

‘Is It Workplace Right?’ Tasmanian Campaign

Final report – June 2013

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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 Fair Work 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
- monitoring compliance with, inquiring into, investigating any act or practice that may be contrary to 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 are 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, method and results of the Tasmanian campaign 'Is It Workplace Right?'

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Summary

In August 2011 the Tasmanian office of the Fair Work Ombudsman (FWO) commenced the campaign “Is it workplace right?”

The aim was to assist employers who were recruiting new employees and to promote and assess compliance with the *Fair Work Act 2009*, the *Fair Work Regulations 2009* and other industrial instruments.

We started the campaign by providing educational resources to employers who were advertising for new staff. Later in the campaign, we followed up these employers and assessed their records, to ensure the new employees were receiving their entitlements and that their record keeping practices were in order.

During the campaign, we assessed the records of 64 employers. We identified nine employers with contraventions. To date, we have recovered a total of \$10,027 for six employees – all employed by the same business.

Background

In dealing with complaints from newly employed young workers Fair Work Inspectors in Tasmania recognised that issues often arise from employers being unaware of their obligations to newly recruited staff.

We noticed common issues in relation to employment status, award determination, wage rates and other legislative requirements.

When hiring new staff, it is important for employers to be up to date with their employment responsibilities to prevent potential issues arising. Clearly defining the duties of new positions and recruitment practices as well as the importance of record keeping are vital obligations for employers to understand and implement.

Misunderstandings by both employers and employees regarding issues associated with employment status, entitlements and hours of work are common in complaints received by FWO.

Campaign aim, scope and objectives

The aim of the campaign ‘Is it workplace right?’ (the campaign) was to promote and assess compliance with the requirements of the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and applicable awards with employers recruiting new employees.

The specific objectives of the campaign were to:

- provide employers with information about the many resources provided by FWO, including our online tools
- ensure employers are issuing the Fair Work Information Statement to employees
- assess compliance with correct wage rates
- assess compliance with correct time and wage record-keeping and pay slip practices

- provide a public report on the findings of the campaign.

Stakeholder engagement

Before we commenced the audits, we wrote to the following stakeholders and provided them with information about the campaign.

- Tasmanian Chamber of Commerce and Industry
- Unions Tasmania
- United Voice
- CFMEU
- Workplace Standards Tasmania
- Australian Services Union
- Tasmanian Small Business Council
- The Mercury Newspaper
- Local political stakeholders

Method

We commenced the educational phase of the campaign by contacting 96 employers. These employers had advertised for new staff in *The Mercury* newspaper on Saturdays over a four-week period. We randomly selected 24 employers each week, focussing on those who provided email contact details in their advertisement.

We emailed these 96 employers and provided them with information and links to the FWO website promoting our online tools and resources available to assist them in the recruitment process.

One month later, we contacted the 96 employers again and asked them to:

- provide time and wage information in relation to their new employee
- complete an employer feedback form to assess the quality of our online tools and resources.

We found that only 64 of the 96 employers had employed new employees as a result of their advertisement. We reviewed the 64 employers' employee records and assessed the following:

- pay slips and time records
- base hourly rates, loadings and penalties
- overtime entitlements
- minimum hours of engagement
- provision of Fair Work Information Statement

Results

We compiled the results of the campaign in March 2013. Of the 64 audits completed, we found that 55 (86%) businesses were compliant and 9 (14%) were in contravention of Australian workplace laws. We recovered \$10,027 in underpayments for six employees.

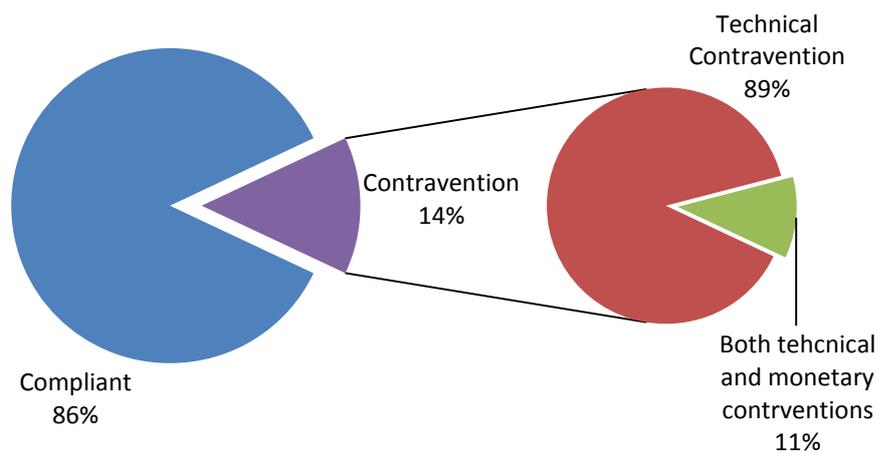
Table 1: Audit results

Number of audits completed	64
• Employers compliant	55 (86%)
• Employers in contravention	9 (14%)
Total amount recovered	\$10,027
Number of employees paid	6

Contraventions identified

Of the nine businesses found to be in contravention, eight (89%) had technical contraventions relating to time and wages record keeping, and one (11%) had both a technical contravention relating to record keeping as well as a contravention relating to underpayment of hourly rates (see Chart 1).

Chart 1: Audit results and contravention outcomes



Other findings

We had initially contacted 96 employers representing various industry sectors who had advertised for staff of differing skill levels in the newspaper. However, we found approximately one third of these employers had not recruited staff when we contacted them to request their records.

During the second phase of the campaign, we sent a questionnaire to the 96 original employers. The questionnaire asked whether they had visited the FWO website and accessed the online tools and resources.

Forty-five employers returned the questionnaire, with the following results:

- Thirty employers had visited the FWO website
- The information accessed was award information, templates and the Fair Work Information Statement
- All 30 employers who visited the web page stated they found it very helpful and easy to navigate
- Fifty four new staff were recruited by the 45 employers who returned the questionnaire
- Of the 54 newly recruited staff, 33 were employed on a full time basis, eight were employers on a part time basis and 13 were employed on a casual basis
- All employers advised they issued pay slips to their employees.

Case study – Education for new business

A newly established real estate company employed Julie as a Property Management Assistant. Julie* was 28 years of age. Her duties were organising the maintenance of rental properties managed by the company and assisting the Property Manager in their day-to-day duties.

When the inspector checked Julie's base rate of pay they found that James*, the employer was underpaying her according to the Modern Award. Because of this finding, James reviewed all of his employees' wages that he had paid since the start of the business in late 2010. He identified underpayments of \$10,026.83, which he immediately back paid to the employees. These contraventions were due to James failing to research his obligations when he started his business.

The inspector also found that James was issuing pay slips on a monthly basis. The inspector explained to James that it was a requirement to issue pay slips to employees within one day of paying wages. James voluntarily agreed to rectify this and provided to FWO evidence he was issuing pay slips a weekly basis.

The inspector provided James with time and wage record templates and introduces him to our PayCheck Plus tool that provides about wage rates for employees.

James was extremely grateful for the assistance of the Fair Work Inspector and was willing to rectify all contraventions.

** not the actual names*

Concluding remarks

This campaign gave us the opportunity to provide employers with information about workplace practices to ensure that their new employees are receiving their correct entitlements.

We are pleased that the overall rate of compliance was good with only one employer identified as underpaying staff.

During this campaign, we widely publicised our educational resources on the FWO website and we were encouraged that a significant number of Tasmanian employers made their first visit to our online tools and resources.

Considering the findings in this report, the FWO will consider this as an area for follow-up in the future to determine ongoing compliance levels.

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