



Australian Government

# Fair Work OMBUDSMAN



Annual Report 2009-10



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Produced by the Fair Work Ombudsman.



Australian Government

# Fair Work OMBUDSMAN



Annual Report 2009-10



Australian Government

**Fair Work**  
OMBUDSMAN

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Senator the Hon Chris Evans  
Minister for Tertiary Education, Skills, Jobs and Workplace Relations  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I am pleased to present to you the Fair Work Ombudsman annual report for the year ending 30 June 2010.

Section 686 of the *Fair Work Act* and Section 70 of the *Public Service Act 1999* requires me to provide you with a report to present to Parliament. I advise this report has been prepared in accordance with section 70 of the *Public Service Act 1999* and the guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit.

Yours sincerely

Nicholas Wilson  
**FAIR WORK OMBUDSMAN**  
27 September 2010

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## About this report

The Fair Work Ombudsman is a statutory agency that was created by the *Fair Work Act 2009* (the Fair Work Act) on 1 July 2009.

This first annual report for the Fair Work Ombudsman documents activities and performance to 30 June 2010. In preparing this report the *Requirements for Annual Reports* prepared by the Department of the Prime Minister and Cabinet and approved by the Joint Committee of Public Accounts and Audit have been followed.

## Structure

The report is presented in seven parts.

### **Fair Work Ombudsman's review**

A review of the operations of the agency by the Fair Work Ombudsman.

### **Overview of services**

An introduction to the agency and an overview of its structure and function.

### **Report on performance**

Agency performance in relation to the outcome and output framework described in the 2009–10 Portfolio Budget Statements. Each of the strategic goals under the output group are dealt with separately.

### **Management and accountability**

A report on the agency's management practices, including the corporate governance framework, human and financial resources, internal controls, external scrutiny, financial management and commentary on the agency's financial performance.

### **Financial statements**

Includes the audited financial statements for 2009–10 and the audit report.

### **Appendices**

Includes mandatory information and statistics.

### **References**

Includes a glossary and a list of abbreviations, a compliance index and a general index.

## Enquiries and comments

The Fair Work Ombudsman welcomes comment on this report. Enquiries and feedback may be directed to:

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Fair Work Ombudsman  
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Visit [www.fairwork.gov.au](http://www.fairwork.gov.au) for more information about the Fair Work Ombudsman or go to [www.fairwork.gov.au/annualreport](http://www.fairwork.gov.au/annualreport) to download a copy of this report.

## Performance snapshot

During 2009–10, the Fair Work Ombudsman achieved the following results through working with the community:

- Recovered \$26 195 656 for 16 088 employees.
- Finalised 98.94% of complaints without legal action.
- Finalised 21 070 investigations from complaints.
- Responded to 1 108 648 telephone enquiries.
- Secured \$2 019 755 in court-awarded penalties.
- Recruited more than 128 ongoing and 258 non-ongoing staff.
- Delivered 61 027 training hours to staff nationally.
- Expanded translated material for employers from culturally and linguistically diverse communities to cover 26 languages.
- Supported employers and employees joining the national workplace relations system on 1 January 2010.

1



Fair Work  
Ombudsman's review

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# Fair Work Ombudsman's review

This first annual report of the Fair Work Ombudsman marks the first full year of operation and the formation of the agency under the Fair Work Act, which also commenced substantial operation on 1 July 2009.

In its first year, the Fair Work Ombudsman demonstrated strong capability in the functions articulated for the statutory office in the Fair Work Act.

In February, we passed an important milestone. In the time from March 2006 – which marks the point our Inspectors first became independent – the Fair Work Ombudsman and Inspectors in our predecessor agencies, the Office of Workplace Services and the Workplace Ombudsman, had recovered more than \$100 million in underpaid wages for more than 77 000 employees. By June, this had grown to \$111 447 920 for 83 923 employees.

Over the same period, we concluded 162 litigations in the courts which awarded penalties of \$5.9 million against duty-holders.

The aspirations for the new legislation and agency, together with Fair Work Australia, were high, and focused on ensuring as many Australian employers and employees as possible knew about and understood the workplace relations changes, and took steps within their workplaces for better, fairer work arrangements.

Together with Fair Work Australia, we were part of an aspiration to provide connected services to Australians across our organisational boundaries, and together with the expected referral of state industrial powers to the Commonwealth, we were part of an expectation to end (in time) the confusing need for private sector employers and employees to know 'which system' they worked under.

These are very significant objectives and the design of the system means that some of the objectives are likely to take years to work through – for example, the nature of transitional award arrangements means the full simplicity of the system may not be realised until 2014.

The staff of the Fair Work Ombudsman have focused assiduously on these aspirations in their first year and have been creative in how they have worked toward them.

I am pleased to report that Commonwealth workplace relations service delivery is more connected after its first year and has ensured more Australians get more precise answers after just one phone call or web visit. I am pleased to report that during the year we have released several waves of new information services, and that each successive wave has more accurately pinpointed the needs of our clients who use the services.

I am also pleased to report that our partnering with state partner offices means we can provide our services to far more regional and suburban locations than ever before. Through these partnering arrangements we contract staff in those states to work as Fair Work Inspectors and can ensure more locally focused services. This is especially important in ensuring small businesses previously working under state workplace relations systems understand their new rights and obligations. I am very pleased to report that our state partners have already delivered 10 774 small business educational visits; and will have undertaken 25 000 by the end of 2010 and 50 000 by the end of 2012.

The Fair Work Ombudsman started as an agency of around 800 staff, with roughly equal numbers of staff drawn from each of the former Workplace Authority and Workplace Ombudsman.

With distinctly different backgrounds and workplace cultures, the two former agencies came together remarkably quickly to form a cohesive new agency with a new focus.

I came to the new position from a predecessor appointment of Workplace Ombudsman and was very sensitive to the possibility of the new agency being seen by staff as merely a takeover by the Workplace Ombudsman, and that this would be detrimental to overall performance if this is how it was seen. The joint management team of the new agency was very keen to avoid this perception and, on the whole, I believe we succeeded with this goal.

In forming the new agency, I wish to pay tribute to the very capable management and strategic direction of the Workplace Authority by Barbara Bennett, Director from its creation in 2007, and Penny Weir, Acting Director between July and November 2009. In addition to their strength of purpose and leadership being a credit to their individual abilities and the professionalism of the organisation they led, their leadership has also served the needs of the new Fair Work Ombudsman agency incredibly well.

Similarly, I thank Marion van Rooden, General Manager of the Fair Work Australia Establishment Taskforce for her leadership and that of her staff in the nine months prior to the commencement of the Fair Work Ombudsman. Her leadership and attention to detail greatly assisted the ability of the new organisation to commence work so smoothly and capably on 1 July 2009.

In the course of 2010, public comment was made about the statutory office of the Fair Work Ombudsman and the use of the name 'ombudsman' generally, both by the Acting Commonwealth Ombudsman and the Australian and New Zealand Ombudsman Association. The commentary is unhelpful as far as it goes to the functions, independence and resourcing of this Office. The commentary included that the Office of the Fair Work Ombudsman, as well as other Offices, does not meet the classical definition of 'ombudsman' and that the Office does not sufficiently meet certain essential criteria for ombudsman offices.

I make no comment about whether or not my Office meets the classical 'ombudsman' definition. The Office is what it is, as created by the Australian Parliament, and whether or not it meets anyone's definition is for others to judge.

In relation to the claimed 'essential criteria', I made the point to the Acting Commonwealth Ombudsman that I disagreed with his commentary that the Fair Work Ombudsman does not meet the criteria. I did this because the nominated criteria could be the descriptors of many things, not just the claimed classical 'ombudsman', and the suggestion that this Office does not meet the nominated standards whether individually or collectively is potentially damaging and



is not correct. The criteria include issues of independence of decision making; establishment of the Office's jurisdiction through legislation; defined powers that can be initiated by the agency without there being a complaint; procedural fairness and accountability.

It is not correct to suggest that this Office is not independent of Government in its investigations; does not work under specific jurisdiction conferred by legislation; does not approach its work impartially; is not adequately resourced; and does not investigate with procedural fairness.

Such views are regrettable and not consistent with a true reading of the facts.

The Fair Work Ombudsman is established by legislation that defines publicly its functions and the limits of its jurisdiction. The Office is well resourced; works impartially under defined jurisdiction and in accord with procedural fairness; and is accountable publicly for what it does, as evidenced by this Annual Report tabled in the Parliament and our regular attendances at the Senate Estimates hearings.

Further scrutiny and accountability is also afforded to our activities through the oversight of the Commonwealth Ombudsman, which we willingly accept. I am grateful that a Commonwealth Ombudsman 'own motion' investigation report published in June 2010 acknowledges and praises the significant work we have done to ensure our use of investigatory powers is balanced, fair and subject to proper review (both internally and externally) on those occasions that clients are not satisfied with our conduct or decisions.

Nicholas Wilson  
Fair Work Ombudsman

# 2



Overview of services

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# About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent statutory agency, created by the Fair Work Act on 1 July 2009, to replace the former Australian Government agencies of the Workplace Ombudsman and Workplace Authority.

The agency's **vision** is fair Australian workplaces, and its **mission** is to work with Australians to educate, promote fairness and ensure justice in the workplace.

The Fair Work Ombudsman promotes harmonious, productive and cooperative workplace relations and ensures compliance with Australia's workplace laws, and does this by:

- offering people a single point of contact for them to receive accurate and timely advice and information about Australia's workplace relations system
- educating people working in Australia about their workplace rights and obligations
- investigating complaints or suspected contraventions of workplace laws, awards and agreements
- litigating to enforce workplace laws and to deter people from not complying with their workplace responsibilities.

The Fair Work Ombudsman and head of the agency is Nicholas Wilson, a statutory office-holder under the Fair Work Act.

## The national workplace relations system

The Fair Work Act established a new national workplace relations system for Australia.

On 1 July 2009, several core components of this system came into effect, including:

- revised enterprise bargaining arrangements
- streamlined protections dealing with workplace rights (including protection against discrimination) and industrial activities and unfair dismissal
- two new agencies to regulate the system – the Fair Work Ombudsman and Fair Work Australia.

On 1 January 2010, other major components of the national workplace relations system took effect, including:

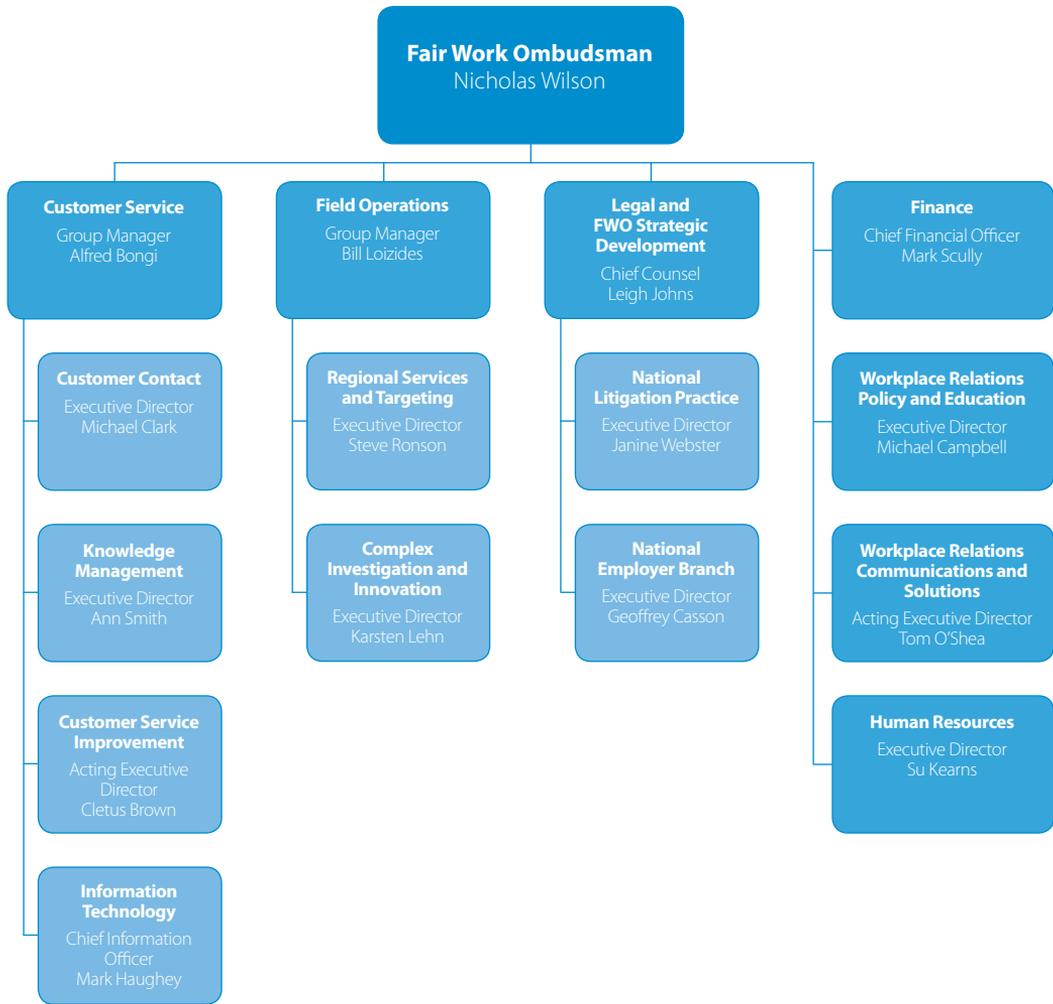
- the modern awards system
- the National Employment Standards (NES) – a set of 10 minimum entitlements for all employees
- state referrals – the referral of industrial relations powers by certain states to the Australian Government and the expansion of the national workplace relations system.

