we have recovered \$200,900 wages and entitlements for 230 employees.

Table 2: Campaign results August 2012	
Audits finalised	759
<ul style="list-style-type: none"> Employers compliant 	445 (59%)
<ul style="list-style-type: none"> Employers in contravention 	314 (41%)
Ongoing investigations	4
Money recovered	\$200,900
Number of employees receiving payments	230

Contravention types

Chart 1 shows that of the completed audits, 16% of employers had contraventions resulting in underpayments (monetary contraventions) and 22% had contraventions related to time and wage record-keeping or pay slip requirements (non-monetary contraventions). A further 3% of employers were found to have both types of contraventions.

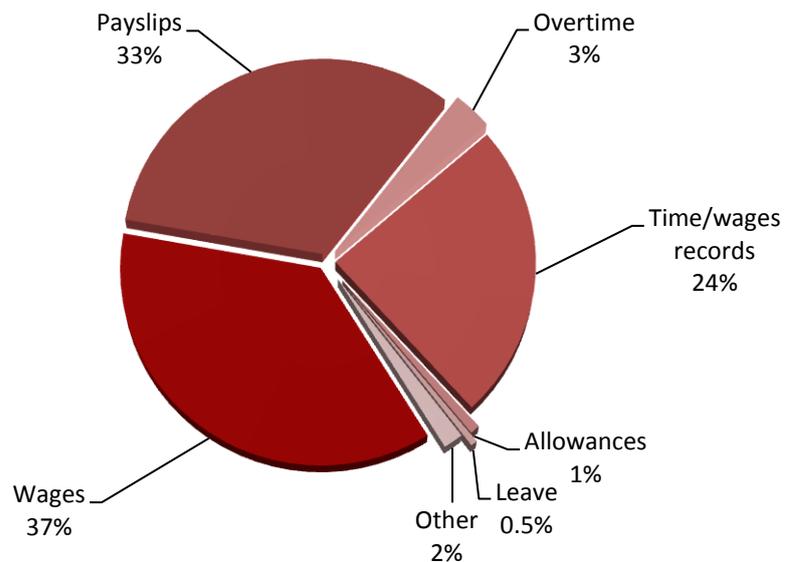
Chart 1: Compliance overview



The 314 non-compliant employers were found to have a total of 353 contraventions.

Chart 2 shows that of the 353 contraventions identified, 37% related to underpayment of wages, 33% to pay slip issues and 24% to time and wage record-keeping requirements.

