



**Fair Work**  
OMBUDSMAN

## Queensland accommodation campaign Report 2012

### 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 and/or regions are a proactive strategy we use to achieve compliance with national workplace laws. They are also effective in recovering employee entitlements, particularly when the campaign targets high-risk areas and industries that employ vulnerable workers.

This report covers the background, methodology and results of the Queensland Accommodation campaign 2012.

For further information and media enquiries please contact Ryan Pedler ([ryan.pedler@fwo.gov.au](mailto:ryan.pedler@fwo.gov.au)) in the Fair Work Ombudsman's Media Unit.

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

## Summary

In March 2012, the Fair Work Ombudsman (FWO) commenced the Queensland accommodation campaign (the campaign). We conducted the campaign to assist businesses in the Queensland accommodation sector understand and comply with their obligations under the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and other industrial instruments.

During the campaign we assessed the records of 197 businesses. Of the 189 completed audits, we found that 75% (141) of businesses were compliant and 25% (48) were in contravention of workplace laws.

We have recovered \$156,503 for 309 employees. Eight audits are ongoing.

## Background

An analysis of the complaints received by FWO in recent years revealed that one of the highest rates of complaints in Queensland was from employees in the accommodation sector. We found that in over 38% of the complaints received, employees were underpaid.

The accommodation sector often has a number of businesses located in the same location competing for custom. Competitors that do not pay the legislated minimum entitlements have an unfair financial advantage over employers doing the right thing.

Payment of minimum entitlements is the most fundamental of employer obligations. We viewed the campaign as an opportunity to work with the Queensland accommodation sector to promote both fairness and compliance.

## Campaign aim & objectives

The aim of the campaign was to assist employers in the Queensland accommodation sector to better understand and comply with the Act, the Regulations and the Award.

The campaign objectives were to:

- educate employers on the correct application of the Award and associated phasing provisions
- increase compliance with correct record keeping provisions
- increase awareness of the FWO and the free educational resources we offer
- assist in creating a more level playing field for employers in the accommodation industry
- ensure employees receive their minimum entitlements

We targeted accommodation establishments as defined in the Award. These include hotels, motels and caravan parks where the main activity is providing accommodation.

## Stakeholder involvement

We engaged with a number of industry stakeholders, including the following:

- Accommodation Association of Australia (AAoA)
- Australian Workers Union
- Queensland Hotels Association
- United Voice

The AAoA expressed an interest in promoting the campaign. As a result the FWO and AAoA worked closely to provide educational resources and information to employers in the sector.

## Methodology

During February 2012, we held a number of joint seminars with AAoA across Queensland. We also presented a webinar where we provided businesses with information about the campaign and their rights and obligations.

We commenced the assessment phase of the campaign in March 2012. We sent letters to a sample number of randomly selected employers requesting copies of their time and wage records for a two-week period. The letter also directed employers to our various educational resources and online tools.

We assessed the records for the following:

- base rates of pay
- overtime rates
- penalty rates
- casual loadings
- record keeping and payslip requirements.

Once we had completed an assessment, we contacted the employer and advised them of the outcome and the action required to correct any contraventions identified.

## Results

### Statistical findings

We compiled the results of the campaign in September 2012. We found that of the 189 audits completed, 75% (141) businesses were compliant and 25% (48) businesses were in contravention of workplace laws.

We had recovered \$156,503 in underpayments for 309 employees. Eight audits are ongoing.