By 1 July 2010, employers were required to be paying the modern award pay rates for the majority of modern awards. For most modern awards, transitional arrangements mean that the rate of pay will be phased in over five years to lessen the financial impact on employers.

A key responsibility of the Fair Work Ombudsman in its first year was to educate and support employers and employees during the preparation for, and introduction of, these changes.

# Organisational structure

FIGURE 1: ORGANISATIONAL STRUCTURE AT 30 JUNE 2010



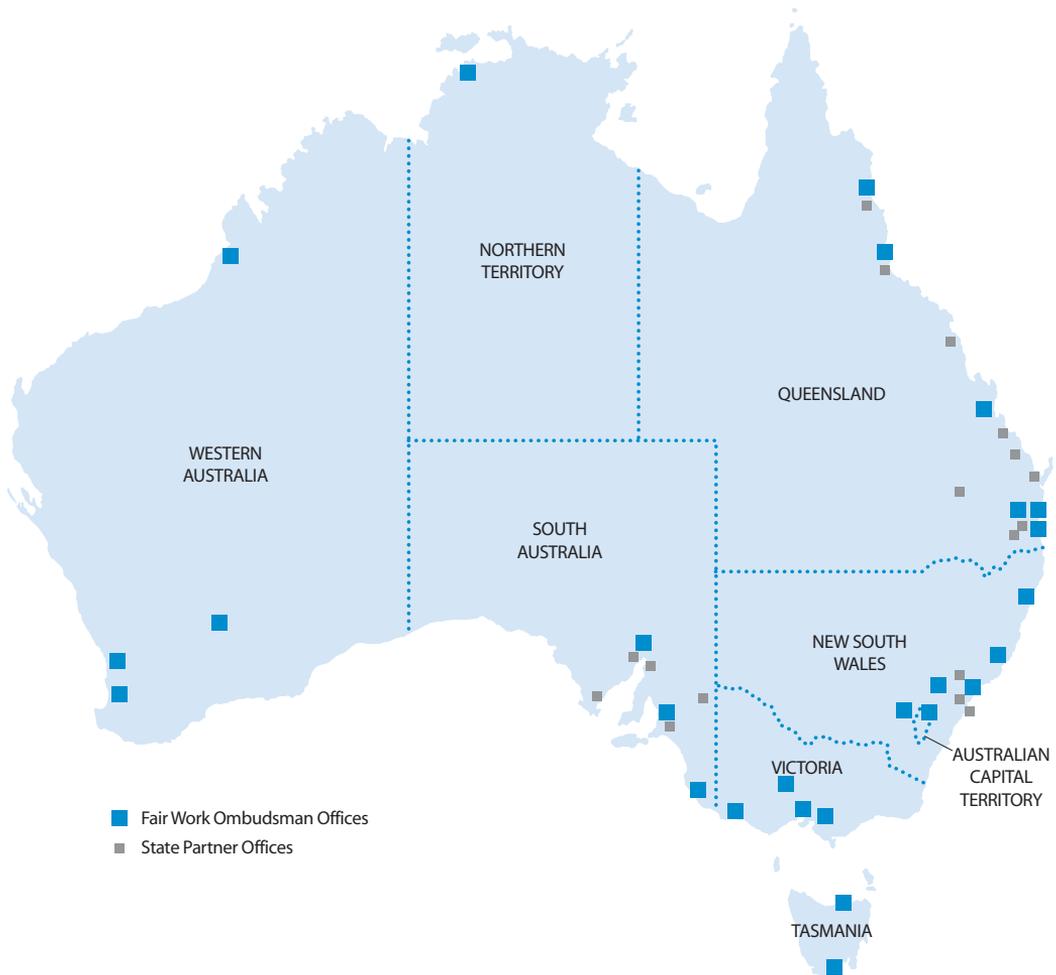
## State and territory offices

Access to the Fair Work Ombudsman’s services is through a national network of offices in capital cities and many regional centres.

At 30 June 2010, the Fair Work Ombudsman had a presence in 26 centres across Australia. The Fair Work Ombudsman also has a further 27 state partner offices in Queensland, South Australia and New South Wales delivering Fair Work Ombudsman services.

The offices directly operated and staffed by the Fair Work Ombudsman provide services within a 50km radius of 76% of the Australian working age population and within a 300km radius of 98% of the working age population. The addition of the state partner offices means that 82% of Australian employed persons are within 50km of either a Fair Work Ombudsman or state partner office, and 99% of Australian employed persons are within a 300km radius of either a Fair Work Ombudsman or state partner office.

FIGURE 2: OFFICE LOCATIONS



N.B. Metropolitan offices in major cities are not shown.

**Fair Work Ombudsman office locations****State partner office locations**

ACT	Canberra	
NSW	Sydney Coffs Harbour Newcastle Orange Wagga Wagga	Campbelltown Coffs Harbour Newcastle Penrith Wollongong
NT	Darwin	
QLD	Brisbane Cairns Gold Coast Rockhampton Toowoomba Townsville	Aitkenvale Bundaberg Cairns Gladstone Ipswich Logan Lutwyche Mackay Mt Gravatt Nambour Robina Rockhampton Roma Toowoomba Warwick
SA	Adelaide Mount Gambier Port Augusta	Adelaide Berri Keswick Mount Gambier Port Lincoln Port Pirie Whyalla
TAS	Hobart Launceston	
VIC	Melbourne Bendigo Traralgon Warrnambool	
WA	Perth Bunbury Broome Kalgoorlie	

## Outcome and output structure

The Fair Work Ombudsman, as an independent agency, reports separately against the outcome structure of the Education, Employment and Workplace Relations portfolio as outlined in the program reporting framework for the 2009–10 Budget.

The Fair Work Ombudsman had one planned outcome and program for 2009–10, as set out in the 2009–10 Portfolio Budget Statements for the Education, Employment and Workplace Relations portfolio. The agency's performance against this outcome and program is outlined in the Report on performance section.

The Fair Work Ombudsman's outcome and program structure is shown in Table 1.

**TABLE 1: FAIR WORK OMBUDSMAN OUTCOME AND OUTPUT STRUCTURE**

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### **Outcome 1**

Compliance with workplace relations legislation by employees and employers through advice, education and, where necessary, enforcement.

### **Contribution to Outcome 1**

Program 1: Education services and compliance activities

### **Program 1 deliverables**

The deliverables of the Fair Work Ombudsman are to:

- provide information, advice and education on the requirements and flexibilities of workplace laws to foster voluntary compliance
  - investigate claims regarding alleged breaches of workplace laws and undertake targeted activities
  - litigate, where necessary, to enforce compliance with workplace laws.
-

# 3



## Report on performance

Outcome 1– Compliance with workplace relations legislation by employees and employers through advice, education and, where necessary, enforcement.

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# Program 1

## Education services and compliance activities

### Description

In 2009–10, the Fair Work Ombudsman delivered a range of education, compliance and litigation activities to meet its obligations under Outcome 1. The agency's activities were structured under five strategic goals set for the period 2009–12:

- educate workplace participants
- ensure effective compliance
- build an effective organisational profile and sustainable relationships
- implement effective business processes
- build capability in the Fair Work Ombudsman's people and culture.

Educating and assisting Australians to understand their workplace rights and responsibilities is undertaken in several ways:

- providing information, assistance and advice to callers to the Fair Work Infoline
- operating Fair Work Online and publishing extensive information, resources and tools
- undertaking education campaigns, targeting specific industries and vulnerable employee groups.

Other mechanisms are required of a full service regulator to achieve compliance across workplaces. The Fair Work Ombudsman has the authority to receive and investigate workplace complaints, and carry out compliance audits in workplaces across Australia.

During the financial year, the Fair Work Ombudsman resolved 21 070 complaints, resulting in \$21 291 393 in pay and entitlements recovered for 9823 employees. Where voluntary compliance is not able to be achieved and the evidence warrants, the Fair Work Ombudsman will consider commencing litigation for the awarding of a civil penalty against alleged offenders, in order to provide deterrence against breaches.

In its first year, the Fair Work Ombudsman commenced civil penalty litigation 53 times and obtained \$2 019 755 in court ordered penalties as a result. This consolidated the practice of the Fair Work Ombudsman's predecessor agencies (the Office of Workplace Services and the Workplace Ombudsman) in using civil penalty litigation as an effective compliance tool.

The Fair Work Ombudsman is a new agency, created through the amalgamation of the Workplace Authority and the Workplace Ombudsman. As a new agency, one of the challenges for the Fair Work Ombudsman was bringing staff together into a single organisation, as well as the establishment of effective business processes to enable staff to meet their obligations under the Fair Work Act.

The agency's progress towards achieving its strategic goals is outlined in the following sections of this annual report.

## Results

Table 2 summarises the Fair Work Ombudsman's performance against indicators and targets set out in the 2009–10 Portfolio Budget Statements.

**TABLE 2: PROGRAM 1 EDUCATION SERVICES AND COMPLIANCE ACTIVITIES**

Key performance indicator	2009–10 target	2009–10 result
Targeted campaigns:		
National	4	3
State (number of campaigns in each state/territory)	2	At least 2 in each state apart from Queensland
Investigations into complaints about breaches of federal agreements or awards completed within 90 days (percentage of total complaints)	80%	75%
Calls to the Contact Centre resolved at the first point of contact (percentage of total calls)	80%	95%
Availability of Contact Centre services (percentage of availability during advertised hours)	99%	99%
Availability of website (time available as a percentage of total time)	99%	99%

All performance targets were met in 2009–10 except three. The target for completing investigations into complaints about breaches of federal agreements or awards within 90 days was not met; only three national campaigns were completed; and no state campaigns were completed in Queensland.

As a new agency the Fair Work Ombudsman had a number of organisational objectives to address in relation to people and processes. These had an impact on meeting performance targets.

To specifically address these targets, the Fair Work Ombudsman has established new processes to enable complainants and alleged offenders to find fair and mutually acceptable resolutions to a workplace complaint, without having to immediately resort to formal investigation.

In its first year, the Fair Work Ombudsman invested considerable time in establishing relationships with industry associations and unions to support national and state campaigns. It is expected that these relationships will enable the agency to meet its campaign targets in future years.

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# Goal 1 – Educating workplace participants

## Providing high quality, consistent education, assistance and advice

Through a period of major change in workplace relations, the Fair Work Ombudsman has assisted Australians by providing high quality, accurate information and advice. This information and advice is shaped by the Fair Work Ombudsman's education strategy, developed from national focus groups and survey research of the needs of Australian employers and employees.

The education strategy is based on two objectives:

- providing every Australian employee and employer with direct and immediate access to educational resources on relevant workplace matters to foster co-operative, harmonious and productive workplaces; and
- ensuring the Australian workforce is aware of, or is able to become informed of, its workplace rights and obligations.

The Fair Work Ombudsman has developed a customer service structure that can respond to the immediate needs of employers and employees. Recognising that customers' needs differ, information and customer service is delivered in a number of ways:

- the Fair Work Online website – [www.fairwork.gov.au](http://www.fairwork.gov.au)
- the Fair Work Infoline – 13 13 94
- Live Help sessions – one-to-one advice offered through text-based online chat service
- directly through Fair Work Inspectors located in metropolitan and regional offices and state partner offices in New South Wales, Queensland and South Australia.

There was significant growth in the number of people contacting the Fair Work Ombudsman for help in 2009–10, with a sharp increase following the start of the national workplace relations system on 1 January 2010. Calls received through the Fair Work Infoline in January 2010 were around 60% higher than December 2009. Monthly visits to Fair Work Online increased from over 187 000 visitors in July 2009 to over 449 000 visitors in June 2010. The Fair Work Online website aims to be the first resource used by employers and employees, so that the Fair Work Infoline can provide customised and more complex assistance.

