



Fair Work
OMBUDSMAN

TAS Young hospitality & visa workers campaign 2011/2012

Final report – June 2014



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Campaign snapshot

Total of

19

businesses were assessed

We found

68%

of employers were paying their employees correctly.

Over

\$39k

was recovered on behalf of 59 employees who were underpaid

TAS Young hospitality & visa workers campaign 2011/2012

Summary

The Fair Work Ombudsman's TAS Young hospitality and visa workers campaign (the campaign) aimed to both promote and assess compliance amongst hospitality establishments that employ young workers, students or visa workers.

Fair Work Inspectors assessed compliance with Australia's workplace laws among 19 businesses in Launceston and Hobart. We also spoke to employers about their obligations and how our online tools and resources can help make compliance easier.

We assessed the time and wage records to ensure that pay slip and record-keeping practices were correct and that employees were receiving correct pay rates.

Our assessments showed that:

- 13 (68%) businesses were paying their employees correctly
- 15 (79%) businesses were compliant with record-keeping and pay slip requirements.

We also recovered a total \$39 829 from five businesses who had collectively underpaid 59 employees.

Purpose of the campaign

The specific objectives of the campaign were to:

- promote awareness of, and compliance with, Australia's workplace laws, specifically in relation to record-keeping, pay slips and pay rates
- work with employers to rectify any errors identified

- provide employers with information and resources to help make compliance easier for them

Our industry partners

We wrote to the following stakeholders to inform them of the campaign:

- Members of Parliament of both the State and Commonwealth
- Tasmanian Small Business Council
- Tasmanian Hotels Association
- Workplace Standards Tasmania
- Unions Tasmania
- Tasmanian Chamber of Commerce & Industry

Why did we conduct the campaign?

In late 2011 local Fair Work Inspectors received intelligence about some hospitality establishments in Hobart and Launceston underpaying staff. The businesses concerned were employing young workers, students or visa workers.

This message was further reinforced when we conducted presentations about workplace rights and obligations to international students in Tasmania. Several attendees suggested that some hospitality establishments they had worked for were unfamiliar with their workplace obligations.

We decided that 'face to face' visits to a sample of such businesses would enable FWO to engage directly with employers, to help them both understand and comply with their obligations.

What did we do?

Fair Work Inspectors visited 19 businesses in Hobart and Launceston which employed either young workers, visa workers or students.

We assessed the businesses' time and wage records to determine compliance with the requirements of the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and the applicable award.

Once the assessments were completed we discussed our findings with the employer:

- Where we identified pay slip errors we required the employer to complete a written undertaking to issue correct payslips in the future.
- Where employees were found to have been underpaid, we worked with the employer to rectify the underpayments. Once all underpayments were calculated, we required the employer to provide proof of having made back payments to all affected staff.

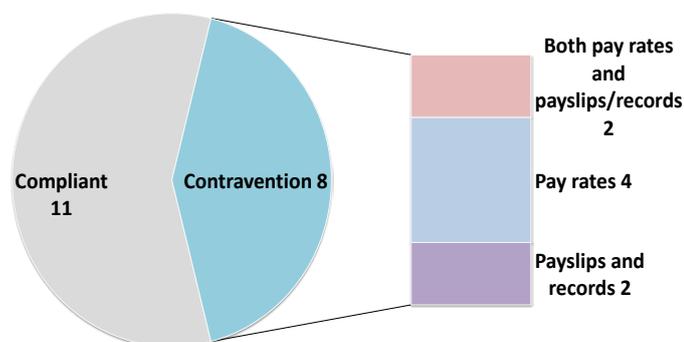
In addition to conducting assessments of time and wage records, Fair Work Inspectors provided employers with advice and resources to help them more easily understand and comply with their obligations.

What did we find?

