



Fair Work OMBUDSMAN

NT – Mitchell Street and Wharf Precinct Audit Program

Final Report December 2010

Summary

In June 2010 the Fair Work Ombudsman (FWO) conducted the Mitchell Street and Wharf Precinct Audit Program. Sixteen hospitality businesses were audited to assess their compliance with record keeping obligations and employee wages entitlements. During the campaign employers were also provided with educative materials concerning Commonwealth workplace laws.

Of the 16 businesses audited, 13 (81%) were found to be compliant and 3 (19%) were in contravention. One of the businesses did not satisfy their record keeping obligations, whereas the other two businesses were identified as having monetary contraventions. The monetary contraventions resulted in the recovery of \$39,037 for 258 employees.

Background

There are many hospitality businesses operating within Mitchell Street and the Wharf Precinct. During the peak tourist season between May and October these businesses often engage casual employees (in particular backpackers, foreign junior workers) to manage the increased demand.

The transient nature of this workforce and concerns raised by stakeholders regarding the exploitation of vulnerable employees resulted in the development and implementation of this campaign.

Campaign aim and objectives

The aim of the campaign was to assess compliance with the *Fair Work Act 2009* amongst hospitality businesses operating within Mitchell Street and the Wharf Precinct.

The campaign also aimed to educate employers about their obligations under Commonwealth workplace laws by providing fact sheets and promoting the tools and best practice guides available on our website.

Stakeholder involvement

Prior to the campaign, we met with the NT Chief Ministers Office, the NT Chamber of Commerce and the NT office of the Australian Hotels Association to discuss the purpose and process of the Campaign.

Methodology

Having randomly selected employers for audit, we wrote to the targeted businesses advising them of their audit selection. The letter detailed the audit date, audit period and requested that the employer make available a copy of pay slips, time records and the industrial instrument for the audit at the time of the visit.

During the visit, we assessed the pay rates against the relevant award/agreement(s) and pay slips against the *Fair Work Regulations 2009*. We also provided an information pack containing fact sheets on minimum entitlements, record keeping and modern awards and discussed any other concerns that employers had with the recent changes to Commonwealth workplace laws.

Where it was identified employers had contravened pay slip regulations, a compliance commitment form was issued to the employer. In signing the compliance commitment form, employers undertook to rectify the contravention and ensure they comply in the future. Where evidence of an underpayment was identified we undertook further investigation of the contraventions.

Results

The campaign results are as follows:

Outcome of Audits	
Employers targeted	16
Audits finalised	16
<i>Employers compliant</i>	13 (81%)
<i>Employers in contravention</i>	3 (19%)
▪ <i>Employers non compliant with record keeping obligations</i>	1
▪ <i>Employers non compliant with monetary obligations</i>	2
Money Recovered	\$39,037
Employees Paid	258

The monetary contraventions included underpayments for the following:

- Minimum hourly rate
- Penalty rates
- Shift loadings
- Allowances

The two businesses with monetary contraventions are owned by the same entity. The underpayments occurred as a result of the employer failing to apply the award wage increase in October 2008. All underpayments were voluntarily rectified by the entity.

This campaign identified a high level of compliance amongst targeted businesses. From our audits and discussions with employers it appears most have a reasonable understanding of their obligations under Commonwealth workplace laws, including paying correct award entitlements.

Conclusion

The campaign was initiated to address allegations of exploited vulnerable hospitality workers in Mitchell Street and the Wharf Precinct. It received positive support from stakeholders, including the NT Chief Ministers Office.

The results of the campaign indicate a high level of compliance amongst the targeted hospitality businesses in Mitchell Street and the Wharf Precinct. However, we were able to identify monetary contraventions resulting in \$39,037 being recovered for 258 employees.

This campaign has been extended to hospitality businesses within the Alice Springs and Katherine regions, with audits taking place during December 2010 and January 2011.

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