The Fair Work Ombudsman has significantly extended its office network, and therefore its presence and reach across Australia, through new partnerships between state and federal governments. Through state partner offices in New South Wales, Queensland and South Australia, the Fair Work Ombudsman now provides direct services to a number of new regional centres, with the aim of providing consistent support for employers joining the national workplace relations system for the first time.

Workplace relations changes have a major impact on small businesses, and the Fair Work Ombudsman delivers dedicated services and support designed to meet their needs. A survey conducted in May 2010 indicated that around 75% of employers contacting the Fair Work Infoline for advice and support self-identified as small business operators with fewer than 15 employees.

There are currently 17 templates available online specifically targeting small businesses, although during the course of the year there were up to 20. These have been downloaded almost 370 000 times – almost 70% of those between January and June. The payslip template has been the most popular, with downloads averaging more than 9000 a month in the latter half of the year.

The Fair Work Ombudsman has actively encouraged employees to learn about their rights in the workplace. Specific targeted education campaigns focused on vulnerable groups, such as young workers, international students and migrants and refugees. These campaigns provided easy-to-understand information on employee rights and encouragement to seek the Fair Work Ombudsman’s help.

### Assistance and advice

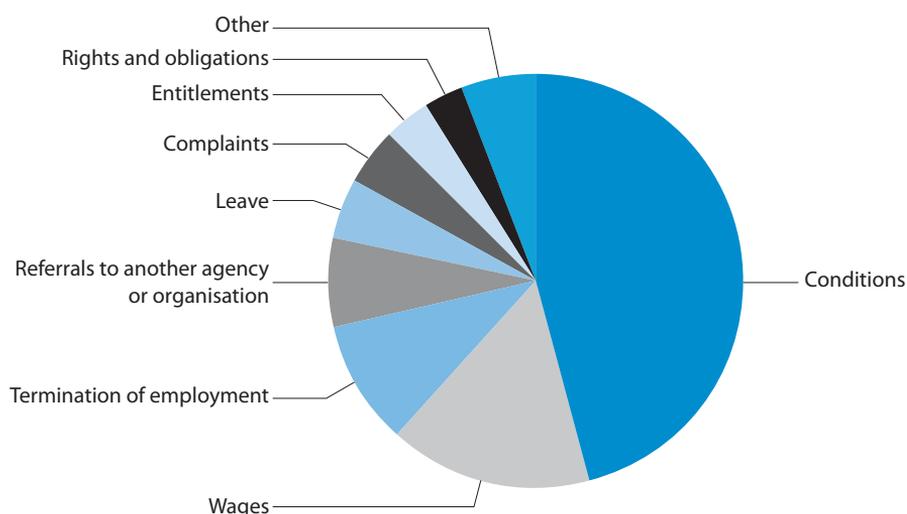
Fair Work Online ([www.fairwork.gov.au](http://www.fairwork.gov.au)) and the Fair Work Infoline (13 13 94) were promoted as the first point of contact for employers and employees requiring information on the national workplace relations system. The Fair Work Ombudsman’s team of 230 Fair Work Advisers provided the following communication services to employers and employees:

- answering 1 108 648 calls to the Fair Work Infoline
- conducting 35 421 Live Help sessions – one-to-one advice using a text-based online chat window in real time
- responding to 22 589 emails and written enquiries.

The majority of calls to the Fair Work Infoline were related to conditions of employment (45.9%) and pay and allowances (15.8%). Other calls concerned termination of employment (9.9%). Around 7% of calls fell outside the scope of advice offered by the Fair Work Ombudsman and were referred to the appropriate government agency or organisation.

During 2009–10, about 34% of calls to the Fair Work Infoline were on behalf of employers and 59% on behalf of employees (the balance of calls were not discerned as being clearly one or the other).

**FIGURE 3: NATURE OF CALLS TO THE FAIR WORK INFOLINE 2009–10**



## Case study



*Priyanka Taluja, a Fair Work Adviser in the Sydney office of the Fair Work Ombudsman*

## Fair Work Infoline

'I'm currently part of a team of advisers that handle live online chat sessions and email enquiries, as well as responding to more complex enquiries coming through the Fair Work Infoline', says Priyanka Taluja, a Fair Work Adviser based in the Fair Work Ombudsman's Sydney office.

'A complex enquiry might come from an employer who has numerous employees covered by different awards, or related to a specific clause in a particular award. The initial

enquiry is registered, and we undertake research and get back to them with an answer', she explains.

Priyanka has worked as an Adviser for three years, previously with the Workplace Authority before joining the Fair Work Ombudsman.

'The enquiries I receive vary a lot – they come from small business, employees, and usually when it's about younger workers, from their parents or older siblings needing information. The advice and information provided to me about the situation is very important – the advice and help I can provide totally depends upon that.'

'One of the best parts of my job is the teamwork. My colleagues are helpful and approachable, and I work in an environment where people share information and their experience to help me do my job better,' Priyanka adds.

The Fair Work Ombudsman provides free assistance and advice through a team of over 230 Fair Work Advisers located in Sydney, Melbourne, Brisbane, Adelaide, Hobart and Perth.

Through the Fair Work Infoline – 13 13 94 – Fair Work Advisers have received over 1.1 million calls in 2009–10 from employers, employees and contractors for information and advice about Australia's workplace laws. About a third of these calls come from employers – the majority of these from small businesses.

Over 15% of the enquiries to the Fair Work Infoline come from employers and employees in the retail, hair and beauty, hospitality and construction industries, mostly from people who are not members of industry associations or unions.

## Fair Work Online

Fair Work Online was launched in June 2009 to provide information and advice about Australia's workplace laws and rules in a range of formats. It also provides self-service tools to assist employers and employees achieve compliance.

Fair Work Online served as the gateway to information employers and employees needed regarding their workplace rights and responsibilities. Fair Work Online also provided a valuable reference tool used by Fair Work Advisers and Inspectors when educating employers and employees. In 2009–10, 2 905 874 visits were made to Fair Work Online ([www.fairwork.gov.au](http://www.fairwork.gov.au)), and 747 288 visits were made to the Fair Work Ombudsman website ([www.fwo.gov.au](http://www.fwo.gov.au)). As part of these visits, more than 19.5 million pages were viewed on Fair Work Online and more than 2.5 million pages were viewed on the Fair Work Ombudsman website.

The Fair Work Ombudsman continues to add tools, information and customer service alternatives to the customer service platform. In 2009–10, the Fair Work Ombudsman provided through Fair Work Online:

- Live Help, a text-based online chat service that enables employers and employees to 'chat' with a Fair Work Adviser live during business hours
- self-service online tools to assist employers and employees to understand pay rates under the modern award transitional arrangements, including PayCheck, Payroll Check, a penalty rate calculator and modern award search
- multimedia content for young workers and small businesses, including a series of videos explaining modern awards, the National Employment Standards, work and family balance, state referrals and unlawful workplace discrimination
- copies of the Fair Work Information Statement – translated into 26 languages
- 31 fact sheets, covering the 10 National Employment Standards, modern awards, workplace discrimination and an overview of state referrals for employers new to the national system
- 11 Best Practice Guides covering topics ranging from work and family to small business
- templates to assist small business in engaging new employees, probation periods and termination of employment.

Fair Work Online is designed to be available to customers anywhere, anytime. To measure how well the website meets the needs of clients, the Fair Work Ombudsman continues to research its usability and accessibility, setting a baseline for improved website services in the future.

## Support for a new national workplace relations system

The new national workplace relations system commenced progressively from 1 July 2009. The referral of industrial powers to the Commonwealth by the states of New South Wales, Queensland, South Australia and Tasmania (together with the continuation of Victoria's referral of powers) on 1 January 2010, provides a nationally consistent set of workplace laws for private sector employers and employees in all states, with the exception of Western Australia.

To aid in the referral of workplace relations powers from New South Wales, South Australia, Queensland and Tasmania to the Commonwealth, the Fair Work Ombudsman negotiated support contracts with the relevant state governments (with the exception of Tasmania where the Fair Work Ombudsman will continue to provide primary services) to undertake support activities on the agency's behalf until 31 December 2012.

Between 1 January and 30 June 2010, the referring states completed 10 774 education visits to employers to provide information and assistance to employers who entered the national workplace relations system on 1 January 2010 for the first time. In addition, the Fair Work Ombudsman had completed 396 education visits in Tasmania by 30 June 2010.

Employer education packs were developed for visits, providing educational resources specifically designed to assist small businesses. Operational guides and intranet resources enabled staff from referring states to deliver services in a consistent and high-quality manner across Australia.

The referring states also finalised the investigation of 1031 complaints and undertook 376 audits on behalf of the Fair Work Ombudsman in the period 1 January – 30 June 2010.

As part of the national system, the Fair Work Ombudsman became responsible for the provision of advice and assistance to all private sector employers and employees from 1 January 2010 in New South Wales, South Australia, Queensland and Tasmania, and continued to have responsibility for services to all employers and employees in Victoria and the Territories. From that date, calls to state industrial relations agencies concerning workplace rights and entitlements were referred to the Fair Work Infoline.

The relationships established between the Fair Work Ombudsman and the governments of the referring states demonstrate good integration of services across a state and federal level to provide better services for Australians.

### Employer and industry education

The Shared Industry Assistance Projects scheme, initiated in 2009–10, aims to educate small businesses about changes to modern awards.

The Shared Industry Assistance Projects scheme will provide \$2.5 million in grants to employer and industry organisations to develop educational initiatives for a range of industries most in need of targeted information. The Shared Industry Assistance Projects scheme will be delivered in 2010–11.

### Vulnerable employee groups

Public information and education campaigns were undertaken in 2009–10 to raise awareness amongst vulnerable employee groups of their rights and obligations under the Fair Work Act. These campaigns included:

- **University and international students**

Fair Work Inspectors provided information and advice directly to over 6000 students under 25 years of age, and international students at 16 metropolitan and regional university 'O-Week' events across Australia in February 2010. Information was also sent to 685 CRICOS-registered universities, TAFEs and private education providers. Information for international students was translated into Hindi, Chinese, Portuguese, Thai, Korean and Nepali and made available at Fair Work Online.

- **Apprentices and trainees**

Tailored information for apprentices and trainees was distributed to careers advisors at 1900 secondary schools and 95 Group Training Organisations across Australia in April 2010. The information aimed to raise awareness among apprentices and trainees as to their workplace entitlements. Teachers were encouraged to visit Fair Work Online to download free resources for their school newsletters. The campaign contributed to over 1900 visits to the apprentices and trainees content on Fair Work Online.



*Fair Work Inspectors provided advice and information to students at O-Week events at 16 universities across Australia in February 2010.*

## Media publicity

Media publicity is a key part of demonstrating to the community the outcomes of the Fair Work Ombudsman’s education and compliance activities, and in raising the profile of the agency in the community.

Media reports on targeted campaigns, investigations into complaints and reporting on the outcomes of legal proceedings provide a constant reminder to the community of the importance of complying with workplace laws. It also informs the public about the Fair Work Ombudsman’s critical role and the services it provides.



A strong media presence assists the Fair Work Ombudsman's education and compliance messages to reach every community. However, the Fair Work Ombudsman generally does not publicise situations where employers have inadvertently breached workplace law and who have co-operated and voluntarily rectified their contraventions. Usually only employers subject to civil penalty litigation or whose cases are already in the public arena are identified.

In 2009–10, the Fair Work Ombudsman provided information to the media on an almost daily basis about its compliance and education activities. Senior Fair Work Ombudsman staff and regional directors were available to respond to requests for interviews and information from regional media so as to educate local communities.

To the end of the financial year, Media Monitors estimates that the media activity generated by the Fair Work Ombudsman was equivalent to more than \$6.2 million in paid print, radio and television coverage.

### **Establishment of the National Employer Branch**

The National Employer Branch was established in the course of the year to work with large national enterprises and franchise operations in order to work on the issues the Fair Work Ombudsman periodically sees in those sectors. The objective of the Branch is to proactively engage with large employers, providing them with advice and assistance as they work to voluntarily implement compliant processes and systems. The Fair Work Ombudsman believes this to be a more effective mechanism to drive voluntary compliance than targeting individual outlets one by one.

The objective is to provide a service that efficiently reaches the 29% of Australia's working population that are employed by the top 1% of Australian businesses. The service works towards compliance with a larger group of companies in each engagement than would be possible through direct enforcement activities. This will enable the agency to direct enforcement activities to other required areas.

Activities will be directed at:

- industries where the Fair Work Ombudsman's assistance is assessed as most needed and most likely to have a significant impact
- businesses that could most benefit from more intensive individual engagement with the Fair Work Ombudsman.