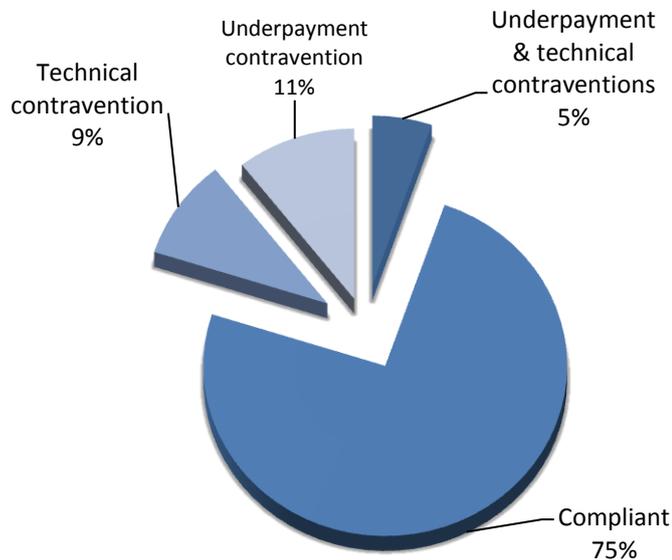
### Table 1: Audit Results

Number of audits completed	189
<ul style="list-style-type: none"> <li>• <i>Employers compliant</i></li> <li>• <i>Employers in contravention</i></li> </ul>	141 (75%) 48 (25%)
Total amount recovered	\$156,503
Number of employees paid	309

### Contraventions identified

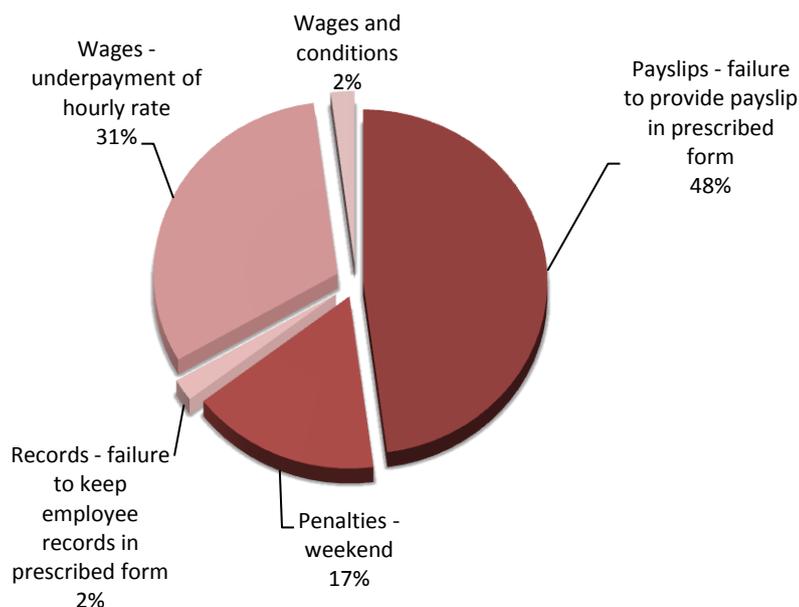
We identified contraventions in 48 businesses. Of these, 42% had underpayment contraventions, while 37% had technical contraventions relating to payslip or record keeping. The remaining 21% of employers in contravention had both underpayment and technical contraventions.

**Chart 1: Audit results**



We identified 64 separate contraventions among the 48 businesses in contravention. Of these 64 contraventions, 48% related to employers having failed to provide payslips in the prescribed form, while 31% related to underpayment of the hourly rate of pay.

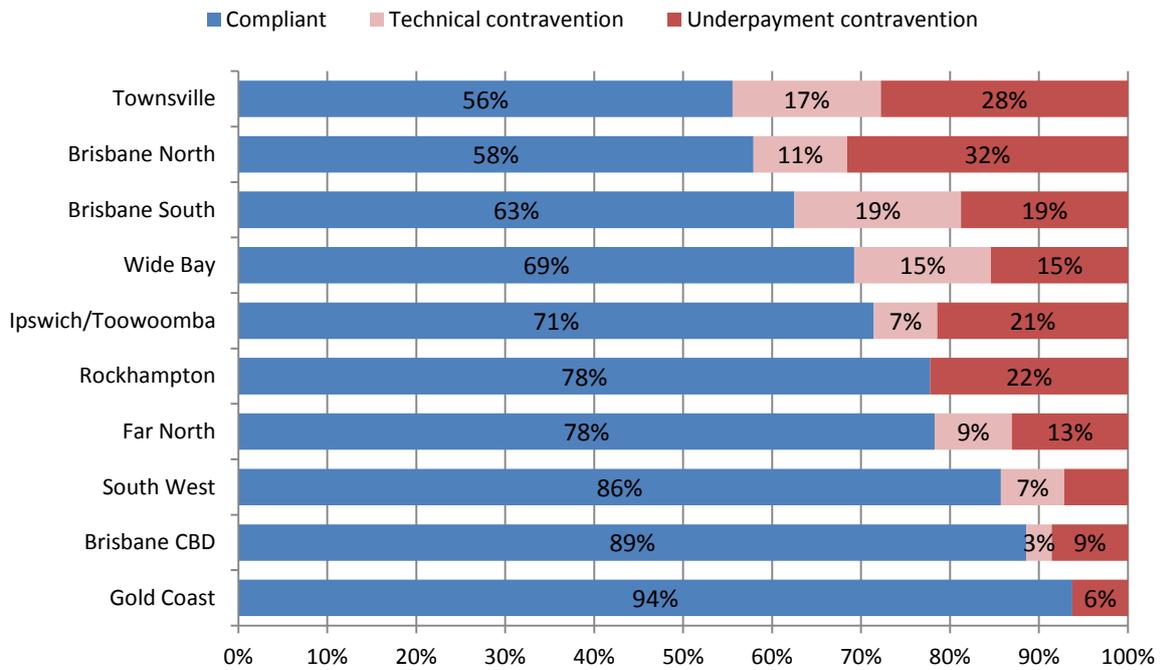
**Chart 2: Individual contraventions identified**



