

Tasmanian Ongoing Record Keeping Campaign 2009-2010

Final Report November 2010

Summary

Between November 2009 and June 2010 the Fair Work Ombudsman (FWO) undertook the Tasmanian ongoing record keeping campaign (campaign). The campaign saw numerous regional Tasmanian businesses have their time and wage records assessed for compliance with the *Fair Work Act 2009* (the Act) and *Fair Work Regulations 2009* (the Regulations).

Of the 227 businesses contacted for audit, 166 were audited with 38% found to be in contravention of record keeping or pay slip regulations and in 3 cases in contravention of paying the correct minimum wage. All contraventions were voluntarily rectified and a total of \$1,973.57 was recovered for 5 employees.

This audit campaign presented an excellent opportunity to educate employers on their rights and obligations under the Fair Work legislation. All contraventions were voluntarily rectified and employers were advised of sources of information and options to ensure the contraventions were not repeated. All employers were provided with information about FWO's online business tools and were encouraged to review their current processes and templates used.

Further campaign results and findings are detailed below.

Background

The main reasons for undertaking this campaign were;

- Tasmanian Fair Work Inspectors (FWIs) investigate numerous complaints relating to employers not maintaining accurate records or providing pay slips as required by the regulations ;and
- Tasmanian FWIs had identified that many record keeping and pay slip contraventions occur due to ignorance of the law, therefore the campaign would provide a good opportunity to educate employers;

FWI's specifically targeted regional as opposed to city based employers, as there is the perception that employees living in small regional communities fear the social consequences of lodging a complaint with the FWO.

Campaign aim & objectives

The aim of the campaign was to improve compliance with record keeping and pay slip requirements, as per the Regulations, with employers throughout Tasmania and across all industry sectors.

The specific objectives were to:

1. engage with relevant stakeholders in relation to the campaign,
2. provide information to employers within various industry sectors throughout Tasmania, and specifically in regional areas, to assist them understand and meet their record keeping and payslip obligations,
3. promote the FWO Small Business aids and templates
4. audit compliance with wage records, leave records, and payslip regulation with a sample number of employers across Tasmania and to take action to ensure compliance

Stakeholder involvement

The following stakeholders were contacted prior to the commencement of the campaign:

- Tasmanian Chamber of Commerce & Industry
- Unions Tasmania
- Unions, including but not limited to LHMU, CFMEU, ASU
- Shop Distributive & Allied Employees' Association
- Workplace Standards Tasmania
- Senator Catryna Bilyk
- Lisa Singh MP
- Michael Stevens, Deputy Secretary, Department of Justice Tasmania.

The stakeholders were provided with written information detailing the rationale for the audit, and undertook to publish information regarding the campaign within their membership bulletins or newsletters.

Methodology

Once stakeholders had been informed of the campaign, we used Whitepages and internet locality guides to identify possible employers to audit.

In total 277 employers were randomly selected for auditing across the regions of Launceston, Davenport, Burnie, Smithton, North West, Midlands, East Coast, West Coast, Swansea, Sorell, Kingborough and Huon. We also targeted employers in Hobart who we had identified as having a previous record keeping and or pay slip contravention.

Each of the selected employers were sent an audit notification letter informing them of the campaign and requesting that they forward copies of their employees' time and

wage records and pay slips to FWO. Enclosed with the letter were the following educational materials:

1. About the Fair Work Ombudsman fact sheet.
2. Powers of Fair Work Inspectors fact sheet.
3. Employer obligations in relation to employee records and pay slips fact sheet.
4. A self audit checklist to enable them to assess their own compliance levels with the Act and Regulations.

Documents and records received were assessed against the relevant time and wage regulations, and where contraventions were identified, the employer was asked to sign a compliance commitment form and rectify the contravention. All contraventions were voluntarily rectified. Where an employer was detected of not rectifying a contravention previously brought to his/her attention by FWO, a penalty infringement notice was issued.

Results/ Statistical Findings

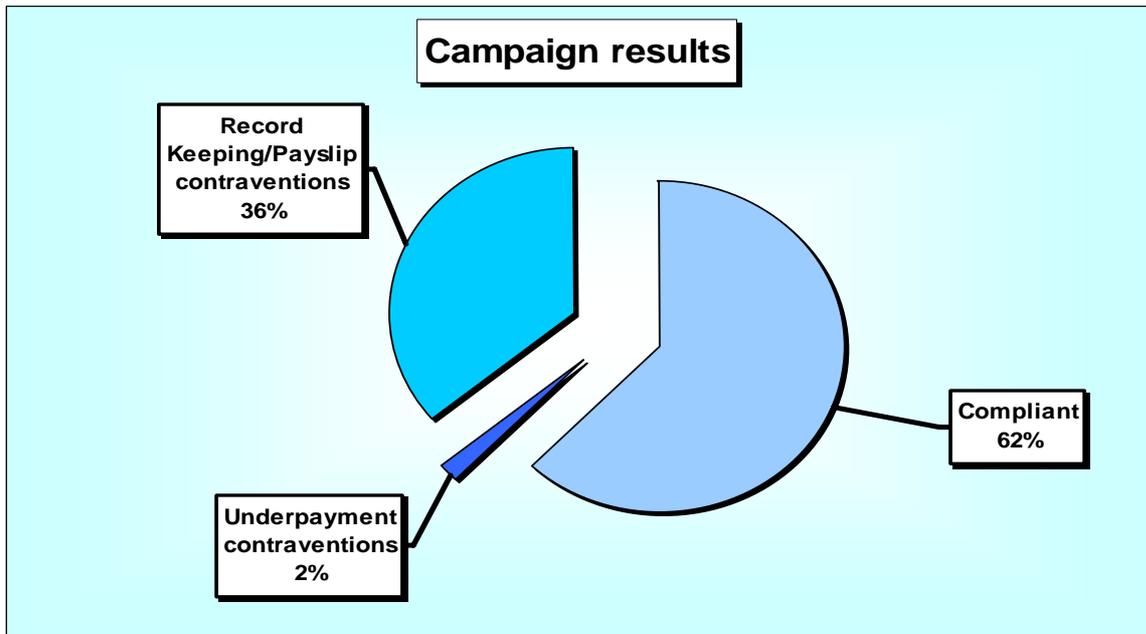
In November 2010 when the results of this campaign were compiled, we had achieved the following:

- 227 employers were targeted for audit
- A total of 61 (27%) of the 227 employers were unable to be audited for the following reasons;
 - 27 employers advised that they had no employees
 - 9 employers advised they were no longer trading
 - 25 employers were unable to be contacted
- 166 audits were completed of which;
 - 103 (62%) employers were found to be compliant
 - 63 (38%) employers were found to have either record keeping or pay slip contraventions.
 - 3 (2%) employers were also found to have contraventions relating to minimum rates of pay
- A total of \$1973.57 was repaid to 5 employees.
- 2 Penalty Infringement Notices were issued

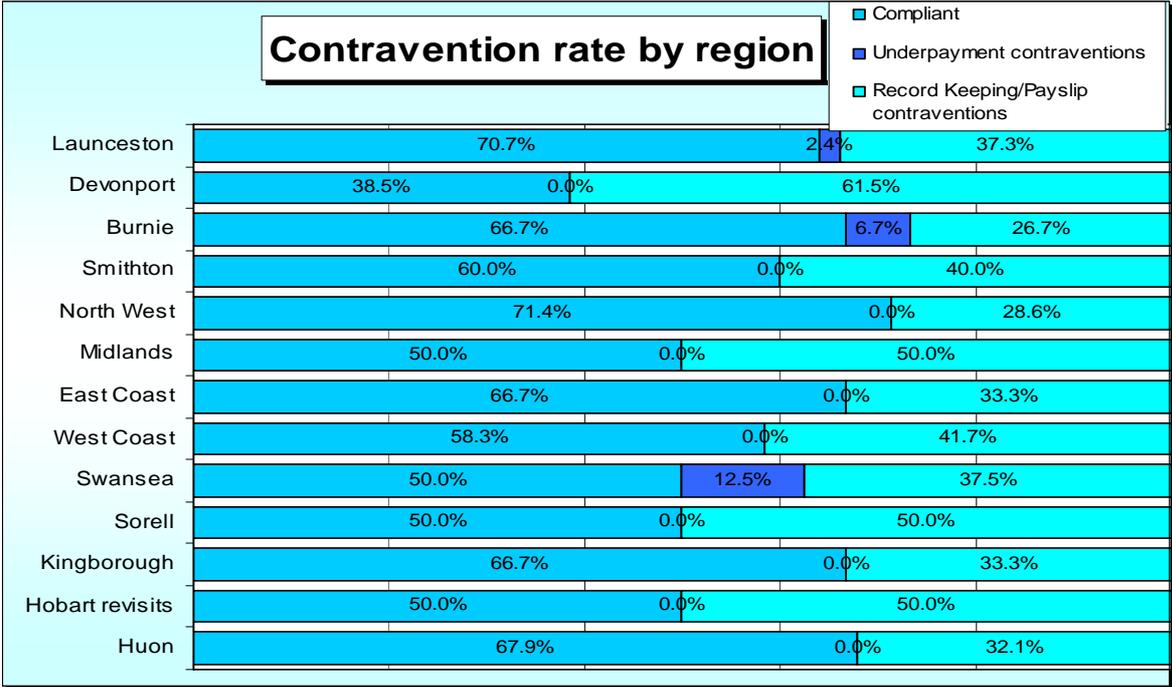
Status of Audits	
Number of employers targeted	227
Employers unable to be audited	61
<ul style="list-style-type: none"> No employees 	27
<ul style="list-style-type: none"> Unable to be contacted 	25
<ul style="list-style-type: none"> No longer trading 	9
Number of audits finalised	166 (100%)
<ul style="list-style-type: none"> Employers compliant 	103 (62%)
<ul style="list-style-type: none"> Employers in contravention (voluntary compliance) 	63 (38%)
Total amount recovered	\$1973.57
Number of employees paid	5

Although the parameters of the audit were record keeping and pay slip regulation compliance, 3 employers were found to be underpaying minimum wage entitlements. This was identified during the employers' assessment of time and wage documents and were reported to FWO by the employer with evidence of back payment provided. The underpayments arose as a result of the employer allegedly either missing a wage increase or forgetting to increase a junior employees' rate of pay on their birthday.

The chart below summarises the campaign results:



The chart below illustrates the highest contravention rates were in the regions of Devonport (61.5%), Midlands (50%) and Sorell (50%). Fifty percent of the Hobart employers who were previously identified as having record keeping and/or pay slip contravention were found to still be contravening the Regulations. The lowest contravention rate was recorded in the region of North West of Tasmania (28.6%).



Conclusion

This audit campaign illustrates that record keeping and pay slip obligations are still an issue, as 36% of employers audited were not complying with legislated requirements. However, most contraventions were minor, relating predominantly to pay slip content.

The audit also provided employers with an opportunity to review their record keeping processes and procedures, and in turn identify, report and rectify issues of non-compliance on their own.

Due to the level of non-compliance identified in relation to record keeping and pay slip requirements, it is recommended that a campaign of this nature be conducted in 2010-2011, aimed at industries that have had little audit campaign history in Tasmania, as well as revisiting those entities who have signed compliance commitment forms to rectify issues identified in this campaign. This will allow FWO to assess long term compliance.

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