Following a period of engagement, the National Employer Branch will assist interested enterprises ensure compliance with their obligations under the Fair Work Act, and reap the benefits of a compliant and fair workplace. Engagement depends on the willingness of an enterprise to actively participate in activities that will lead to the implementation of compliant systems and processes.

## Goal 2 – Ensuring effective compliance

### Investigating and litigating to enforce the Fair Work Act, Fair Work instruments and safety net contractual entitlements

Duty-holders under the Fair Work Act must clearly understand both their responsibilities and the consequences of failing to meet them in order to comply with Australia's workplace laws. Accordingly, the Fair Work Ombudsman provides advice and education to employers, employees, contractors and their respective representatives in order to help them meet their obligations. The Fair Work Ombudsman encourages employers, employees, contractors and their representatives to work with the agency to achieve compliance.

The Fair Work Ombudsman's investigation and litigation activities are part of this broader compliance system, a combination of positive motivators and deterrents aimed at bringing about compliance with Australia's workplace laws.

Fair Work Ombudsman compliance activities are undertaken in a number of ways:

- Resolution – resolving workplace disagreements through Assisted Voluntary Resolution, other mediation or small claims processes
- Audit – proactive audits of targeted industries or sectors
- Investigation – the investigation of alleged contraventions and the appropriate resolution
- Enforcement – legal action in response to deliberate and/or wilful contravention.

The Fair Work Ombudsman utilises these approaches in an integrated way. During 2009–10, the agency undertook three national and 34 regional campaigns to focus on industries or areas where there has been a history of non-compliance. These campaigns provided education to employees, and were followed by a period of auditing.

The audits revealed varying degrees of compliance and non-compliance trends depending on the industry sectors targeted. For example, in the security industry only 51% of employers were found to be complying with the provisions of the Fair Work Act. The key finding was employers' widespread use of flat rates of pay in the belief that such arrangements would compensate for allowances, penalty and loading provisions.

In the hairdressing industry, which employs a high proportion of vulnerable workers including apprentices and young females, 61% of employers were found to be compliant. Contraventions predominantly related to incorrect pay and conditions, record keeping and pay slips.

Record keeping and payslip contraventions were common findings, as were underpayments of minimum pay and leave entitlements. Regional audits in industries that employ a high proportion of apprentices, such as the metal trade in New South Wales, confirmed many employers need further consultation and support to properly support the progression of their apprentices.

Fair Work Inspectors undertaking audits in regional areas reported that they were often welcomed and that employers were keen to be provided with information about their responsibilities. Where contraventions were found, voluntary resolution was the usual outcome.

Where breaches of the law were identified, the Fair Work Ombudsman worked with employers to achieve voluntary compliance. Over \$4 million was recovered for employees in 2009–10 as a result of these campaigns.

Employees contact the Fair Work Ombudsman for help when their workplace rights have been affected or in relation to complaints about their pay and conditions. Employees are provided with free information and a range of tools to help them resolve the issue directly with the employer. Where this approach is unsuccessful, the Fair Work Ombudsman will investigate. In 2009–10, 21 070 cases were finalised and \$21 291 393 recovered through investigations.

Where breaches of the law were identified in relation to other duty-holders, such as unions, the Fair Work Ombudsman took appropriate action. In some cases, the action included commencing legal proceedings against unions and union officials for their alleged unlawful behaviour.

These approaches remedy the bulk of non-compliance issues brought to the attention of the Fair Work Ombudsman.

Where these measures do not result in compliance, the Fair Work Ombudsman may seek Enforceable Undertakings as an alternative to commencing proceedings or issuing a compliance notice. These enforcement mechanisms are used by the Fair Work Ombudsman where it reasonably believes that a person has contravened a civil remedy provision. They may also be used to formalise an arrangement where an offender has voluntarily complied with the law after an investigation by a Fair Work Inspector.

In the course of the year the following Enforceable Undertakings were finalised:

- Ajlan Pty Ltd
- P&O Automotive and General Stevedoring Pty Ltd
- Cotton On Services Pty Ltd
- Mission Australia  
(please note: this undertaking was negotiated prior to the introduction of Enforceable Undertakings pursuant to the *Fair Work Act 2009*. The undertaking is contractually binding upon the parties at common law).

An Enforceable Undertaking is considered to be a more effective regulatory outcome where it produces an efficient result that compensates those persons who have suffered loss or damage as a result of the contravention or where it offers opportunities to ensure continuing compliance that may not be available via an order from a court. An Enforceable Undertaking may provide the most effective and flexible enforcement mechanism as a range of compliance outcomes can be achieved.

Some of the outcomes the Fair Work Ombudsman was able to achieve from entering into an Enforceable Undertaking with Cotton On Services Pty Ltd included:

- \$278 126.46 being paid to 3289 employees
- a written apology to employees for failing to pay lawful entitlements and keep records
- a written apology published on the Cotton On Facebook 'wall' for a period of at least 30 days
- human resources staff completing a quality workplace relations compliance programme or training, conducted by an accredited training body, within three months of executing the Enforceable Undertaking

- providing written reports to the Fair Work Ombudsman at the end of each financial year, for the next three years, regarding:
  - wage rates and entitlements paid to employees
  - the classification and employment status of each employee, and
  - details of any proactive compliance measures implemented over the reporting period.

A decision to take legal action against an employer for an alleged breach of the law is guided by the Fair Work Ombudsman's *Guidance Note 1 – Litigation policy*. This policy, published in July 2009, provides the community with an understanding of the factors the Fair Work Ombudsman takes into account when considering whether to exercise its powers to litigate. The Fair Work Ombudsman's litigation activities aim to be transparent, accountable, constructive and effective.

The Fair Work Ombudsman commenced 53 civil penalty litigations against employers in 2009–10, in situations where employers refused to comply with workplace laws, or where serious or repeated breaches were involved even though compliance may have been achieved voluntarily.

## Complaints and investigations

There are more than 495 Fair Work Inspectors in 53 metropolitan and regional offices across Australia. This includes over 215 Fair Work Inspectors working in our 27 state partner offices in Queensland, South Australia and New South Wales.

Formal investigations of complaints can recover payments for complainants, but an informal approach – Assisted Voluntary Resolution (AVR) – can achieve a fair outcome to disputes quickly. Through AVR, complainants and alleged offenders receive education, assistance and advice, ensuring that parties understand their rights and obligations under Australian workplace laws.

The Fair Work Ombudsman receives complaints from employees on a range of matters, including pay, conditions, workplace rights and discrimination.

Complaints are generally received once employees have:

- checked their pay, conditions and workplace rights, and
- unsuccessfully tried to resolve the problem with the employer.

Employees can lodge complaints at Fair Work Online, by fax, by post or in person. In 2009–10 46% of complaints were lodged online.

In 2009–10, the Fair Work Ombudsman received 23 698 complaints, of which 2362 were referred to state partner agencies. The Fair Work Ombudsman finalised 21 070 complaints. During the year, Fair Work Inspectors recovered \$21 291 393 in lost wages and entitlements for 9823 employees. A further \$4 904 263 was recovered on behalf of 6265 employees as a result of the Fair Work Ombudsman's audit and targeted investigation activities. In the year, the Fair Work Ombudsman recovered a combined total of \$26 195 656 on behalf of 16 088 employees.

Tables 3 and 4 show the Fair Work Ombudsman's performance in dealing with complaints of federal agreement or award contraventions over the past financial year.



TABLE 3: COMPLAINTS FINALISED BY STATE AND TERRITORY 2009–10

State or territory	2009–10
Australian Capital Territory	3321
New South Wales	4265
Northern Territory	405
Queensland	4545
South Australia	1169
Tasmania	561
Victoria	4942
Western Australia	1862
<b>Total</b>	<b>21 070</b>

TABLE 4: PAYMENTS RECOVERED FROM COMPLAINTS AND TARGETED AUDITS 2009–10

State or territory	Number of individuals receiving payment	Payment
Australian Capital Territory	1178	\$1 752 457
New South Wales	4718	\$7 654 595
Northern Territory	249	\$394 447
Queensland	3749	\$4 255 171
South Australia	976	\$1 712 649
Tasmania	420	\$871 561
Victoria	3164	\$6 904 332
Western Australia	1634	\$2 650 444
<b>Total</b>	<b>16 088</b>	<b>\$26 195 656</b>

### Assisted Voluntary Resolution – an informal approach

The Assisted Voluntary Resolution approach enables Fair Work Inspectors to assist both parties to a workplace complaint find a fair and mutually acceptable resolution without having to immediately resort to formal investigation.

Typically, matters that undergo Assisted Voluntary Resolution include an employee or former employee lodging a complaint where they believe they have not received their correct wages and entitlements. Assisted Voluntary Resolution assists in resolving the disputes by:

- providing education, assistance and advice to complainants and alleged offenders
- increasing understanding of workplace rights and obligations under Australian workplace laws.

Following the successful completion of the pilot project, Assisted Voluntary Resolution was implemented nationally. By 30 June 2010, Assisted Voluntary Resolution was used to resolve 2338 complaints relating to \$2 364 957 in unpaid wages and entitlements.

Assisted Voluntary Resolution is one of the ways the Fair Work Ombudsman helps to promote harmonious, productive and cooperative workplaces.



*Julia White (left), a Fair Work Inspector in the Fair Work Ombudsman's Assisted Voluntary Resolution Adelaide team*

## Assisted Voluntary Resolution

'Providing education, support and guidance throughout the Assisted Voluntary Resolution process to participants in order to reach a satisfactory outcome is one of the most enjoyable aspects of my job', says Julia White, a Fair Work Inspector in the Fair Work Ombudsman's Assisted Voluntary Resolution team in Adelaide.

When a mature-aged Tasmanian employee lodged a complaint with the Fair Work Ombudsman about unpaid wages, an outcome was reached quickly when the man and his employer agreed to participate in Assisted Voluntary Resolution.

'The employee was particularly vulnerable, as he was aged in his 60s and worked in a small town with limited job opportunities. He'd been trying to sort out the situation with his employer for some time but without success. On being invited to participate in the Assisted Voluntary Resolution process, the worker and his employer sat down for a discussion and agreed to an amount of back pay that was acceptable to both parties', said Julia.

'The Assisted Voluntary Resolution meeting was brought about by presenting the parties, in particular the employer, with the obligations of employers in regard to wages and conditions', she added.

The Fair Work Ombudsman facilitates Assisted Voluntary Resolution as an approach to resolving workplace disputes over wages and conditions fairly and promptly. Assisted Voluntary Resolution is the informal, early stage of the Fair Work Ombudsman's investigation process.

Assisted Voluntary Resolution assists both parties to a workplace complaint to find a fair and mutually acceptable resolution, without having to immediately resort to formal investigation. In many cases, these matters include an employee or former employee lodging a complaint with the Fair Work Ombudsman because they believe they have not received their correct wages and entitlements.

'One of the first steps in the Assisted Voluntary Resolution process is to send a letter to both parties providing them an opportunity to participate in the process. As a Fair Work Inspector, I talk to both parties to work out the issues involved and what assistance the Fair Work Ombudsman can provide.'

'I then make recommendations for a resolution based on workplace legislation and the applicable award. Ensuring that the minimum entitlements are being met, parties can then reach an agreed and suitable resolution.'

'To ensure the agreement is followed through, the Fair Work Ombudsman issues a Letter of Undertaking which sets out what has been agreed to and actions the parties can take if the matter isn't resolved,' says Julia.

## Education and compliance campaigns

Education and compliance campaigns that focus on specific industries are a proactive strategy the Fair Work Ombudsman uses to achieve compliance with national workplace laws. The Fair Work Ombudsman's 2009–10 education and compliance campaigns were effective in recovering employee entitlements, particularly when the campaign targeted high risk areas and industries that employed vulnerable workers.

During 2009–10, there was a strong emphasis on engagement with relevant industry associations and unions to deliver national educational campaigns. This approach provided industry-specific knowledge that was used to shape the educational activities undertaken. The campaigns were also supported by information shared through industry association and union communication channels.

Results of campaigns undertaken in 2009–10 demonstrate that educational activities are an effective way of promoting and achieving voluntary compliance amongst employers.

In 2009–10, national and regional campaigns resulted in 3413 audits being finalised and more than \$4 267 828 being recovered on behalf of 5627 employees.

