



Australian Government

Fair Work OMBUDSMAN

Victorian Rolling Monthly Campaign 2010-2011 Ballarat - Final Report

Summary

In November 2010, the Fair Work Ombudsman (FWO) conducted audits amongst businesses in the Ballarat region. These audits were part of the Victorian Rolling Monthly Campaign, in which different geographical regions and industries have been visited and audited each month. We selected this particular region as a result of intelligence we received that some employees in the Ballarat region, particularly in the hospitality industry, were not receiving their correct entitlements and that some businesses were not complying with their workplace obligations.

Of the 112 completed audits we found 72 (64%) employers to be compliant and 40 (36%) employers to be in contravention. The majority of contraventions related to underpayment of wages, shift loadings and penalty rates.

We believe that the contraventions mainly arose from employers being unaware of their obligations under Commonwealth workplace laws, rather than a deliberate attempt to avoid them. Of concern was the number of payroll professionals, bookkeepers and accountants who had insufficient knowledge of the workplace obligations of the employers engaging their services.

To date, a total of \$130,662 has been recovered for 147 employees.

Detailed audit program findings can be found below.

Background

Over the past two years the Victorian Rolling Monthly Campaign has been successful in implementing compliance activities in a variety of industries and geographical regions across Victoria. The campaign has provided an opportunity to reach different industries and communities, to educate and assess compliance with workplace laws.

Recently, we received intelligence about alleged non compliant workplace practices in Ballarat. The allegations involved employees missing out on their workplace entitlements. To properly follow up on these allegations, this audit program was designed for and implemented in the Ballarat area.

Campaign aim & objectives

The aim of the Victorian Monthly Rolling Campaign has been to target a geographical area with a concentration of small businesses each month to ensure compliance with the *Fair Work Act (Act)*, *Fair Work Regulations (Regulations)* and an employer's relevant industrial instrument.

The specific objectives of the Ballarat audit program were to:

- educate small business operators and improve compliance with record keeping and pay slip obligations
- assess rates of pay as per the relevant industrial instrument
- provide modern award transition advice to employers
- promote the FWO small business aids/templates
- increase FWO's visible presence in selected areas and industries
- ensure compliance with Commonwealth workplace legislation

Methodology

Prior to the initial mail out to employers advising them of their selection for audit, a media release was issued in which the campaign was outlined and employers were invited to contact us if they wished to make an appointment for a visit by a Fair Work Inspector. Several employers took up this invitation.

During the week before the audits commenced, we presented at a business breakfast hosted by the Eureka Business Enterprise Centre. This presentation covered such topics as record and payslip obligations, modern awards, and transitional arrangements.

We selected businesses for audit by cross matching data from the Australian Business Register and the White Pages, then randomly selecting employers from the resulting list.

We adopted two different audit methodologies for the audit program. Some employers were sent an audit notification letter, which outlined the employment records they were required to send to us for assessment. Other employers were visited by Fair Work Inspectors, without prior warning, and requested to provide their employment records for assessment on site. In some cases, employees and employers were interviewed during these field visits. Where records were not available for assessment Fair Work Inspectors issued employers with a statutory notice formally requesting the documents.

Once the assessment of records was complete we provided each employer with written notification of the outcome of their audit. Where contraventions were identified we worked with employers to voluntarily rectify the contravention.

While advising employers on how to rectify contraventions, and also during the course of separate education visits, we provided employers with information on the many online FWO resources available to assist them.