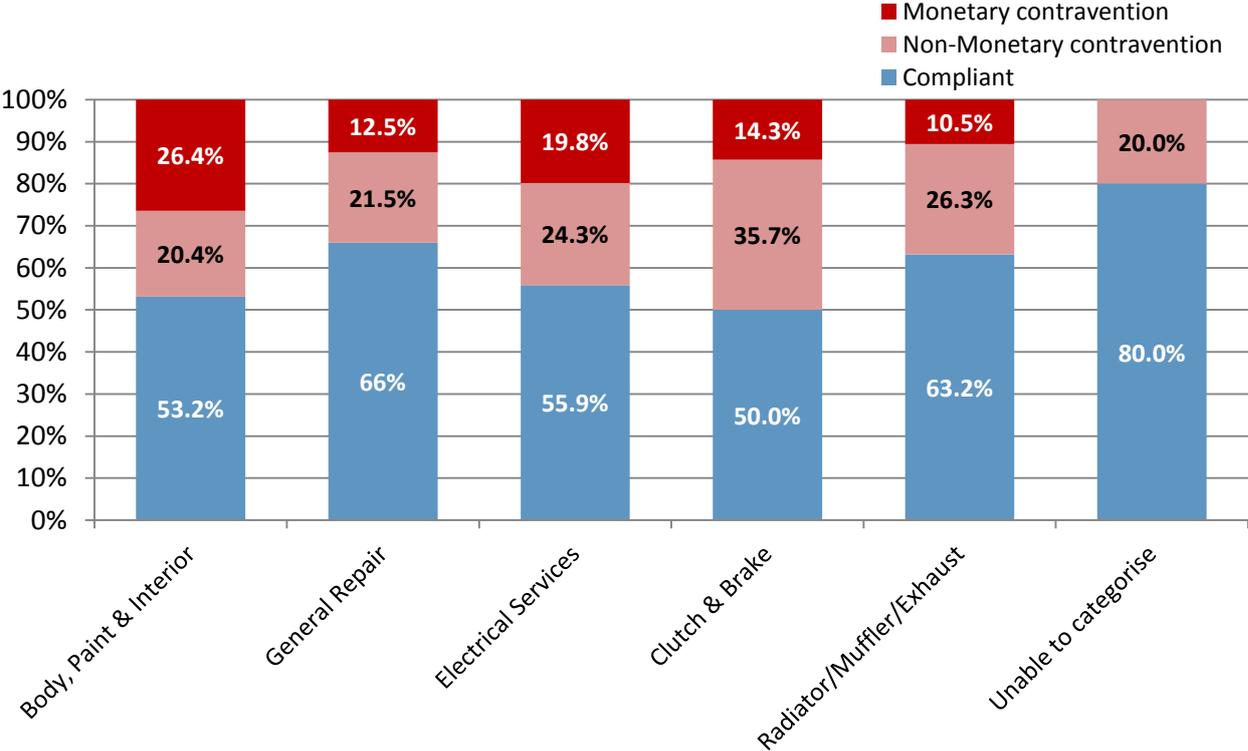
Chart 2: Contraventions types



Findings by industry sector

The findings for each of the Industry sectors are shown in Chart 3 and Table 3 below.

Chart 3: Compliance rates by industry sector



As seen in Chart 3 the *general* repair sector recorded the highest (66%) compliance rate (of the sectors with more than 10 audits).

Table 3: Results by industry sector					
	Audits completed	%age of audits	Contravention rate	Monetary contravention rate*	Ongoing investigations
Body, paint and interior repair	284	37%	47%	26%	1
General repair	279	37%	34%	13%	2
Electrical services	111	15%	44%	20%	
Clutch and brake	56	7%	50%	14%	
Radiator, muffler, exhaust	19	3%	37%	20%	
Unable to categorise	10	1%	20%	0%	1
Total	759	100%	41%	19%	4

*figures have been rounded

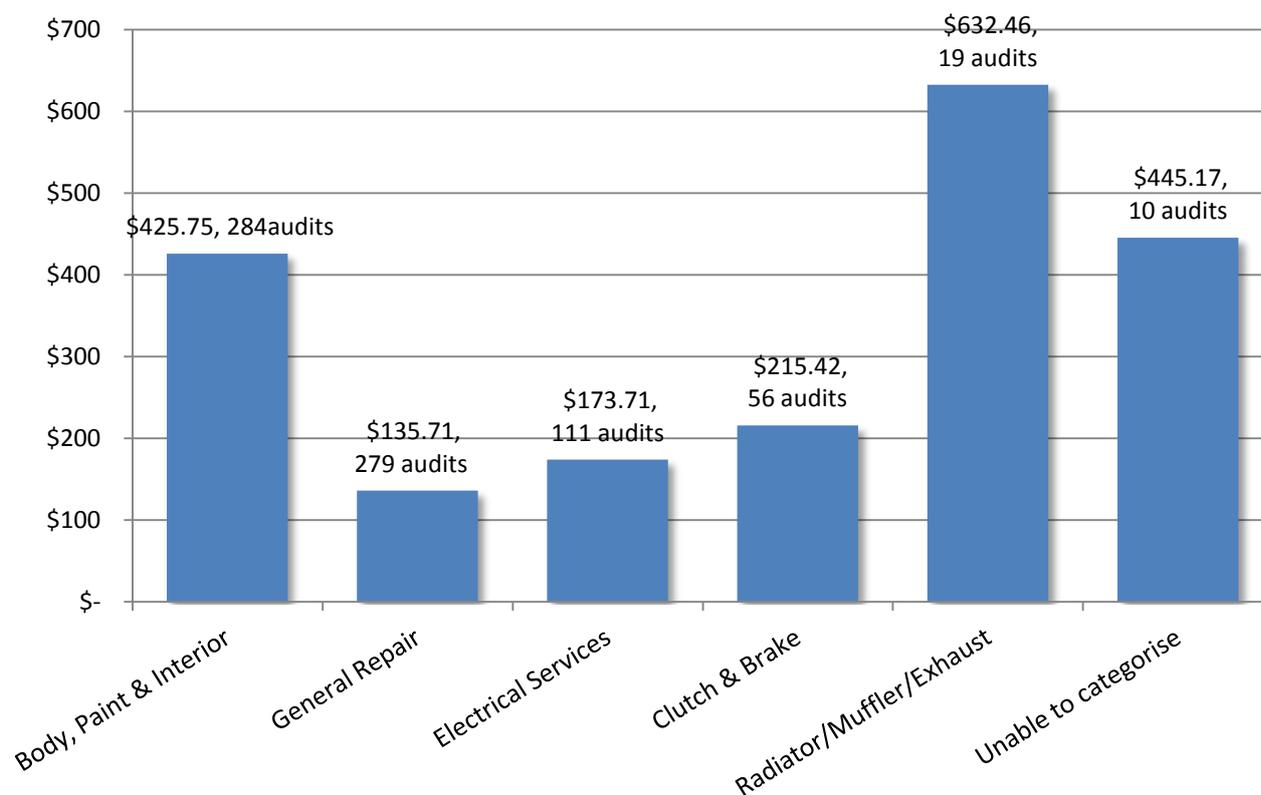
Table 4 shows the amount of money FWO recovered in each Industry sector. The body, paint and interior repair sector had the highest recovery of \$120,914. However, this sector was subject to the greatest number of audits (284) that is, 37% of all audits.