**TABLE 5: EMPLOYER CAMPAIGN AUDITS FINALISED FOR 2009–10**

New South Wales / Australian Capital Territory	743
Northern Territory	78
Queensland	426
South Australia	358
Tasmania	172
Victoria	1008
Western Australia	628
<b>Total</b>	<b>3413</b>

**TABLE 6: MONEY RECOVERED FOR EMPLOYEES THROUGH CAMPAIGNS IN 2009–10**

New South Wales / Australian Capital Territory	\$1 271 055
Northern Territory	\$56 444
Queensland	\$471 514
South Australia	\$372 594
Tasmania	\$151 326
Victoria	\$1 170 860
Western Australia	\$774 035
<b>Total</b>	<b>\$4 267 828</b>

## National campaigns

Three national education and compliance campaigns were completed by the Fair Work Ombudsman in 2009–10:

- **Hair and Beauty Campaign:**

During this campaign, the Fair Work Ombudsman provided educational information to more than 2000 employers in the hair and beauty industry across Australia. The Fair Work Ombudsman then targeted 330 employers for an audit. Of these, 200 (61%) were found to be compliant and 130 (39%) had contraventions. A positive outcome of the campaign was that 89% of employers who had a contravention resolved the matter voluntarily. The full report on this campaign was posted on the Fair Work Ombudsman website in December 2009.

- **Security Industry Campaign:**

This campaign was prompted by the number and nature of complaints received by the Fair Work Ombudsman in 2009–10 from members of the community working in the security industry. As well, the sector covers a significant number of vulnerable workers employed as casuals or under labour hire arrangements. The report on this campaign, posted on Fair Work Online in April 2010, highlighted the common practice in the sector of paying flat rates of pay which fail to compensate for shift or weekend penalties, overtime or annual leave loading. The campaign indicated a need for further education and investigation in this sector.

- **National Follow-Up Campaign:**

The purpose of this campaign was to target employers in the retail, hospitality, hair and beauty and cleaning industries, who had been found to be non-compliant in campaigns undertaken in previous years. The campaign aimed to ensure employers were maintaining compliance over the longer term.

The following three national education and compliance campaigns were commenced by the Fair Work Ombudsman in 2009–10:

- **Horticulture Industry Shared Compliance Program:**

Through the Horticulture Industry Shared Compliance Program, the Fair Work Ombudsman developed jointly branded employer and employee guides in partnership with the Australian Industry Group, the Australian Workers' Union, the Horticulture Australia Council and the National Farmers' Federation. An Australia-wide employer seminar program was rolled out in March and April 2010. The audits of this industry commenced in May 2010.

- **Insulation Installers Audit Program:**

This program, which commenced in May 2010, audited insulation installer employers' time and wage records, as well as contract arrangements for alleged contraventions of the 'sham contracting' provisions in the Fair Work Act.

- **Retail Industry Campaign:**

In April 2010, the Fair Work Ombudsman commenced development of an educational strategy to target retailers in the national workplace relations system. This included those moving to the national system, with the exception of those working in food retailing or motor vehicle or motor fuel retailing. The audit phase of this campaign is due to commence in early 2011.

## Regional campaigns

Regional campaigns respond to specific state or regional issues, and create opportunities for the Fair Work Ombudsman to reach regional and remote areas of Australia. In 2009–10, the Fair Work Ombudsman commenced 34 regional education and compliance campaigns, two of which were undertaken with state partner agencies.

### NSW/ACT

- Broken Hill Campaign
- Hunter Region Shuttle Bus Drivers Education and Compliance Campaign
- Dubbo, Narrabri and Moree Campaign
- Pacific Seasonal Workers Pilot Scheme Campaign
- Belconnen Building Site Campaign
- South Coast Record Keeping Campaign – undertaken with NSW Industrial Relations
- Sydney Metropolitan Cleaning Contractors Campaign
- Hunter Region International Students Campaign.

### Victoria

- 7-Eleven Victoria Campaign
- Royal Melbourne Show Campaign
- North West Hairdressing Industry Campaign
- Albury/Wodonga Records and Payslips Campaign
- Tongala Educational Industry Campaign
- Docklands and Southbank Monthly Record Keeping Campaign
- Hamilton Monthly Record Keeping Campaign
- Phillip Island/Wonthaggi Record Keeping Campaign
- Braeside Inner North Manufacturing Record Keeping Campaign
- River Murray Accommodation Industry Campaign.

### Western Australia

- Geraldton Regional Payslip and Record Keeping Campaign
- Fast Food Industry Campaign
- Albany/Denmark/Mt Barker Regional Campaigns
- Bunbury/Australind/Eaton Regional Campaigns
- Kimberley and Pilbara Regional Campaign
- Kalgoorlie – Esperance Compliance Campaign.

### South Australia

- Adelaide Royal Show Campaign
- Adelaide Clipsal 500 Campaign – undertaken with SafeWork SA
- Massage Workers Industry Campaign
- Pooraka Produce Market Campaign
- Fast Food/Takeaway Food Industry Campaign
- Limestone Coast Record Keeping and Payslip Campaign.

### Tasmania

- Ongoing Record Keeping Campaign
- Unpaid Work Campaign.

### Northern Territory

- Mindil Beach Sunset Markets Campaign
- Smith Street Mall (Darwin) Campaign.

## Workplace discrimination

The introduction of the Fair Work Act introduced discrimination as a new area of workplace relations compliance. The Fair Work Act provides protection for current and prospective employees against discrimination for 13 different attributes: race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction and social origin.

In 2009–10, these workplace discrimination protections complemented a range of other state and federal anti-discrimination laws, giving employees a broad range of agencies to approach.

The Fair Work Ombudsman was given responsibility for addressing workplace discrimination under the Fair Work Act in 2009–10 for matters occurring on or after 1 July 2009. The agency undertook this responsibility through its complaint handling and educational activities.

In its first 12 months, Fair Work Ombudsman staff:

- considered more than 804 discrimination complaints, although 44% of complaints were outside of the Fair Work Ombudsman's jurisdiction as they did not involve any discriminatory behaviour as defined by the Fair Work Act. This means there was no evident connection between the allegation of adverse action and an attribute of discrimination
- received 804 discrimination complaints of which, physical or mental disability accounted for 14%, race 9%, pregnancy 9%, age 7% and family/carer's responsibilities 6%
- published *Guidance Note 6 – Discrimination policy* (December 2009) to help employers and employees understand the Fair Work Ombudsman's interpretation of the discrimination provisions of the Fair Work Act and its policies and procedures to enforce them
- undertook research to evaluate the needs of the community for educational materials
- identified pregnancy discrimination in the workplace as a significant concern given its relation to both discrimination and maternity leave entitlements
- developed educational materials designed to raise awareness of the Fair Work Ombudsman's role in relation to discrimination generally and, in particular, in respect to pregnancy discrimination
- produced 100 000 brochures on pregnancy discrimination that were distributed to women across Australia at the time when they register with a hospital or doctor for the birth of their babies
- developed a self-assessment tool to assist employers to review their practices in relation to pregnancy discrimination and encourage them to address any problem areas, such as recruitment
- actively case-managed 300 investigations in detail and recommended three matters for litigation for a breach of the employer's obligations under the Fair Work Act
- commenced the first civil penalty litigation against an employer alleged to have discriminated against an employee on the basis of her pregnancy.

- in the case of *Fair Work Ombudsman v Wongtas Pty Ltd & Ors*, filed in the Federal Court of Australia, the Fair Work Ombudsman has alleged that when a woman informed her employer that she was pregnant, she was told she might not be able to return to her position and that a second person would be recruited for her to train. It is alleged the employer subsequently hired another full-time worker within days of the woman asking for sick leave because of complications with her pregnancy. It is also alleged that about a week after returning to work, the woman was told her pregnancy has ‘caused inconvenience’ for the employer and as a consequence needed to ‘accept’ that a second employee had been engaged. It is alleged the employer subsequently instructed the woman to perform packaging duties instead of her usual office duties, a position which attracted a lower hourly rate of pay. The matter is currently before the Court.

## Litigation

In the majority of instances, the Fair Work Ombudsman achieves compliance with Australian workplace laws voluntarily, assisted by targeted and industry-specific education and compliance campaigns.

Litigation activities are used by the Fair Work Ombudsman to enforce compliance where necessary, particularly in cases where:

- breaches have significant consequences
- breaches affect a vulnerable group
- a person does not acknowledge that the problem requires rectification.

In the course of the year 53 litigation matters were lodged in the courts. These include:

- 33 underpayment matters
- 6 unlawful industrial actions
- 3 failures to comply with a notice to produce
- 3 breaches of freedom of association
- 3 fairness test compensations
- 2 sham contracting matters
- 2 record keeping breaches
- 1 discrimination.

Five were commenced against a union and three against an official or employee of a union.

All decisions to litigate are made in accordance with the Fair Work Ombudsman’s *Guidance Note 1 – Litigation policy*.

## The Fair Work Ombudsman’s functions and powers

The Fair Work Act states the functions of the Fair Work Ombudsman include:

- commencing proceedings in a court, or making applications to Fair Work Australia, to enforce the Fair Work Act, Fair Work instruments and safety net contractual entitlements
- representing employees who are, or may become, a party to proceedings in a court, or a party to a matter before Fair Work Australia, under the Fair Work Act, or a Fair Work instrument, if the Fair Work Ombudsman considers that representing the employees or outworkers will promote compliance with the Fair Work Act or a Fair Work instrument.

The Fair Work Act vests power in Fair Work Inspectors and the Fair Work Ombudsman to:

- enter upon premises, without force
- issue Notices to Produce
- issue compliance notices
- accept Enforceable Undertakings
- commence court proceedings.

These powers enable the Fair Work Ombudsman to carry out its functions, as outlined in the Fair Work Act.





*Janine Webster, Executive Director – National Litigation Practice, Fair Work Ombudsman*

## Sham contracting

'In our first year as the Fair Work Ombudsman, we've commenced legal action covering a broad range of breaches of the Fair Work Act. For example, we commenced proceedings in respect of illegal industrial action, made allegations of sham contracting and we intervened in a winding-up application to ensure employee entitlements were protected through the liquidation process. However, principally, our litigation related to the underpayment of entitlements owed to employees', says Janine Webster, Executive Director, National Litigation Practice.

'Sham contracting is particularly concerning to the Fair Work Ombudsman. It occurs where, for example, an employer misrepresents to a person that they are an independent contractor, rather than an employee. Sometimes the employer's motive in doing this is to avoid having to give the person the entitlements associated with being an employee, such as superannuation and worker's compensation.'

Following prosecution by the Fair Work Ombudsman in December 2009, a Sydney real estate company and its director were fined almost \$30 000 for underpaying a salesperson more than \$20 000 as a result of sham contracting. Land Choice Pty Ltd, which traded as Kingsford First National Real Estate until October 2008, was fined \$24 600 – and sole director Mr S Sugiharto a further \$4840 for his involvement.

Federal Magistrate Shenagh Barnes found that Land Choice Pty Ltd had treated the female salesperson 'recklessly' by appointing her as an independent contractor instead of an employee. The salesperson was a new-arrival from Singapore with no experience in the Australian real estate industry. In handing down her decision, Federal Magistrate Barnes said that the imposition of penalties does act as a warning to other employers and reinforces the seriousness with which the courts treat the underpayment of employee entitlements.

Litigation is one of the compliance tools available to the Fair Work Ombudsman. It is generally used when voluntary compliance can't be achieved or where a breach of the legislation is significant.

'Taking an employer to court is often a last resort, but the outcomes we achieve through litigation can act as a strong message that promotes voluntary compliance with Australia's workplace laws. It's also an important way in which the Fair Work Ombudsman can enforce the rights of vulnerable individuals', says Janine.

Understanding their lawful obligations to their staff is the responsibility of all employers, large and small. The Fair Work Ombudsman can help – more than 230 Fair Work Advisers are available through the Fair Work Infoline to answer questions and assist employers.

## Outcomes

In 2009–10, the Fair Work Ombudsman commenced civil penalty litigation 53 times and obtained \$2 019 755 in court ordered penalties as a result. The Fair Work Ombudsman was involved in a number of significant litigation matters, including some with respect to:

- unlawful industrial action
- intervening in a winding-up application
- sham contracting
- failures to comply with a Notice to Produce issued under the Fair Work Act
- unlawful discrimination in employment.

The Fair Work Ombudsman commenced civil penalty litigation relating to a broad range of contraventions of the Fair Work Act in 2009–10. It accepted four Enforceable Undertakings as an alternative to litigation (building upon the three Enforceable Undertakings accepted by the Workplace Ombudsman).

Tables 7 and 8 outline details of civil penalty litigation commenced and Enforceable Undertakings received by the Fair Work Ombudsman during the period from 1 July 2009 to 30 June 2010.

