

## Food services and accommodation industry high on list for enforcement action, behavioural change

4 August 2016

The food services and accommodation industry accounted for 40 percent of Enforceable Undertakings the Fair Work Ombudsman entered with employers last financial year.

Fair Work Ombudsman Natalie James announced today that 43 Enforceable Undertakings were executed in 2015-16, up from 42 the previous year.

Of these, 17 were employers in the food services and accommodation sector, up from 11 in 2014-15.

Cafes and restaurants continue to feature prominently, accounting for one in five of the workplace pacts signed over the past two financial years.

Take-away food businesses also emerged as a sub-sector with ongoing issues, accounting for 19 percent of Undertakings within the food services and accommodation industry.

Enforceable Undertakings were introduced by legislation in 2009 and the Fair Work Ombudsman has been using them to achieve strong outcomes against companies that breach workplace laws, without the need for civil court proceedings.

"We use Enforceable Undertakings where we have formed a view that a breach of the law has occurred, but where the employer has acknowledged this, accepted responsibility and agreed to co-operate and fix the problem," Ms James said.

In 2015-16, a total of \$3.85 million in underpaid wages and entitlements was returned to 2132 employees as a result of their employers entering into Enforceable Undertakings with the Fair Work Ombudsman.

This is up slightly on the \$3.75 million recovered for 2507 workers the previous year.

Other industries where Enforceable Undertakings were required included Administration and Support Services (14 percent) and Retail Trade and Manufacturing (both 7 percent).

Food services and accommodation continues to generate high numbers of dispute notifications, accounting for 16 percent last financial year.

Similarly, 36 percent of matters placed before the Courts in 2015-16 involved employers from the food services and accommodation industry.

Of the 85 Enforceable Undertakings entered into over the past two financial years, almost two-thirds (62 percent) came about after an employee lodged a dispute form on the Fair Work Ombudsman's website.

Workers aged 30 or under were more likely to have lodged the originating dispute, accounting for two in every three disputes that resulted in an Enforceable Undertaking.

Small businesses - those with 15 or fewer employees - made up 52 percent of Enforceable Undertakings across the two financial years.

Dispute forms lodged by visa-holders accounted for 35 percent of Enforceable Undertakings executed.

Over 90 percent of Enforceable Undertakings contained a provision for self-audit activity and 88 percent contained provisions related to future workplace relations compliance.

In the 2015-16 financial year, 12 employers were required to donate a total of \$71,500 to seven organisations to assist them promote workplace rights.

The high number of Enforceable Undertakings in the accommodation and food services sector are reflective of findings of the Fair Work Ombudsman's three-year national hospitality campaign, which commenced in 2012 with a wave of audits of 779 pubs, bars, taverns and accommodation houses.

The second wave took in 1066 restaurants, cafes and catering business and the third wave looked at 565 take away food outlets.

The three phases of the campaign resulted in 801 employers found to have short-changed 4540 of their employees in excess of \$2.342 million.

The Fair Work Ombudsman's National Hospitality Campaign revealed only a 52 percent compliance rate with workplace laws.

"I encourage all business to proactively seek information on workplace relations from us, from employer organisations and professionals advising in this space," Ms James said.

"We know that, with the benefit of their expert advice, businesses are more likely to be compliant. It gives them more confidence navigating the system, especially when a dispute arises.

"We all have a part to play in compliance. There are many opportunities for us as employers, employees, government agencies and workplace advisers to draw on our mutual interests to see employers do the right thing, avoid a nasty back-payment bill, ensure a level playing field for all business and to build a culture of compliance."

Copies of Enforceable Undertakings can be viewed on the Fair Work Ombudsman's website at [enforcing the legislation \(www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/enforceable-undertakings\)](http://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/enforceable-undertakings) .

The agency's website [www.fairwork.gov.au](http://www.fairwork.gov.au) provides an easy to access portal to a wide range of free tools and resources aimed at helping both employers and employees meet their obligations in the workplace.

There is a priority service for small business callers to the Fair Work Infoline on 13 13 94 between 8 am and 5.30 pm weekdays.

Small business operators can ask to be put straight through to the Small Business Helpline which has taken more than 300,000 calls since its launch in December, 2013. A free interpreter service is also available by calling 13 14 50.

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