

## 40 per cent of ACT businesses fail second chance

19 December 2017

Canberra business operators are continuing to fall short of meeting their workplace obligations despite intervention from the Fair Work Ombudsman, a new report has found.

The Fair Work Ombudsman selected 80 businesses in the ACT region that had previously been found to be non-compliant with workplace laws and conducted follow-up audits to determine whether they had rectified their operations.

While 48 of the businesses (60 per cent) re-audited were found to be now fully compliant with workplace laws, 32 businesses (40 per cent) remained non-compliant.

The businesses were audited to see if they were paying workers correctly and whether they were meeting their record-keeping and pay slip obligations. Audits found:

- 16 businesses had breaches relating to pay rates;
- 11 businesses had breaches relating to record-keeping and pay slips; and
- 5 businesses had breaches relating to pay rates and record-keeping / pay slips.

The campaign led to \$31,087 being recovered on behalf of 120 workers with the Fair Work Ombudsman issuing 17 formal letters of caution, eight infringement notices (on-the-spot fines) and one compliance notice.

The Fair Work Ombudsman also initiated litigation against two local businesses.

One litigation has resulted in the former operators of Café on Benjamin in Belconnen - Global Trading and Investment Group Pty Ltd, and its former director Dr Nathem Al-Naser – being penalised a total of \$56,840 in the Federal Circuit Court after admitting they failed to keep employee records or issue pay slips to workers.

The court also ordered that Dr Al-Naser to subscribe to the FWO's My Account portal, complete courses within the FWO's online learning centre and undertake workplace relations compliance training with an external provider.

In this matter the Fair Work Ombudsman claimed it was unable to complete a full assessment of whether four young workers were paid correctly due to limited availability of time and wages records.

Fair Work Ombudsman Natalie James said she could not overstate the importance of keeping accurate records.

"We treat cases involving record-keeping breaches seriously, particularly when our inspectors are hindered from determining whether workers have received their correct entitlements," Ms James said.

"While Fair Work inspectors go to great lengths to reconstruct time and wage records in circumstances where the employer has failed to meet their obligations, the sad reality is that sometimes in the absence of accurate records, it is not possible to establish whether a worker has received their lawful pay.

"This is why we take these matters to court and encourage employees to keep a work diary or to use our new Record My Hours Smartphone App.

"We also welcome recent changes to workplace laws that increase the maximum penalties for employers who breach record-keeping laws."

In a separate matter, Yang Brothers Investment Pty Ltd, which operates Café Garema in central Canberra, remains before the court facing allegations that its record-keeping was also so sub-standard Fair Work Inspectors were obstructed from determining whether employees were receiving minimum rates of pay.

Ms James said inspectors regularly re-visit businesses that have previously been found to be non-compliant with workplace laws.

"We expect full compliance with workplace laws, particularly when we have provided a business with advice on how to rectify any breaches within their operations," she said.

"While the majority of issues we deal with can be resolved through our early intervention measures, business operators who fail to take our advice seriously will find themselves on the receiving end of more serious enforcement action.

“The penalties handed down in our case against Global Training and Investment Group show that there can be a heavy price to pay for breaches of workplace laws – even more so following the recent increase in maximum penalties for record-keeping contraventions.

“There has never been more information freely available to assist business in complying with their workplace obligations so it is disappointing to see that so many of these businesses in Canberra have failed to learn from past mistakes.”

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

NOTE: The current operators of Café on Benjamin had no involvement in any contraventions referred to in this media release.

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Read the ACT Compliance Monitoring Campaign Report ([www.fairwork.gov.au/reports/act-compliance-monitoring-campaign-report](http://www.fairwork.gov.au/reports/act-compliance-monitoring-campaign-report)) (PDF 350.7KB) ([www.fairwork.gov.au/ArticleDocuments/714/act-compliance-monitoring-campaign-report.pdf.aspx](http://www.fairwork.gov.au/ArticleDocuments/714/act-compliance-monitoring-campaign-report.pdf.aspx))

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