**TABLE 7: CIVIL PENALTY LITIGATION AND ENFORCEABLE UNDERTAKINGS**

	Civil penalty litigation commenced and Enforceable Undertakings approved for negotiation	Decisions and Enforceable Undertakings received	Penalties
*2005–06	9	0	\$0.00
*2006–07	58	19	\$387 035.00
+2007–08	65	53	\$1 536 138.75
+2008–09	78	39	\$1 680 206.00
2009–10	‡66	§60	\$2 019 755.82
<b>Total</b>	<b>276</b>	<b>171</b>	<b>\$5 623 135.57</b>

\* Under the former Office of Workplace Services

† Under the former Workplace Ombudsman

‡ 13 Enforceable Undertakings included in this result

§ 4 Enforceable Undertakings included in this result

**TABLE 8: TYPES OF BREACHES WHERE CIVIL PENALTY LITIGATION WAS COMMENCED AND ENFORCEABLE UNDERTAKINGS RECEIVED IN 2009–10**

Types of breaches	Commenced
Agreement making – lodgement	1
Discrimination	1
Failure to comply with Notice to Produce	3
Fairness test	3
Freedom of association – employee	2
Industrial action	6
Industrial action – breach of order	1
Sham contracting	2
Time and wages records	3
Termination of employment – freedom of association prohibited reason	1
Wages and conditions	43
<b>Total</b>	<b>*66</b>

\* 13 Enforceable Undertakings included in this result

**TABLE 9: NATURE OF COURT DECISIONS AND ENFORCEABLE UNDERTAKINGS RECEIVED 2009–10**

Agreement making – duress	6
Fairness test compensation	2
Freedom of association – employee	2
Sham contracting	1
Time and wages records	5
Wages and conditions	44
<b>Total</b>	<b>*60</b>

\* 4 Enforceable Undertakings included in this result

The Fair Work Ombudsman’s litigation activities are generally the last resort of a broader compliance system. Litigation proceedings are undertaken when they are considered to be the most appropriate means of dealing with serious contraventions or deterring others from contravening Australia’s workplace laws. Litigation may also be appropriate when there is a need for judicial clarification of workplace laws.

#### Examples of how litigation undertaken by the Fair Work Ombudsman protected the rights of employees in 2009–10

- **Addressing instances where there is a history of repeated non-compliance**

The Fair Work Ombudsman investigated Security Protection Services after receiving a complaint from an employee of the company. Fair Work Inspectors found the company had been paying employees a flat rate for all hours worked, resulting in underpayments

of penalty and overtime rates to 47 staff. The investigation also revealed the director's history of operating companies and avoiding worker entitlements through liquidation.

In April 2010 the company owners were fined a record \$136 900. In his judgment on the case, Federal Magistrate Turner said businesses operated by the company owners have 'had extensive involvement in breaching employee entitlements in the security industry.' Federal Magistrate Turner also criticised the company owners for leasing a Landcruiser and BMW at a total cost of more than \$170 000 after Fair Work Inspectors alerted them to the underpayments.

The size of the penalty in this matter reflects the particular need for specific deterrence of offenders who have had a history of previous contraventions. This case highlights the Fair Work Ombudsman's commitment to pursuing individuals who engage in this sort of conduct and holding them to account.

- **Supporting a company being wound-up in order to protect worker entitlements**

Following a complaint lodged by the Textile Clothing and Footwear Union of Australia (TCFUA) about unpaid superannuation contributions, Fair Work Inspectors discovered that Jaido Pty Ltd (which traded as Scallywags Socks) allegedly failed to pay-out \$537 000 in termination entitlements and \$54 000 in superannuation to 45 employees when the factory closed. The workers were employed by Jaido before the company closed a factory in May 2010.

Winding up proceedings were commenced against Jaido by a creditor of the company, and it became clear to the Fair Work Ombudsman that there was a high risk that the workers would receive only a small amount of their entitlements.

The Fair Work Ombudsman sought to be heard in the winding up proceedings as an 'interested party' and was granted leave to appear by Associate Justice Gardiner of the Supreme Court of Victoria. The Fair Work Ombudsman adopted this approach to ensure the employees would be eligible to seek their entitlements through the Commonwealth General Employee Entitlement and Redundancy Scheme.

After hearing all submissions, including those of the Fair Work Ombudsman, Associate Justice Gardiner ordered the company into liquidation.

The Fair Work Ombudsman responded swiftly to resolve this situation, as workers are only eligible for General Employee Entitlement and Redundancy Scheme assistance when their employer goes into liquidation within six months of them losing their jobs.

While this was the first time the Fair Work Ombudsman made submissions supporting a company being wound up, the agency will consider making similar submissions in the future to protect employee entitlements.

## Enforceable Undertakings

An Enforceable Undertaking enables the Fair Work Ombudsman to accept a written commitment from a person following a contravention of the Fair Work Act. This is a new statutory compliance mechanism available to the Fair Work Ombudsman under Section 715 of the Fair Work Act.

The Fair Work Ombudsman uses an Enforceable Undertaking where it serves the public interest and can sufficiently rectify the alleged contravention. Enforceable Undertakings can serve as an effective tool in achieving voluntary compliance with workplace laws without the expense and delay associated with litigation.

Each Enforceable Undertaking contains an admission of identified contraventions and may include other terms such as:

- commitments to future compliance with Australian workplace laws
- participation in accredited management training
- rectification of outstanding entitlements
- the provision of a written apology to the people affected by the contravention.

**TABLE 10: ENFORCEABLE UNDERTAKINGS RECEIVED IN 2009–10**

<b>Date of undertaking</b>	<b>Nature of proceedings</b>	<b>Employer</b>	<b>Amount of underpayment (if any)</b>	<b>Additional obligations</b>
3 June 2010	Wages and conditions, time and wages records	Cotton On Services Pty Ltd	\$278 126.46	Future compliance, written apology to employees, public notices, future reporting to the Fair Work Ombudsman and human resources training
28 May 2010	Industrial action	P&O Automotive and General Stevedoring Pty Ltd	Not applicable	Future compliance, self-funded staff and management training, written explanations to affected employees
28 May 2010	Agreement-making (non-lodgement of AWAs and ITEAs)	Mission Australia	Not applicable	Future compliance, self-funded management training, rectification of underpayments, written and verbal explanations to affected employees
7 May 2010	Wages and conditions	Ajlan Pty Ltd	\$52 574.73	Future compliance, rectification of underpayments, written and verbal explanations to affected employees, public notices, future reporting to the Fair Work Ombudsman and human resources training

Full details of Enforceable Undertakings accepted by the Fair Work Ombudsman in 2009–10 are available at [www.fairwork.gov.au](http://www.fairwork.gov.au)

### Unlawful industrial action

Industrial action can take a number of forms – including strikes, work bans and lock-outs. Industrial action can be:

- protected (an enterprise agreement has expired and a protected action ballot has been held that has authorised the action)
- unprotected (an enterprise agreement has expired), or
- unlawful (an enterprise agreement has not expired).

Where an industrial action investigation by the Fair Work Ombudsman identifies a contravention of a civil remedy provision of the Fair Work Act, there are a range of compliance tools that may be used. These include letters of caution, Enforceable Undertakings, injunctions and litigation.

The Fair Work Ombudsman considers the interest of the public before deciding to commence civil penalty litigation of unlawful industrial action. Some of the factors that are considered include:

- the potential impact of the action, including the financial impact on a company, third parties or the national economy
- the risk of future unlawful industrial action or disturbance by any of the parties involved
- a history of unlawful industrial action or contraventions by the relevant parties at the particular workplace
- the level of cooperation with the Fair Work Ombudsman's investigation.

**The following proceedings were commenced by the Fair Work Ombudsman in 2009–10 relating to unlawful industrial action**

**Fair Work Ombudsman v Transport Workers' Union of Australia** SAD 158/2009

- In October 2009, the Fair Work Ombudsman commenced proceedings against the Transport Workers' Union in the Federal Court of Australia in respect of unlawful industrial action taken by baggage handlers working for Qantas. The strikes at Adelaide and Melbourne airports in December 2007 caused significant disruption to airport operations nationally and resulted in up to five-hour delays for more than 2000 travellers.

Prior to the commencement of the litigation, the Transport Workers' Union admitted the contraventions. It expressed regret for taking the illegal industrial action during the court hearing. On 23 July 2010, the Federal Court imposed a total penalty of \$35 000 upon the Transport Workers' Union in respect of its actions.

**Fair Work Ombudsman v Transport Workers' Union of Australia and Ors** NSD 1204/2009

- In October 2009, the Fair Work Ombudsman commenced proceedings against the Transport Workers' Union and a number of union officials in the Federal Court of Australia alleging unlawful industrial action taken by baggage handlers who were members of the Transport Workers' Union at Sydney International Terminal, and Brisbane, Adelaide and Perth airports, on or about 30 March 2009. The matter is currently before the Court.

**Fair Work Ombudsman v Transport Workers' Union of Australia and Neal Harper** SYG 3105/2009

- In December 2009, the Fair Work Ombudsman commenced proceedings against the Transport Workers' Union and Mr Neal Harper (a union official) in the Federal Magistrates Court of Australia alleging unlawful industrial action taken by employees of McColl's Transport Pty Ltd located at Wetherill Park in Sydney. The matter is currently before the Court.

**Fair Work Ombudsman v The Australian Workers' Union NSW & Ors**

- In December 2009, the Fair Work Ombudsman commenced proceedings against the Australian Workers' Union New South Wales, the Australian Workers' Union and a number of union officials in the Federal Magistrates Court of Australia alleging unlawful industrial action occurring at the Boral Dunmore Quarry on the South Coast of New South Wales. The incidents are alleged to have occurred on 14 and 16 February 2009, 30 June 2009 and 3 July 2009. The matter is currently before the Court.

**Fair Work Ombudsman v Australian Education Union**

- In April 2010, the Australian Education Union encouraged teachers to participate in a ban on administering NAPLAN tests scheduled to take place between 11–13 May 2010. The Fair Work Ombudsman applied to Fair Work Australia to be heard as an intervening party in relation to an application by the Victorian State Government against the Australian Education Union, and was granted status as an intervener.

Fair Work Australia determined that the bans proposed by the Australian Education Union would amount to unlawful industrial action. A later application was filed in the Federal Court by the Fair Work Ombudsman seeking an injunction against the Australian Education Union from organising or inciting industrial action in the Australian Capital Territory, Northern Territory and Victoria. Following on from the Fair Work Ombudsman's application for an injunction in the Federal Court, the Australian Education Union lifted the ban on the NAPLAN tests and the testing went ahead as planned. As a result of commitments given by the Australian Education Union to the Court, the Fair Work Ombudsman withdrew its proceedings in their entirety and the issues that were the subject of the application were not tested by the Court.

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## Goal 3 – Building an effective organisational profile and sustainable relationships

The Fair Work Ombudsman recognises that a compliance system that comprises a number of activities and delivery mechanisms enables the agency to provide targeted service to customers. This capability requires an understanding of customers' requirements, a strong educative focus and a proactive program to build the profile of the Fair Work Ombudsman with key stakeholders through consistent service delivery.

In addition, a major objective for the Fair Work Ombudsman in 2009–10 was engagement and consultation with industry organisations. Collaboration with these groups enhanced the agency's ability to reach more employers and employees and inform them of the services and assistance available to them.

The Fair Work Ombudsman continues to define the needs and expectations of customers in order to develop specific services and resources for particular groups. The agency delivered specialist support for large national employers, workers from culturally and linguistically diverse backgrounds, as well as industry organisations serving both employers and employees.

Similarly, small businesses were provided with a range of online templates designed to make complying with the new national workplace relations system simpler. Small businesses have proactively used these tools to make themselves aware of their responsibilities when it comes to managing all stages of employment. By 30 June 2010, 28 templates had been published online, and downloaded almost 370 000 times.

### **An educative focus**

In 2009–10, the establishment of the Fair Work Ombudsman's education team directly fulfilled the agency's statutory obligation under the Fair Work Act to provide information and advice on Australia's workplace laws. The education team drove the development and implementation of the agency's education strategy, and promoted a culture that was well informed about the Fair Work Ombudsman's new educative role.

Up to 28 free templates for time-and-wages sheets, payslips and other types of employment records, including letters of engagement, probation and termination, were available at [www.fairwork.gov.au](http://www.fairwork.gov.au) during the course of the year.

The documentation covers a range of situations in which employers commonly provide employees with written correspondence because it is required by law or because of the benefits of having formal documentation.

Providing step-by-step instructions for small to medium sized businesses and those without human resources staff in particular, the templates are a practical resource aimed at helping employers to save time and money as well as assist with improved understanding of, and compliance, with workplace laws.

Templates were downloaded almost 370 000 times during 2009–10 – almost 70% of them in the second half of the financial year. The most popular was the payslip template, which was downloaded on average more than 9000 times a month in the six months to June 30, followed by the template letter of engagement, which was downloaded almost 4000 times a month during the same period.

A comprehensive set of over 31 fact sheets covering topics including annual leave, right of entry, transfer of business and enterprise bargaining were downloaded more than 491 000 times.

