

Fair Work Ombudsman releases findings of investigation into Church of Scientology

16 September 2011

The Fair Work Ombudsman today released the findings of a lengthy investigation into allegations levelled publicly at the Church of Scientology (CoS) over its employment practices.

The Agency initiated an investigation into the CoS on March 9, 2010, following claims raised the previous night by the ABC's Four Corners program.

Further allegations about CoS workplace practices were made in the Senate on March 18, 2010, after which the names and contact details of a number of witnesses were provided confidentially to the Fair Work Ombudsman to assist the Agency with its inquiries.

The investigation considered whether the CoS is bound to apply minimum working conditions stemming from the Fair Work Act, awards or agreements and if it is required to keep certain time and wage records.

It also considered whether those people working for the church are employees and whether they have been receiving the benefits to which they are entitled under the Fair Work Act, awards or agreements.

Fair Work Ombudsman Nicholas Wilson today released a Statement of Findings following consideration of feedback from the parties involved, who were previously provided with a draft report for comment.

The Agency has determined:

- To treat CoS entities which engage in trading activities as constitutional corporations for the purposes of the Fair Work Act and its predecessor legislation,
- That a number of allegations raised by some witnesses fall outside the statutory time limit for consideration or cannot be sustained and are therefore unable to be pursued,
- To continue to investigate allegations raised by one witness which relates to an entity known as Get off Drugs Naturally,
- To refer to other relevant authorities allegations made against the CoS which fall outside its jurisdiction, and
- To request that the CoS and its related entities conduct a comprehensive self-audit to ensure compliance with the Fair Work Act – and if employees are found to have been underpaid, for those underpayments to be rectified.

The report says it would be prudent for the CoS to proactively undertake the self-audit at the earliest opportunity using a consultant that the Fair Work Ombudsman approves and who has no connection to the church.

It requests the consultant be briefed to:

- Review the procedures for the engagement of workers and to properly determine the applicable Modern Award and National Employment Standards for each individual,
- Review the status of existing employees to ensure they are receiving their lawful entitlements, Recommend the introduction of changes to record-keeping and issuing of pay slips and the Fair Work Information Statement to ensure compliance with the Fair Work Act, and
- Recommend a framework to the Church which enables the identification of relevant legislation relating to all employee entitlements, such as long service leave. The Statement of Findings says the Fair Work Ombudsman considered, but was not persuaded, by submissions from the CoS that the Fair Work Act did not apply because the church "is a religious entity ... and there isn't any worker relationship or employer relationship".

The Statement says documents and policies examined by Fair Work inspectors during the course of their investigation "plainly contradicted" this assertion.

The CoS described payments to church workers as being "a small amount to enable them to perform their duties by covering the cost of travel, babysitters, food and other expenses ... not a reward for services rendered".

However, the investigation found several features of the arrangements within the CoS entities were not consistent with volunteer or voluntary work.

"In particular, witness evidence indicates that significant hours of work were imposed on workers. Further evidence indicates a

significant level of control and direction was applied to workers by more senior church members who held positions of authority," the Statement of Findings says.

The Statement says documents provided by the CoS indicate it is a "bureaucratized organisation" which appears to have imported practices and procedures into Australia with little thought to workplace relations laws.

Witnesses told the Fair Work Ombudsman they were directed to work up to 72 hours without a break to complete tasks assigned to them for as little as \$10 a week at a time when the Federal Minimum Wage for a full-time adult before shift and weekend penalties was \$543.78 for a 38-hour week.

The Statement of Findings says the complaints that have been investigated, and the receipt of further complaints, is indicative of systemic problems relating to the way labour has been obtained by the CoS and which has caused these arrangements to be the subject of external criticism.

"At the very least, the volume of complaints should alert the CoS that there needs to be a change to the current practices relating to how they recruited and are receiving free labour from their followers, should they hope to reduce the number of complaints into the future," the Statement says.

"Equally, the Fair Work Ombudsman offers advice to persons giving their labour for free to any religious organisation that they should be mindful of their intentions in doing so and to the extent possible, protect their own interests and immediately withdraw their labour if they perceive that their relationship ceases to be truly voluntary.

"In many instances, the witnesses provided considerable free labour to the CoS over a period of several years where they either knew or ought to have known that they were unlikely to be paid for that work from an early stage.

"Some claimed the use of unconscionable tactics by the CoS designed to retain their commitment. The Fair Work Ombudsman makes no findings in respect of those allegations, but advises that if workers providing services to religious or any other organisation consider that they are being subjected to intimidation or other illegal pressure to continue to provide their labour, they should contact police."

Fair Work Ombudsman Nicholas Wilson says his Office will continue to investigate future complaints against the CoS on their merits and may, if required, exercise its powers to attend work sites and observe the duties of employees. Other powers available to his Office may also be considered where the circumstances warrant. These include the use of powers to require documents, the issuing of formal compliance or infringement notices and the consideration of litigation.

Statement of Findings: [Church of Scientology, Narconon, and Get off Drugs Naturally \(PDF 4MB\) \(www.fairwork.gov.au/ArticleDocuments/763/statement-of-findings-church-of-scientology-narconon-and-get-off-drugs-naturally.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/763/statement-of-findings-church-of-scientology-narconon-and-get-off-drugs-naturally.pdf.aspx)

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