Table 4: Money recovered by sector			
	Money recovered*	Number of employees receiving payment	Proportion of total audits (completed only)
Body, paint and interior repair	\$120,914	133	37%
General repair	\$37,864	47	37%
Electrical services	\$19,281	26	15%
Cutch and brake	\$12,063	9	7%
Radiator, muffler, exhaust	\$6,325	2	3%
Unable to categorise	\$4,452	13	1%
Total	\$200,900	230	100%

*figures have been rounded

The average recovery per Industry sector ranged from \$135.71 in the general repair sector to \$632.46 in the muffler, radiator repair sector.

Chart 4: Average recovery per audit - by industry sector



Findings by state

Table 5 gives an overview of the results by state.

Table 5: Results by state									
	NSW	ACT	VIC	QLD	WA	SA	TAS	NT	TOTAL
Audits completed	92	14	48	465	70	54	8	8	759
• Employers compliant	36 (39%)	7 (50%)	18 (38%)	296 (64%)	40 (57%)	33 (61%)	8 (100%)	7 (87.5%)	445 (59%)
• Employers in contravention	56 (61%)	7 (50%)	30 (63%)	169 (36%)	30 (43%)	21 (39%)	0 (0%)	1 (12.5%)	314 (41%)
Ongoing investigations	1	-	3	-	-	-	-	-	4

Table 5 shows that Tasmania had the highest compliance rate with all the employers audited found to be compliant. This was followed by Northern Territory (88%) and Queensland (64%); Victoria had the highest rate of non-compliance (63%).

Table 6 shows that Victoria recorded the highest monetary contravention rate (60%) and Western Australia recorded the lowest (17%).

Table 6: Employers in contravention by state									
	NSW	ACT	VIC	QLD	WA	SA	TAS	NT	TOTAL
Employers with monetary contraventions	21 (37%)	3 (43%)	18 (60%)	71 (42%)	5 (17%)	6 (29%)	-	-	124
Employers with non-monetary contraventions	29 (52%)	4 (57%)	12 (40%)	90 (53%)	20 (66%)	14 (67%)	-	1 (100%)	170
Employers with both	6 (11%)	-	-	8 (5%)	5 (17%)	1 (4%)	-	-	20
Totals	56	7	30	169	30	21	-	1	314

Table 7 shows that the highest recovery of money was in Queensland (\$117,692). However more audits were undertaken in Queensland than in any other state or territory. We did not recover any money in Tasmania and the Northern Territory.

Table 7: Money recovered by state		
	Money recovered	Number of employees receiving payment
New South Wales	\$37,623	46
Australian Capital Territory	\$3,679	3
Victoria	\$18,509	18
Queensland	\$117,692	142
Western Australia	\$12,921	10
South Australia	\$10,475	11
Tasmania	-	-
Northern Territory	-	-
Total	\$200,900	230

Other findings

The results of this campaign have identified that there are similar trends and issues across Australia.

It was pleasing to find that the state MTAs and the VACC had played an important role in making sure their members were aware of their responsibilities.