Best Practice Guides dealing with a range of workplace matters such as work and family, small business and the Fair Work Act and managing underperformance were downloaded almost 102 000 times and the Fair Work Information Statement, available in 26 languages, was downloaded more than 188 000 times after it was released in December.

The education team also developed a range of resources to educate employers in specific industries to understand their obligations. This included industry-specific areas of Fair Work Online, developed in consultation with industry partners, to provide a central location of relevant workplace relations-related information for the horticulture and retail industries.

A Small Business Education Unit was created as a key part of the Fair Work Ombudsman's education team. The Small Business Education Unit developed 28 templates and tools to help small businesses understand and adopt best-practice workplace relations. Fair Work Inspectors also used these tools to actively demonstrate to small business operators ways in which they could comply with their employment obligations.

### **Committed to customer satisfaction**

One of the main points of contact for the community with the Fair Work Ombudsman is the Fair Work Infoline. As a result, ensuring timely, accurate and high quality services are provided to callers is a priority.

#### **National Quality program for the Fair Work Infoline**

In 2009–10, the Fair Work Ombudsman developed and implemented a National Quality program for the Fair Work Infoline. Initiatives to improve customer satisfaction included recording 100% of calls received through the Fair Work Infoline.

#### **Quality accredited call centre**

In 2009–10, the Fair Work Ombudsman received bronze accreditation under the Australian Teleservices Association Standards and Accreditations Program for the Fair Work Infoline.

The Australian Teleservices Association Standards and Accreditations Program provides a framework of guidelines, principles and disciplines for contact centre operation. The accreditation demonstrates the commitment of the Fair Work Ombudsman to quality customer service.

#### **Ensuring quality in undertaking investigations**

A crucial contact point is when a member of the community lodges a workplace complaint with the Fair Work Ombudsman. The Fair Work Ombudsman is committed to providing accurate, timely and consistent investigations of complaints to ensure the community has confidence in the agency's decision making processes.

The Fair Work Ombudsman implemented a File Quality Review Framework to ensure continual improvement and quality assurance of the way it undertakes investigations. The framework established a process for reviewing and improving the quality of the information and evidence Fair Work Inspectors gather during the investigation process. The Fair Work Ombudsman also ensures that all parties in an investigation receive information on their right to a review if they have a complaint about the process or outcome.

In 2009–10, the Fair Work Ombudsman implemented a transparent and accountable process to deal with investigation review requests. The Fair Work Ombudsman received 173 requests for a review of an investigation in 2009–10 and finalised 159 reviews. These represented less than 1% of the 21 070 complaints the Fair Work Ombudsman finalised for the year.

Parties had a right to escalate the investigation review if they were dissatisfied with the outcome, and 37 reviews were escalated in 2009–10 and 32 were finalised. Parties who were dissatisfied with the outcomes of reviews undertaken by the Fair Work Ombudsman could choose to take the matter to the Commonwealth Ombudsman.

### Building relationships

#### Consulting and working with industry organisations

The Fair Work Ombudsman respects the role of employer organisations and unions in providing advice and assistance to employees navigating or engaging with the Fair Work system. The agency continues to seek opportunities to assist those organisations in their activities.

In preparation for the transition to modern awards, the Fair Work Ombudsman commenced a formal consultation process with industry organisations in 2009–10. The organisations involved were:

- the Australian Council of Trade Unions
- the Australian Industry Group
- the Australian Chamber of Commerce and Industry.

This forum enabled employer and employee organisations to work with the Fair Work Ombudsman in preparation for the transition to modern awards.

#### Guidance on transitional arrangements in modern awards

Resulting from the industry consultation process, *Guidance Note 7 – Transitional arrangements in modern awards* was drafted with input from the key agencies identified above. The document was published on Fair Work Online for broader public consultation until May 2010 then released in June 2010.

This guidance note provided the community with an understanding of how the Fair Work Ombudsman has interpreted and will apply the transitional arrangements in modern awards. This assisted employers to better prepare for, and implement, the model transitional provisions.

#### Transition Assist

Providing a dedicated email contact for answering questions concerning the implementation of the Fair Work Act, Transition Assist is a dedicated service for engaging with unions and employer organisations.

Since February 2010, Transition Assist has provided 155 invited organisations around Australia with dedicated support to resolve complex technical issues associated with the transition to modern awards.

A broad range of organisations have used the service to help them in their own educative and advisory services for employers and employees. Up to 30 June 2010, the service received 208 enquiries and provided an average response time of 8.65 days.

### Supporting large national employers

The National Employer Branch is a specialist team providing guidance, direction, advice and assistance to large national enterprises. The service assists large national employers to develop and implement systems and processes to ensure they meet their obligations under the Fair Work Act, National Employment Standards and any applicable industrial instruments.

In establishing this service, the Fair Work Ombudsman consulted with a number of external stakeholders (including the Australian Industry Group, the Australian Chamber of Commerce and Industry and the Australian Council of Trade Unions) to identify issues that large national employers experience in achieving compliance with the Fair Work Act.

### Engaging with industries and employees

Throughout its first year, the Fair Work Ombudsman maintained an active presence at events targeting specific industries and employee groups to raise awareness of the agency's role, including:

- presentations at industry and workplace relations events, including the 2nd Annual Fair Work Summit, the Australian Industry Group Industry Conference and the SA Law Society Conference
- participation in 16 metropolitan and regional university O-Week events, providing opportunities to raise awareness amongst full-time students and engage with campus-specific international student associations
- attendance at cross-government agency events, including Centrelink jobs expos and a 2010 Youth Week international student information evening with the Australian Taxation Office and the Australian Competition and Consumer Commission.

These events provided an opportunity for the agency to provide information about the national workplace relations system and the role the Fair Work Ombudsman plays in providing assistance and advice and ensuring compliance.

## Goal 4 – Implementing effective business processes

The commencement of the Fair Work Act on 1 July 2009 saw changes that affected the majority of employers and employees across the country. On 1 January 2010, 122 new modern awards took effect. Some modern awards contained provisions that bring together employers previously covered by many different state awards. It was the Fair Work Ombudsman's responsibility to help Australians understand and implement these changes.

The Fair Work Ombudsman did this through a range of information-based services to help employers and employees through this transition period. For convenience and accessibility, many of these services are provided through Fair Work Online.

At 30 June 2010, the Fair Work Infoline was receiving approximately 23 000 phone calls per week, while the PayCheck tool on Fair Work Online had conducted over 31 000 pay rate searches in the same period.

### Online tools provide effective support for employers and employees

Fair Work Online provides an online self-service facility for the Fair Work Ombudsman that ensures access to advice and information is available to employers and employees when they need it, whether during or outside business hours.

In 2009–10, the Fair Work Ombudsman produced a range of easy-to-use online applications to address the needs of the different client groups that visit Fair Work Online. Many of these tools were developed to proactively manage anticipated demand for information and assistance in relation to key transition periods. They include:

- **PayCheck** allows users to find the base pay rate for their classification. By 30 June 2010, over 4 000 job classifications from a total of 812 modern awards and pre-modern awards were accessible through PayCheck, and it was handling over 31 000 pay rate searches per week. PayCheck was handling more searches per week than calls coming through the Fair Work Infoline.
- **PayrollCheck** gives small businesses and payroll staff easy access to base rates of pay for the most common modern awards. The classification rates can be accessed in a 'bulk' format to save time for users.
- **Pay and Conditions Guides** provide users with tables of extrapolated base rates of pay for adults, juniors, apprentices and trainees, as well as a guide to conditions. By 30 June 2010, more than 558 guides were released on Fair Work Online. These guides linked a modern award with a related pre-modern award to enable users to access classification translations, as well as to access base rates of pay.

- **PayRate Calculator** helps users to calculate the transitional base rates of pay and penalty rates.  
The calculator was introduced as a tool to help employers in preparing their payrolls, and complying with rates of pay during the transition period of modern awards.
- **How To Guide** steers users through the process of finding their award, classification and their rates of pay during the modern award transition period. The How To Guide is a detailed web application that enables a user to work through all elements of the changes that accompany the modern award transition period.
- **Award Finder** helps users by identifying award(s) linked to a modern award or pre-modern award.

As well as being self-service aids, these online applications are tools that Fair Work Advisers use during calls with employers and employees on the Fair Work Infoline to help them understand their rights and obligations.

Fair Work Online also offers a series of 28 practical templates and tools with guiding notes to help small businesses comply with national workplace laws. Templates and tools have been developed to cover:

- employing staff
- payslips
- employee records
- annual, long service and parental leave
- managing underperformance.

The templates and tools are supported by 11 Best Practice Guides that demonstrate to employers how to implement the changes required to ensure compliance within their business.

Fair Work Inspectors also use these resources to promote, monitor and enforce compliance amongst employers.

## Case study



*Adam Rodgers, a Director of the Fair Work Ombudsman's Performance Analysis Research Team in Melbourne, which plays an ongoing role in the development of new online tools*

## Online tools

'The introduction of Modern Awards significantly reduced the number of awards that cover Australian workplaces. This provided an opportunity to create simple online tools to make it easier for people to find the award, minimum rate of pay and entitlements that applied to them', says Adam Rodgers, a Director of the Fair Work Ombudsman's Performance Analysis Research Team.

Throughout 2009–10, Fair Work Online ([www.fairwork.gov.au](http://www.fairwork.gov.au)) provided a number of new online tools to make it easier for employers and employees to find award, wage and entitlement information. The online tools included PayCheck, which was launched in March 2010 to help users find minimum rates of pay.

'PayCheck provides rates of pay based on a simple occupation-based search. A hairdresser in any state can simply type in "hairdresser", and find the appropriate minimum rate of pay for their work. They don't need an understanding of how the workplace relations system works to check they're getting paid the right amount.'

Adam says that while the tools are aimed at a range of different audiences, 'they are all designed to make finding and understanding wage information as simple and quick as possible'.

The online tools also aim to reduce the volume of calls to the Fair Work Infoline by making information easier to find and understand. The success of the online tools is indicated by the volume of use throughout 2009–10:

- PayCheck covered over 4 000 occupations for people to search for, and was handling more than 31 000 completed searches per week by 30 June 2010
- Fair Work Online provided information on workplace rights and obligations to over 2.9 million visitors, at a time and location convenient to them.

## Return of unclaimed monies

Reimbursement of outstanding wages and entitlements, as a result of Fair Work Ombudsman investigations and voluntary compliance cases, demonstrates to the community the effectiveness of the agency.

In 2009–10, payments of outstanding wages and entitlements to the value of \$766 115 were made to the Commonwealth for employees who had left their employment and where employers could not locate them.

The Fair Work Ombudsman returned \$262 269 to employees it was able to locate in 2009–10. A range of initiatives to locate people entitled to money being held by the Commonwealth were undertaken, including:

- an online search facility for individuals to check if a former employer had paid to the Commonwealth money that was owed to them. The launch of the search facility attracted significant media attention
- a review of original case files for people owed over \$1000 and searches of electoral rolls resulted in \$70 472 being returned to 38 employees.

The Fair Work Ombudsman is planning to liaise with overseas embassies to locate people owed monies but who are no longer living in Australia.

At 30 June 2010, the Commonwealth held \$1 465 944 for 5770 individuals that have not been able to be located to date. 3332 employees are owed less than \$100, 1751 employees are owed between \$100 and \$500, 402 between \$500–\$1000 and 285 are owed greater than \$1000. The Fair Work Ombudsman encourages everyone to visit Fair Work Online to check whether they are owed money from a former employer.



*Juanita Keenan, a Policy Officer working on the Unclaimed Monies Project in the Fair Work Ombudsman's Hobart office*

## Unclaimed monies

Being part of the Unclaimed Monies Project is 'very rewarding', says Juanita Keenan, a Policy Officer working on the Unclaimed Monies Project in the Fair Work Ombudsman's Hobart office.

'The project allows my team to experience the gratitude of the employees for all the hard work that our Fair Work Inspectors have undertaken on their behalf. It is a very rewarding task to be able to return money to people who have worked so hard for their entitlements, and who, in some cases, may not have known that they were even owed any money.'

Some of the Fair Work Ombudsman's investigations and voluntary compliance cases result in payments for outstanding wages and entitlements. When an employer cannot pay money owed to an employee because they have left their employment and can't be located, the employer pays the money to the Commonwealth.

The Fair Work Ombudsman provides an online tool that allows individuals to find unpaid wages and entitlements held by the Commonwealth. It also undertakes projects to locate and track down employees for whom it has recovered unpaid monies.

One of the former employees Juanita's team located was Brett\*, a 40 year old working in the hospitality industry. Brett believed he was only owed about \$50 from his previous employer and so had decided not to follow up the money. After receiving a letter informing him that the Fair Work Ombudsman may be holding unpaid wages on his behalf, he contacted Juanita.