Of the 19 businesses we assessed we found:

- 11 (58%) employers to be compliant with all requirement
- 8 (42%) employers had at least one error, of which:
 - 2 (10%) had errors relating to pay slips or record keeping
 - 4 (22%) were paying incorrect rates of pay
 - 2 (10%) concerned both wages and pay slip or record-keeping error

Chart 1: Campaign results

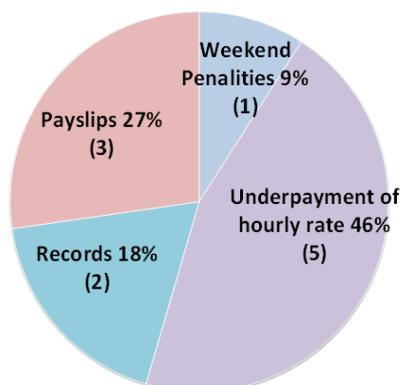


This means that of the 19 businesses we visited:

- 13 (68%) were paying their employees correctly
- 15 (79%) were compliant with record-keeping and pay slip requirements.

The eight businesses we identified as having made errors, had a collective total of 11 individual contraventions, as outlined in the following chart.

Chart 2: Individual contraventions



We recovered a collective total of \$39 829 from five employers. This was the amount owed to 59 employees who were entitled to receive back pay due to having been financially disadvantaged by pay rates errors.

Other findings

Although the vast majority of businesses had issued pay slips correctly, Fair Work Inspectors did identify three businesses with pay slip errors.

One of the three failed to include sufficient details in the pay slips they had issued to staff, while the other two had failed to issue any pay slips at all. The latter two employers explained that they were unaware of the requirement to issue pay slips to their employees.

We provided the employers with advice and information about correct pay slip practices, and ensured they committed to issuing compliant pay slips.

Case study – Issuing pay slips

We visited a business in Hobart owned by George*. When we attempted to review his time and wage records, he explained that he had never issued pay slips to his employees. In addition, George had never heard of the Act, the Regulations or any awards.

He had been running his business for several years, without any complaints from employees, and on that basis he assumed that he was doing the right thing.

We explained to George that he was required to issue pay slips to all employees. We informed him of the details required to be included on pay slips and we further explained the reasons as to why pay slips are important for both employers and employees.

To further assist George, we provided him with best practice pay slip templates. He also

signed a written commitment to issue compliant pay slips in future.

In addition to George's failure to issue pay slips, we identified that some employees were underpaid.

We worked with George to ensure that all back payments were calculated correctly and that affected employees received their correct minimum entitlements. We provided George with a copy of the applicable award and we explained the relevant clauses and obligations to him. We also spent time with George showing him various tools and resources available on our website www.fairwork.gov.au

George was very appreciative of the time we spent helping him to understand what he was required to do. Although he was required to pay back pay to some staff, he remarked that he was nevertheless happy to now know what he is required to do in the future.

*a pseudonym

Fair Work Inspectors were pleased to note that all employers were co-operative throughout the visits and the review process.

Several employers expressed gratitude for the time we spent with them to help them understand their obligations and how they can utilise our online tools and resources to ensure compliance into the future.

Case study – Use our online tools to check pay rates

Trevor*, a Launceston business owner, had conducted his own review of his records prior to our visit to his business.

Upon our arrival and request for time and wage records, he informed us that he had conducted his own review and realised that he had failed to include the most recent pay increase.

We confirmed that this was the case and we referred Trevor to the [PayCheck Plus](#) function on our website.

Trevor was quickly able to calculate the required pay rates, with the annual pay increase included. Trevor paid back all money owing to affected employees and provided us with proof of payment.

Trevor was disappointed that he had made such an error, but he explained that he was relieved that we assisted him to resolve the issue, rather than taking any formal enforcement action against him.

*a pseudonym

Concluding remarks

By conducting the campaign we have ensured that the employers we visited have a greater understanding of both their obligations and the role of the FWO in assisting them to meet their obligations.

Through our interactions with employers and employees it was apparent that the majority of the errors identified were due to a lack of awareness and knowledge of Australian workplace laws.

This emphasises the importance of our educational work as a means of helping businesses achieve fair workplaces.

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 TAS Young hospitality & visa worker campaign 2011/2012.

For further information and media enquiries please contact media@fwo.gov.au.

If you would like further information about the Fair Work Ombudsman's campaigns please contact Lynda McAlary-Smith, Executive Director – Proactive Compliance and Education Branch (lynda.mcalary-smith@fwo.gov.au).

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