

Fair Work Ombudsman report reveals non-compliance in major fast-food franchise

27 January 2017

A Fair Work Ombudsman Activity Report has identified widespread non-compliance within Pizza Hut outlets with three quarters of audited outlets failing to comply with workplace laws.

The FWO Activity commenced in November 2015 and focused on the engagement of delivery drivers. The FWO audited a total of 34 franchisees of which, 32 engaged delivery drivers. Audits have been finalised with respect to 26 of the franchisees who engaged drivers while inquiries into the remaining six franchisees are ongoing.

Of the 26 completed audits, 24 franchisees (92 per cent) were found to be non-compliant with only two franchisees found to be meeting all of their legal obligations.

Of the 24 non-compliant franchisees, the activity found:

- Seven had misclassified delivery drivers as independent contractors rather than as employees;
- A total of \$12,086 in underpayments was owed to workers, mainly for underpayment of minimum hourly rates and allowances such as laundry; and
- Some underpayments were a consequence of the franchisee applying the wrong award or failing to increase rates in line with Fair Work Commission minimum wage decisions.

To date, the FWO is addressing these issues by:

- Issuing three enforceable undertakings to different franchisees (see [Enforceable Undertakings resulting from the Fair Work Ombudsman's Activity Report on Pizza Hut outlets \(www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/pizza-hut-eus\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/pizza-hut-eus));
- Issuing 11 compliance notices to franchisees for underpaying employees
- Recovering a total of \$12,086 in wages;
- Issuing 11 infringement notices for a range of record keeping contraventions. The infringement notices equate to a total of \$6,300 in fines; and
- Issuing 17 formal letters of caution to franchisees requiring action to rectify non-compliance identified within their individual outlets.

In addition, the FWO is considering potential litigation with respect to one franchisee.

Given the extent of non-compliance with respect to arrangements for delivery drivers, preliminary discussions relating to a proactive compliance partnership have been held with the owners of the Pizza Hut franchise.

Fair Work Ombudsman Natalie James says people employed as delivery drivers are often very young, making them more vulnerable to exploitation in the workplace.

"Thirty-two per cent of the 170 workers we dealt with as part of this Activity Report were under the age of 24," Ms James said.

"We know that younger people, who have less experience in the workplace are more likely to be unaware of their rights.

"Through the course of our Activity, we found a number of outlets engaging drivers as independent contractors rather than employees. In some instances, drivers were paid as little as \$5.70 per delivery while also being made to cover fuel and vehicle operating costs.

"The FWO will continue to monitor Pizza Hut outlets and will follow up with those identified through this process to ensure that areas of non-compliance are being addressed," Ms James said.

Tools to assist employers to comply with workplace laws are available at www.fairwork.gov.au

Resources include a Pay and Conditions Tool (PACT) that employers can use to determine the pay rates applicable to their employees, including base pay rates, allowances, overtime and penalty rates.

Ms James says that in recognition that some employees are reluctant to complain about their workplace issues, the Agency now has an “Anonymous Report” function to allow the community to report potential workplace breaches.

Intelligence can be provided confidentially at www.fairwork.gov.au/tipoff (<http://www.fairwork.gov.au/tipoff>)

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Read the [Fair Work Ombudsman's Activity Report on Pizza Hut outlets \(www.fairwork.gov.au/reports/pizza-hut-compliance-activity-findings/pizza-hut-franchisee-delivery-drivers\)](http://www.fairwork.gov.au/reports/pizza-hut-compliance-activity-findings/pizza-hut-franchisee-delivery-drivers)

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