



**Fair Work**  
OMBUDSMAN

WA/SA/NT  
residential building  
industry apprentices  
and trainees campaign  
2013

Report – September 2013

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## Campaign snapshot

More than

140

audits were conducted during the campaign

Total of

55

non-compliant employers

Over

\$67k

was recovered on behalf of 76 employees

Total of

63

of SA businesses audited were in contravention

Total of

29

of NT businesses audited were in contravention

Total of

55

of WA businesses audited were in contravention

## Summary

The Fair Work Ombudsman (FWO) commenced the WA/SA/NT residential building industry apprentices and trainees campaign (the campaign) in February 2013.

In conducting the campaign we aimed to promote and assess compliance with Australia's workplace laws amongst businesses in the residential building industry (the industry) which employ apprentices and trainees.

Before commencing the campaign, we consulted industry stakeholders in Western Australia (WA), South Australia (SA) and the Northern Territory (NT).

During the campaign we audited 142 businesses across WA, SA and NT. Of those, we found 78 (55%) in contravention of the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) or the applicable modern award.

SA recorded the highest rate of non-compliance of the three regions, recording a 63% non-compliance rate.

As a result of the campaign, we have recovered \$67 180 on behalf of 76 employees.

## Purpose of the campaign

The purpose of the campaign was to provide the industry with information about their rights and obligations and to promote compliance with the Act, the Regulations and applicable modern awards.

The specific objectives of the campaign were to:

- assess compliance levels of employers in the industry engaging apprentices against the following modern awards:
  - Building and Construction General On-site Award 2010
  - Joinery and Building Trades Award 2010
  - Plumbing and Fire Sprinklers Award 2010
  - Electrical, Electronic and Communications Contracting Award 2010
- promote the tools and resources we have available to assist employers
- engage with employers and provide them with information about their obligations.

## Our industry partners

In November 2012, we notified the following stakeholders of the campaign:

- Skills SA (Department of Further Education, Employment, Science and Technology – Traineeship and Apprenticeship Services)
- WA Department of Training and Workforce Development (Apprenticeship and Traineeship Policy)
- NT Department of Employment, Education and Training (Apprenticeships and Traineeship)
- Master Builders Association
- Housing Industry Association
- Electrical Trades Union
- CFMEU
- Plumbing Trades Employee Union
- TAFE SA
- Charles Darwin University
- Chamber of Commerce and Industry (WA)
- Chamber of Commerce and Industry (NT)
- Business SA

We invited stakeholders to provide feedback on the campaign and to assist in promoting it amongst their networks.

## **Why did we conduct the campaign?**

An analysis of complaints received by FWO from the industry in WA, SA and NT showed both the number of complaints received and the percentage of complaints resulting in contraventions as high.

Apprentices and trainees are often young workers in their first significant job, entering into an apprenticeship or traineeship as a junior employee, with limited awareness of their rights. Given the prevalence of apprentices and trainees in the industry, we decided to focus the campaign on those businesses which engage apprentices and trainees.

In addition, with the modern award transitional provisions affecting the industry, we saw the campaign as an opportunity to inform employers about changes to entitlements that they may otherwise have been unaware of.

## **What did we do?**

### **Our communication strategy**

We wrote to employers in the industry in WA, SA and NT to inform them about the campaign. Our letter provided details about the campaign and directed employers to free resources, information and tools on our dedicated industry web page at: [www.fairwork.gov.au/residentialbuilding](http://www.fairwork.gov.au/residentialbuilding)

### **Our assessment strategy**

In March 2013 we selected businesses for assessment from those in the national workplace system that had apprenticeships or traineeships registered as of 1 December 2012.

We wrote to the selected businesses and asked them to provide employee records for assessment.

We assessed these records against the relevant modern award, the Act and the Regulations.

Where we found an employer to be compliant we notified them in writing of the outcome.

Where we identified potential contraventions we conducted further investigation. If we confirmed the contraventions, we explained the contraventions to the employer and what steps were required to rectify. We also asked them to rectify the contraventions and provide evidence of having done so.