We also found non-members to be relatively compliant. For example, Western Australia was found to have one of the lowest contravention rates and less than half the Western Australian employers audited were members of an association. However, we also found that some Western Australian employers were not aware that an award providing entitlements existed.

We identified both monetary and non-monetary contraventions in most states/territories (with the exception of Tasmania and Northern Territory). The monetary contraventions that we identified included the non-payment of allowances, payment of overtime and underpayment of hourly rate. In a few instances we found apprentices, including adult apprentices were underpaid.

Case Study: Payslip compliance*

Joel's vehicle repair business in Queensland was selected for audit. Joel was somewhat surprised to learn he was in contravention of his payslip obligations. Joel utilised a payslip template booklet he had purchased from his local newsagency. He completed the fields of the payslip template and provided the payslip, as required, to his employee within one day of the pay being processed.

The inspector notified Joel that in addition to the fields contained in the template, a payslip needs to also detail the employer's name and any superannuation contributions. Specifically, if an employee is entitled to a superannuation contribution, the payslip must detail the amount of the contribution for that pay period and the name or name and number of the fund the contribution is made into.

The inspector provided Joel with a record-keeping and payslip fact sheet to further highlight his obligations. Having been notified Joel undertook to rectify the contravention and is now utilising the payslip template available at www.fairwork.gov.au to ensure he is compliant.

** This case study is a composition of two scenarios identified during the audit assessments.*

Many Northern Territory employers explained to us that they paid above the minimum rates in order to retain staff. This could explain why we did not recover any money in the Northern Territory.

In general we found that the employers we audited were aware of the Award. However the majority of employers with monetary contraventions either did not completely understand their Award obligations or had missed a pay increase.

This is reflected in the amount of money we have recovered on behalf of employees. The majority of employers with monetary contraventions were found to have underpaid their staff less than \$2500. Only one employer was found to have an underpayment greater than \$10 000.

Case Study: Missing a pay increase

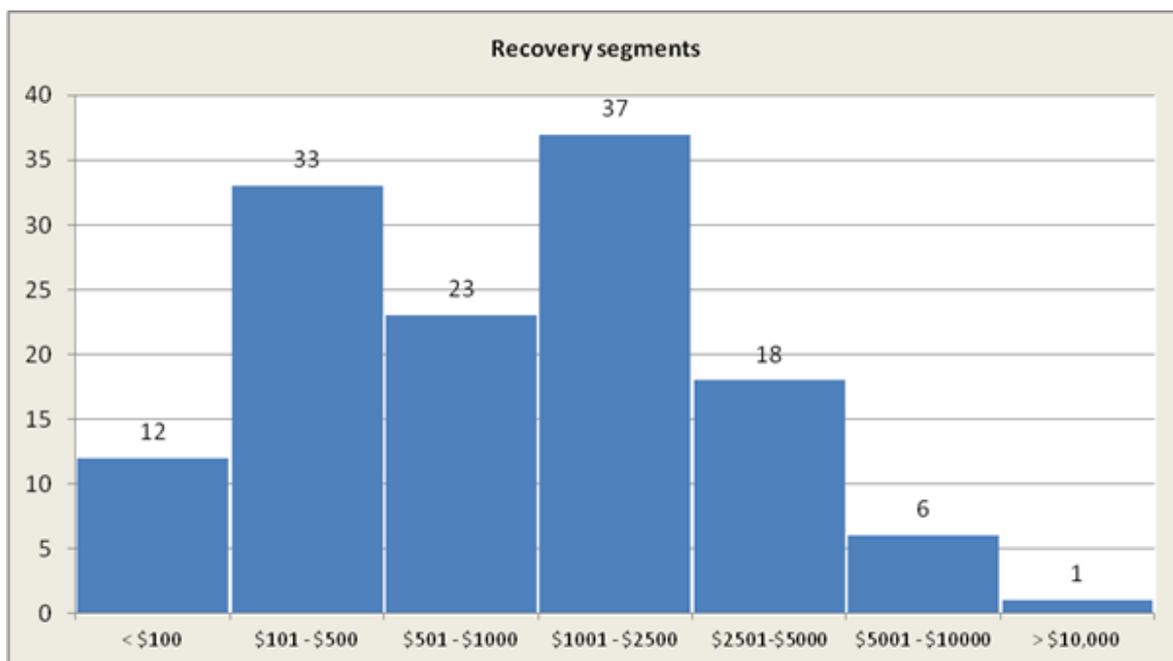
*Amie** and her husband run a small vehicle maintenance business on the NSW central coast. Having been selected for audit, they forwarded their records for assessment. The business was found to be underpaying their one tradesperson his hourly rate of pay and was not paying overtime.*

It was evident in speaking with Amie and her husband that they were not familiar with the requirements under the Award. The underpayments were further compounded by Amie missing the 2010 and 2011 pay increases.