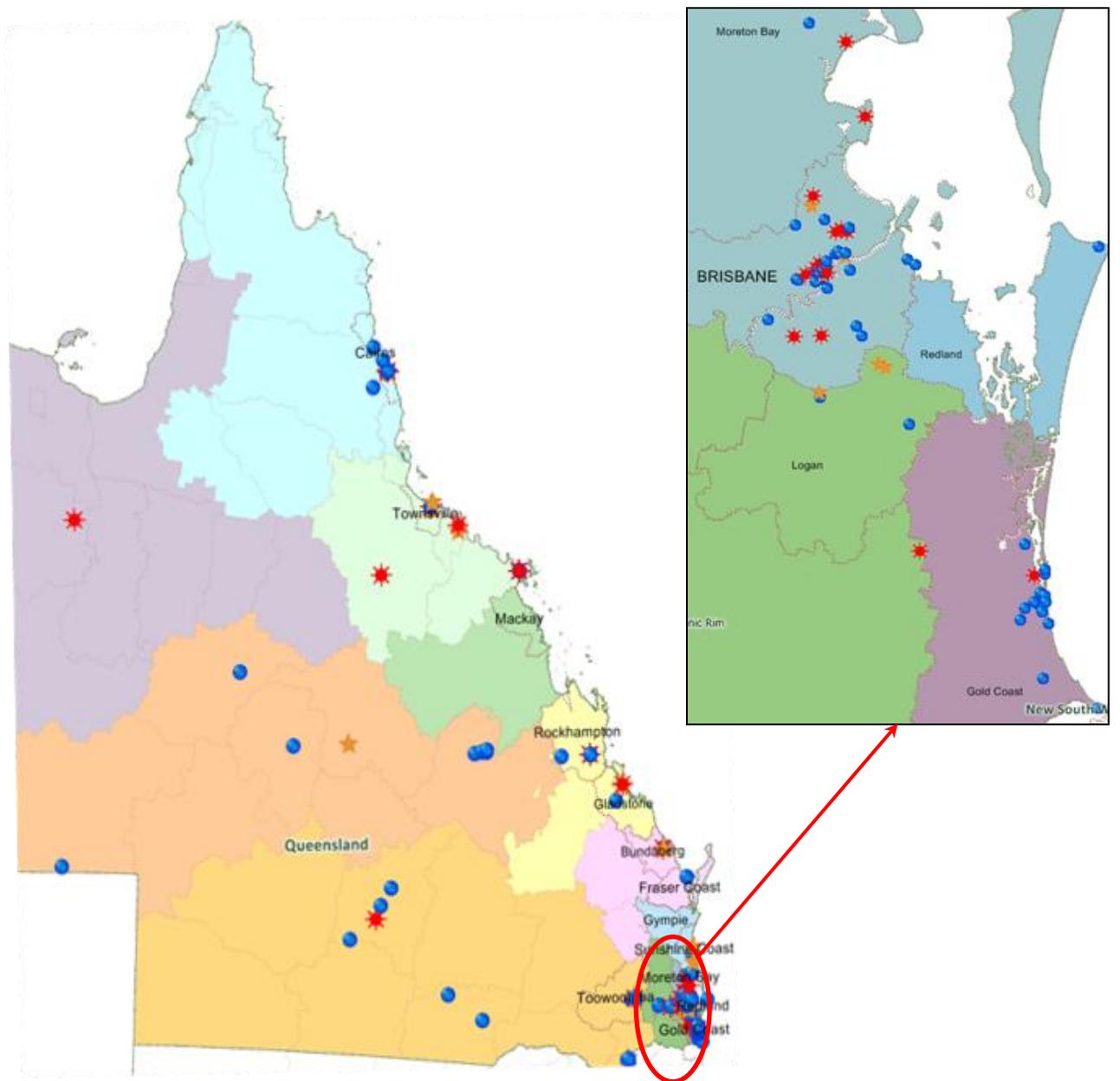
### Other findings

Compliance rates varied considerably between regions. For example, we found a 94% compliance rate in the Gold Coast, 89% in the Brisbane CBD and 86% in South West Queensland. In the Brisbane North and Townsville regions, we found compliance rates of 58% and 56% respectively.

**Chart 3: Compliance by region**



**Figure 1: Audits results by location**



- Brisbane North
- Brisbane South
- Central West
- Far North
- Gold Coast
- Ipswich/Toowoomba
- Mackay
- North West
- Rockhampton
- South West
- Sunshine Coast
- Townsville
- Unincorporated
- Wide Bay

- Compliant (141)
- technical contravention (18)
- underpayment contravention (30)

The amounts we recovered from individual businesses ranged from \$105 to just under \$65,000.

Inspectors reported that the main reasons businesses had underpaid hourly rates were:

- failure to apply scheduled wage increases
- lack of knowledge about minimum rates of pay
- under-classification of employees - either by using the introductory rate longer than allowable or classifying employees at a lower level than their actual duties would warrant under the Award

Contraventions relating to weekend penalty rates were generally for the following reasons:

- a failure to pay any type of weekend penalty rates at all
- paying time and a half for both Saturday and Sunday
- not paying Saturday penalty rates at all (but paying a penalty rate on a Sunday)

In relation to payslip contraventions, we found the most common issues were a failure to include ABN and superannuation fund details on payslips.

### *Case Study*

*When we received the time and wage records for three hotels randomly selected for assessment, we found that the hotels were owned by the same employer. Our inspectors assessed the records and identified contraventions for each hotel. We spoke with the employer about the contraventions which related to both underpayments and record keeping.*