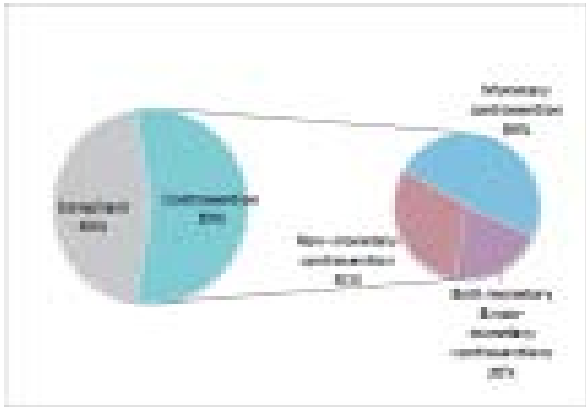
## What did we find?

By the end of July 2013 we had completed 142 audits and found:

- employers compliant - 64 (45%)
- employers in contravention - 78 (55%)

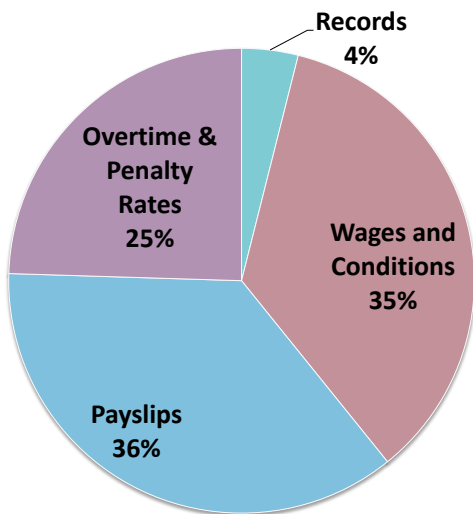
We had recovered \$67 180.32 on behalf of 76 employees.

### Audit results:



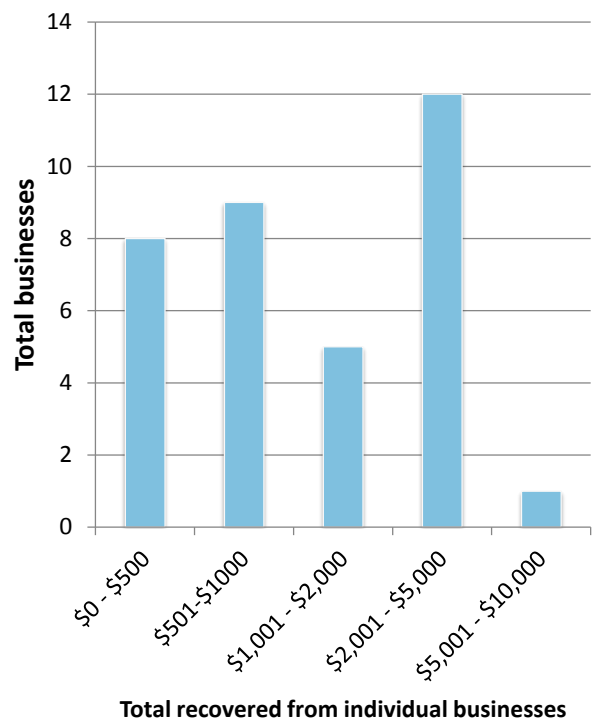
We found that the majority of contraventions identified were for either failing to pay employees correctly or for issuing incomplete pay slips.

### Contravention types:



The underpayments we identified ranged between approximately \$50 and \$9 200 per business.

### Amounts recovered:



### Other findings

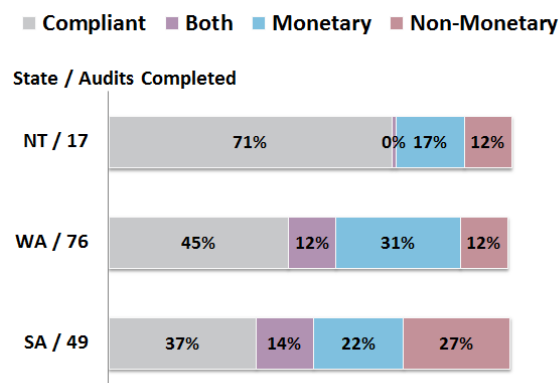
Most pay slip contraventions related to the failures to include the name of the employee's superannuation fund, while a small number of businesses had not issued any pay slips to their employees.