Once she understood her error, Amie paid her employee \$5600 in owed wages.

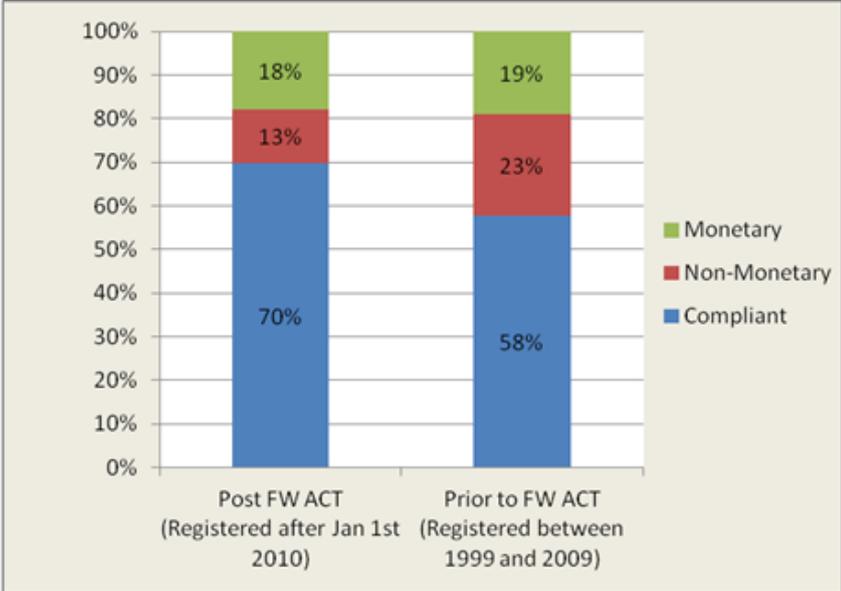
*** Amie is a pseudonym*

Chart 5: Recovery amounts



An interesting finding was that businesses registered before 1 January 2010 were more likely to have contraventions, both monetary and non monetary, than those businesses registered after this date. However, the monetary contravention percentage was similar between the two groups.

Chart 6: Compliance by business registration date



Inspectors also commented that the compliance levels amongst the different employing entities (company, sole trader, partnership) were similar.

We found the Industry workforce to be made up of permanent employees and apprentices. We rarely found employers to employ casual staff. We also found a number of the businesses were family owned and operated, with a number of businesses being transferred from father to son.

Concluding remarks

The campaign was successful in achieving its key objectives. Our communication strategy enabled us to reach thousands of Industry employees and employers and direct them to helpful resources. Further, with the help of stakeholders we were able to promote our compliance message.

This was the first time we had undertaken a national campaign in this Industry. Although we found the overall contravention rates to be fairly high, further review of the findings showed that many of the contraventions were technical in nature and most of the underpayments were minor.

We believe the campaign was timely, as the findings indicate that the Industry was in need of a refresher on their workplace obligations. We recommend that employers in the Industry could greatly improve their compliance by taking the following simple steps;

- reviewing their wages and checking their record-keeping and payslip requirements
- joining an employer association and/ or registering to our free e-newsletter (www.fairwork.gov.au/enewsletter) so they are kept informed of significant changes
- registering to receive important updates via email from <http://www.fairwork.gov.au/resources/email-updates/pages/default.aspx>

We would like to acknowledge and thank the state MTAs and VACC for providing great support and assistance in promoting this campaign.

Appendix A

In addition to the key stakeholders referred to in the body of the report, the following general stakeholders were also contacted during the course of the campaign:

- Australian Accident Repair Network
- Australian Apprenticeship & Traineeships Information Service
- Australian Automobile Association
- Australian Car Wash Association
- Australian Manufacturing Workers Union (AMWU)
- Auto Skills Australia
- Business SA
- GTA Limited - Group Training Australia
- Motor Trades Associations (MTA)
- The Bus Industry Confederation
- Victorian Automobile Chamber of Commerce