*We had found that the employer had failed to include their ABN or the date of the relevant pay period on payslips. As a result the employer created a new pay slip which was issued to employees from the next pay cycle. The new payslip was compliant with legislative requirements.*

*We also found underpayment contraventions due to the employer failing to apply the wage increase scheduled in the Award from 1 July 2011. The employer voluntarily paid the affected employees their outstanding entitlements and also increased current wage rates to reflect the scheduled increase from 1 July 2011.*

*As a result over \$110,000 was recovered on behalf of more than 180 employees working across the three hotels. The employees who received back pay were engaged in such roles as guest services, restaurant service and front office duties. They were mainly adults employed on a casual basis.*

*As the employer was co-operative and voluntarily rectified all underpayments in a timely manner, we have taken no further action in relation to this matter.*

## **Conclusion**

We note that the majority of businesses assessed were compliant with Australia's workplace laws. This is encouraging given the high rate of complaints we have historically received from the Queensland accommodation sector.

However, we also note that some of the employers in contravention had quite serious contraventions resulting in significant underpayments. Although we were disappointed to find such serious underpayments, we recognise that each of the employers concerned voluntarily paid back all monies owing.

The campaign highlighted the importance of employers remaining up to date with their obligations. We are hopeful that the extensive educational activity of the campaign, especially the promotion of our various online tools and resources, will help employers in this regard.

The FWO has recently commenced the National hospitality campaign, in which we are targeting several sectors within the hospitality industry, including the accommodation sector. We will work closely with the national accommodation sector to promote and assess compliance nationwide.

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