We found examples of employers paying flat rates of pay above the ordinary rates of the applicable award, but below overtime rates. This often meant there was no financial disadvantage to the employee.

## Results by region

NT had the highest compliance rate (71%), followed by WA (45%). However, WA had the greatest percentage of monetary contraventions (31%).

### Results by region:



Bar Segments are presented in the same order as the chart legend

### South Australia

In SA, we completed 49 audits and found:

- 18 (37%) employers were compliant
- 31 (63%) employers had contraventions.

We recovered \$25 413 for 27 employees. One audit resulted in a fourth year apprentice receiving outstanding entitlements of \$4,856.70.

Of the businesses in contravention we found the majority had not included the superannuation fund name on pay slips issued to employees. All of these employers were informed about what is required to be shown on pay slips and were provided with our pay slip and record keeping fact sheet.

Frankie\* operates an electrical business in South Australia and was selected for audit. We assessed Frankie's employment records and identified that his pay slips did not show the employer's ABN, the name of the employee's superannuation fund or the

We advised Frankie of these contraventions and directed him to the sample pay slip templates available at: <http://www.fairwork.gov.au/resources/templates/pages/pay-slips-and-record-keeping.aspx>

Frankie has since been using our pay slip template to ensure compliance with the Act and the Regulations.

\*pseudonym

### Western Australia

In WA, we completed 76 audits and found:

- 34 (45%) employers were compliant
- 42 (55%) employers had contraventions.

In WA we recovered \$41 766 for 49 employees. As with SA, we found that a common contravention identified for WA businesses related to pay slips not showing the employee's superannuation fund details.

### Case study

### Case study

Our initial assessment of Handy Hands Pty Ltd\* identified that a third year apprentice had been slightly underpaid and that the pay slips were not compliant.

We contacted Jed\* the owner of Handy Hands, and advised him of our audit findings. In talking with Jed we identified that the underpayment related to incorrectly applying the tool allowance.

We explained the modern award entitlements to Jed and provided him with guidance on the use of our tools and resources. This included demonstrating how to use our Pay Check Plus calculation tool:

<http://www.fairwork.gov.au/pay/paycheck-plus/pages/default.aspx>

As a result of our activity Jed has rectified the contraventions, and back-paid \$600 to the apprentice.

Jed was also confident about being compliant in the future, having become familiar with both his obligations and our online tools.

\*pseudonyms

### Northern Territory

In NT, we completed 17 audits and found:

- 12 (71%) employers were compliant
- 5 (29%) employers had contraventions.

Although we recovered no money in NT, we did identify monetary contraventions for three employers. However, each of these were cases where although the employers were underpaying overtime rates, the affected employees suffered no financial disadvantage as they were being paid an hourly flat rate which exceeded that of the award rate. Neither of these businesses had IFAs in place.

### Concluding remarks

We undertook this campaign as FWO had received above-average complaints and contraventions from the industry. We focused on apprentices and trainees because they are recognised as a vulnerable employee group.

The results demonstrate the two most significant compliance issue facing this industry are pay slip requirements and the underpayment of overtime rates.

There were only relatively minor monetary recoveries in this campaign. We believe this is an indication of the high level of competition in the industry requiring employers to pay above award wages.

We provided personalised information and assistance to many employers who were unaware of their obligations or were seeking guidance in understanding the transitional arrangements.



Although more than half of the businesses we audited had contraventions most took immediate action to resolve their non-compliance.

We will consider a follow up audits program in the industry in the future to ensure long-term compliance.

## **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 vision is fair Australian workplaces, and our mission is to work with Australians to educate, promote fairness and ensure justice in the workplace.

Our education and compliance campaigns target specific industries to assist them achieve compliance with national workplace laws. Our focus is usually industries that need assistance with compliance and employ vulnerable workers.

We like to work with relevant industry associations and unions to deliver our campaigns. We rely upon their 'real world' knowledge and communication channels to design and deliver our education activities and products.

This report covers the background, method and findings of the WA/SA/NT residential building industry apprentices and trainees campaign 2013.

For further information and media enquiries please contact: [media@fwo.gov.au](mailto:media@fwo.gov.au)

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

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