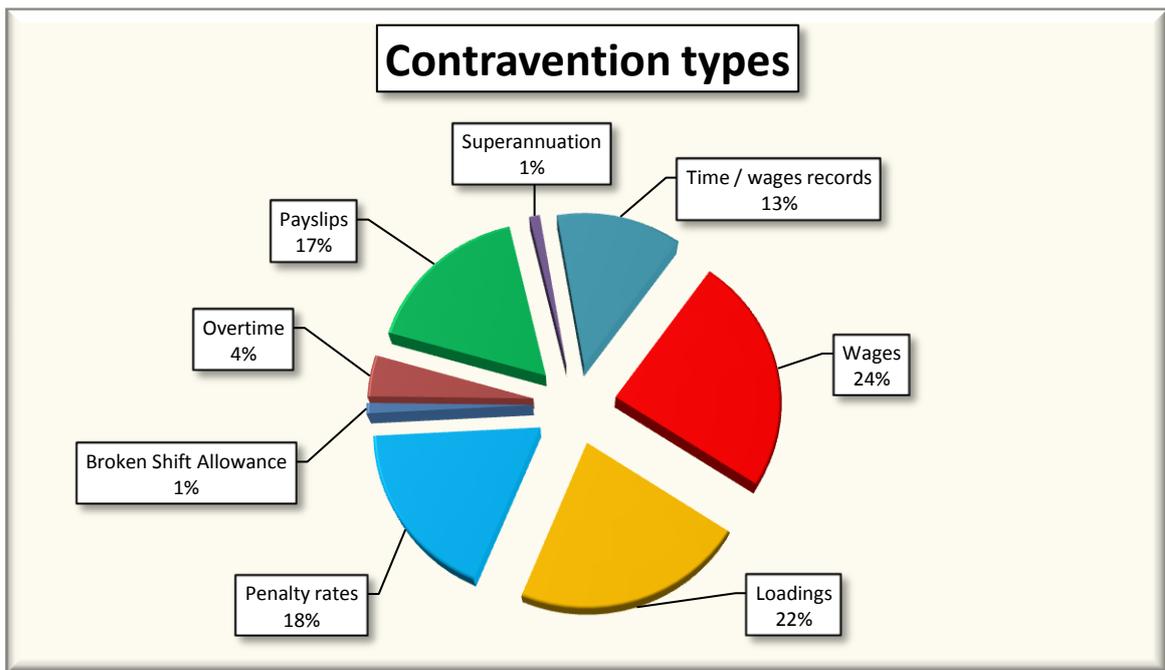
Results

As at 28 Sept 2011, when the results of this audit program were compiled, we had commenced 114 audits, 112 of which have been finalised with 2 audits subject to further investigation.

Of the 112 completed audits we have found 72 employers to be compliant and 40 employers to be in contravention. We have recovered \$130,662 on behalf of 147 employees.

Results of Audits – Ballarat monthly audit program	
Number of audits finalised	112
<ul style="list-style-type: none"> • <i>Employers compliant</i> 	72(64%)
<ul style="list-style-type: none"> • <i>Employers in contravention (voluntary compliance)</i> 	40(36%)
Number of audits ongoing	2
Total amount recovered	\$130,662
Number of employees paid	147

A total of 95 contraventions have been identified from the 40 employers found to have contravention/s. The types of contraventions identified are summarised in the chart below.



Of the 40 employers in contravention, 16 (40%) were identified as underpaying staff, whilst 9 (22.5%) had time/wage record or pay slip contraventions. A further 15 (37.5%) employers were found to have both underpayments and technical contraventions identified.

Other findings

The results of this audit program indicated that in the majority of cases the contraventions did not arise as a result of deliberate non-compliance, but due to a lack of awareness of obligations and entitlements as per the legislation. It was evident that

some employers were not aware of minimum hourly rates nor loadings and penalties as prescribed by the relevant industrial instrument.

Conclusion

The number of contraventions identified and the amount of money recovered reinforces the fact that we need to continue our work with employers to assist them in understanding their obligations.

We consider the campaign was successful. Not only were we able to work with employers to rectify identified contraventions, we also used the opportunity to educate businesses, many of which were unaware of their obligations under Commonwealth workplace laws and applicable industrial instruments.

© Commonwealth of Australia 2011

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the Copyright Act 1968, all other rights are reserved. Requests and inquiries concerning reproduction and rights should be addressed to Commonwealth Copyright Administration, Attorney General's Department, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>