'Brett was understandably in shock and very excited at the discovery that he was owed more than \$10 000', Juanita said. 'The monies had been recovered in an audit conducted over four years ago.'

In 2009–10, the Fair Work Ombudsman returned \$262 269 in unclaimed monies to employees.

The majority of employees are located by reviewing information that is contained in original complaint files. The second most effective way of contacting individuals is through the Australian Electoral Commission's electoral rolls.

Next, the Fair Work Ombudsman plans to work collaboratively with both the Department of Immigration and Citizenship and the appropriate consulate offices in order to make contact with individuals who are owed monies but who are no longer living in Australia.

*\*Name has been changed to protect his identity*

## Improving internal staff satisfaction

In 2009–10, the Fair Work Ombudsman carried out numerous internal surveys to determine the extent of staff satisfaction with the business processes and services it provides.

Some of the internal surveys undertaken in 2009–10 included:

- **Customer contact staff survey:** providing an opportunity for the 230 contact centre staff to provide feedback on business and people management practices in order to identify what the Fair Work Ombudsman is doing well and areas where improvement is needed. The survey showed overall job satisfaction is high at 77.22%.
- **Finance and reporting branch survey:** allowed all staff to provide feedback on key internal functions, including payroll, procurement and travel services, and the information and tools provided to support these.

## Improved caller handling through Interactive Voice Response

The Fair Work Infoline Interactive Voice Response was redesigned in 2009–10 so that callers are better directed to Fair Work Advisers with the appropriate skill sets to answer their queries.

With the diverse range of calls received through the Fair Work Infoline, the Interactive Voice Response plays an important role in ensuring that calls are answered quickly and appropriately. The Interactive Voice Response main menu was restructured to reflect whether callers were employers, employees or independent contractors.

The Interactive Voice Response was also redesigned to provide useful information to customers while they wait for their call to be answered. Callers now hear relevant messages about the Fair Work Ombudsman's compliance with the agency's statutory obligations in regard to call monitoring and privacy.

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## Goal 5 – Building capability in our people and culture

As a new agency, the Fair Work Ombudsman brought together two specialist industrial relations agencies. The challenges in integrating the agencies were to:

- establish a new vision and strategic goals to drive the Fair Work Ombudsman's work
- integrate the staff of two agencies and establish a unifying culture
- equip staff to deliver new functions and manage the responsibilities created by the Fair Work Act.

The Fair Work Ombudsman approached this by finding the common behaviours and values across both agencies. It then overlaid the principles of a fair workplace as an environment that:

- builds a balance between the working and home lives of employees
- is just, and ensures an even playing field
- has all parties engaged in matters affecting their workplace
- is fully compliant with the law.

Extensive training and clear policies and processes equipped the staff of the Fair Work Ombudsman to deliver its new legislated functions. Internal communication activities helped employees understand the role of the new agency and how they contribute by providing services aligned to the agency's customer service charter.

Regular employee communication articulated and reinforced the key behaviours expected of staff within the Fair Work Ombudsman:

- respectfulness, honesty, integrity and fairness
- transparency and accountability for decisions and actions
- collaborative, responsive to colleagues, clients and stakeholders
- courageous, impartial, proactive and professional.

The Fair Work Ombudsman recognises and celebrates outstanding staff achievements that directly contributes to its vision and goals.

### **Fair Work Ombudsman enterprise agreement**

The new enterprise agreement, implemented in 2009–10, included policies to guide the transition from the previous agencies to the new, integrated Fair Work Ombudsman. The new agreement played an important part in creating an agency with the ability to deliver on the Fair Work Ombudsman's responsibilities under the Fair Work Act.

The enterprise agreement process complied with the Australian Government Employment Bargaining Framework. The process, led by a cross-agency team, involved extensive consultation with staff through focus groups, staff meetings and a dedicated intranet area that provided information and updates on the process.

The enterprise agreement was endorsed by Fair Work Australia in February 2010, following approval by the Department of Employment, Education and Workplace Relations and the Minister for Workplace Relations, and a vote of acceptance by eligible staff in January 2010.

## Communication and culture within the Fair Work Ombudsman

To meet the challenge of building desired workplace culture and behaviours, the Fair Work Ombudsman developed and implemented an Internal Communications Strategy to deliver messages to staff members.

The strategy aimed to reinforce the Fair Work Ombudsman's vision, mission and goals, as well as the key behaviours staff are expected to demonstrate. Regular internal communication through staff newsletters, briefings and the intranet were supported by an internal campaign to embed a good understanding of the Fair Work Ombudsman's strategic plan.

Some of the initiatives undertaken by the Fair Work Ombudsman in 2009–10 as part of the Internal Communications Strategy included:

- **Building a new and positive workplace culture that engages all staff**

Workshops were held to develop strategies that would embed a unifying culture for the agency. The workshops were attended by nominated representatives from each business unit within the Fair Work Ombudsman.

Strategies emerging from the workshops included the establishment of a Fair Work Ombudsman Culture Ambassadors' Network. These strategies were implemented by 30 June 2010.

- **Recognising outstanding staff achievement**

The Fair Work Ombudsman's annual achievement awards formally acknowledge and reward outstanding work, performance, service, dedication and contribution to the achievement of the agency's key goals, key behaviours and/or community service.

Awards presented in April 2010 recognised the outstanding achievement of teams and individuals in helping promote harmonious, productive and cooperative Australian workplaces as well as outstanding voluntary community service.

## Equipping staff to carry out new functions

A range of new responsibilities created by the Fair Work Act required the Fair Work Ombudsman to equip staff with new skills and resources to perform these functions.

### Staff training

Staff training in 2009–10 ensured staff were fully prepared for major stages of implementing the Fair Work Act, including the commencement of modern awards and the modern award transition process. This enables staff to effectively and efficiently provide information and advice to clients through all key contact areas:

- calling the Fair Work Infoline
- visiting Fair Work Online
- in contact with Fair Work Inspectors.

To handle its new responsibilities regarding workplace discrimination, specialist Fair Work Advisers were trained to specifically handle calls that appear to relate to discrimination. Processes were implemented to determine whether discrimination complaints were within the Fair Work Ombudsman's jurisdiction, and where appropriate, to refer these complaints to a dedicated team for assessment and further investigation.

Resources including a discrimination policy, fact sheets and a discrimination self-assessment checklist are available on Fair Work Online to assist staff to explain the new role of the Fair Work Ombudsman in this area of workplace law.

### Continuous improvement

Continuous improvement and learning is a major part of the Fair Work Ombudsman's training program. A process was established where difficult and complicated enquiries received by Fair Work Advisers enabled organisational learning through a feedback cycle:

- the enquiry is escalated to appropriate areas of the agency
- the resulting information is shared with all staff via regular information bulletins
- the method is fed into ongoing training processes across the Fair Work Ombudsman.

This approach improves knowledge sharing among staff and improves responsiveness of the Fair Work Advisers.

### Consistent operations nationally

Fair Work Inspectors and other Fair Work Ombudsman staff members were provided with nationally consistent operational guidelines for investigations, audits and other activities.

Consistent email, document management and other IT systems were available for staff from 1 July 2009. A new team specialising in developing and maintaining new online tools became operational on 1 October 2009. This team launched the first online tools to support modern awards in December 2009, followed by a major release in June 2010.

### Supporting effective leadership

In 2009–10, the Fair Work Ombudsman delivered three leadership development programs for staff with team management responsibility at levels APS6 and above. These programs worked together to equip staff with a better understanding of their leadership strengths and areas which could be improved to make them more effective leaders.

Further information on these programs is contained in the Management of human resources section of this report.

### Modelling respect and professionalism

Prior to 1 July 2009, assessment of workplace agreements was undertaken by the Workplace Authority. Under the Fair Work Act, this function was no longer required from 31 January 2010. On 1 July 2009, approximately 110 Workplace Authority staff involved in this function were transferred to the Fair Work Ombudsman.

In line with the value of fairness, the Fair Work Ombudsman implemented a dedicated support program to assist these staff in sourcing suitable alternate employment. Dedicated case managers were appointed to work with each employee to review their employment options and to assist in job search skills.

The process was open and transparent, consistent with the Fair Work Ombudsman's key behaviours. This process reinforced to all employees that the Fair Work Ombudsman respected and valued its people. The program was successful in that by 31 January 2010 most of the transferred staff had sourced suitable alternate employment within the Fair Work Ombudsman or had gained transfers to other federal government agencies.

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Management and  
accountability

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# Corporate governance

## Corporate governance practices

In 2009–10, the corporate governance practices of the Fair Work Ombudsman ensured clear lines of accountability and well-defined performance management. These practices were overseen by the Executive Board with support from the following management committees:

- Interim Consultative Group and Agency Consultative Forum
- National Health and Safety Committee
- Information Technology (IT) Committee
- Audit Committee
- Contracts Committee.

## Executive Board

In 2009–10, the Fair Work Ombudsman was managed by an Executive Board that provided corporate leadership and strategic direction. The Board ensured compliance with the relevant legislation and set goals for, and managed, the overall performance of the agency.

Following the commencement of the Fair Work Act on 1 July 2009, the Board developed a new strategic direction for the Fair Work Ombudsman to emphasise its focus on educating employers and employees.

The Fair Work Ombudsman's new vision – Fair Australian Workplaces – was created by the Board as part of the 2009–2011 Strategic Plan. The Fair Work Ombudsman's new mission – to work with Australians to educate, promote fairness and ensure justice in the workplace – supports that vision.

Under its terms of reference, the Board undertook responsibility for leadership of the organisation including:

1. Developing and approving the strategic direction of the Fair Work Ombudsman
2. Ensuring that policy and procedures were established to ensure the probity and integrity of Fair Work Ombudsman decision making
3. Setting strategic direction and policy for financial and human resource management
4. Ensuring compliance with relevant legislation
5. Reviewing the management of the Fair Work Ombudsman and its performance against strategic and business goals
6. Approving annual budget and business plans
7. Overseeing significant expenditure/contracts
8. Approving and monitoring systems of control and accountability
9. Determining priorities and allocating resources to ensure Ministerial and Government expectations are met.

# Executive Board members



**Nicholas Wilson**  
Fair Work Ombudsman



**Leigh Johns**  
Chief Counsel



**Mark Scully**  
Chief Financial Officer



**Alfred Bonghi**  
Group Manager,  
Customer Service



**Bill Loizides**  
Group Manager,  
Field Operations



**Su Kearns**  
Executive Director,  
Human Resources



**Michael Campbell**  
Executive Director,  
Workplace Relations  
Policy and Education



**Tom O'Shea**  
Acting Executive  
Director,  
Workplace Relations  
Communications  
and Solutions



**Natalie James**  
Executive Director,  
Fair Work  
Implementation  
(from 17 August 2009  
to 11 June 2010)

## Interim Consultative Group and Agency Consultative Forum

The Interim Consultative Group was established as a temporary staff consultative forum for the newly formed Fair Work Ombudsman. Commencing in July 2009, the Interim Consultative Group was comprised of representatives from the existing consultative groups of the former Workplace Ombudsman and Workplace Authority.

In the months leading up to the negotiation and implementation of the new Fair Work Ombudsman enterprise agreement, the Interim Consultative Group facilitated staff consultation on a range of matters relating to the amalgamation of the two former agencies into the Fair Work Ombudsman.

In February 2010, the *Fair Work Ombudsman Enterprise Agreement 2010–11* commenced and the Interim Consultative Group ceased operating.

The Agency Consultative Forum was established under the terms of the enterprise agreement in April 2010 to ensure open communication and consultation across all levels of the Fair Work Ombudsman.

Comprising three management representatives, ten employee representatives and two employees representing the Community and Public Sector Union, the Agency Consultative Forum is a forum for consultation on workplace matters that may include the implementation of the enterprise agreement, changes to technology, work practices, and human resources policies and guides.

During 2010, the Agency Consultative Forum consulted with employees to provide feedback on human resources policies and guides created under the enterprise agreement.

## National Health and Safety Committee

The National Health and Safety Committee is responsible for the development and implementation of workplace health and safety guidelines.

Formed in November 2009 under the terms of the Health and Safety Management Arrangements 2009–11, the committee reports to the Executive Board on policy matters concerning the occupational health and safety of agency employees. The National Health and Safety Committee was comprised of the Fair Work Ombudsman, Nicholas Wilson, and representatives from management, human resources, property and facilities, as well as Community and Public Sector Union employee representatives and four health and safety representatives.

In 2009–10, key accomplishments of the National Health and Safety Committee include the finalisation and endorsement of the Health and Safety Management Action Plan and the review of the Occupational Health and Safety Risk Management Guide.

## Information Technology (IT) Committee

In 2009–10, the IT Committee consisted of representatives from business units across the Fair Work Ombudsman.

During the year, the committee oversaw and reported on the performance of the agency's IT systems. The committee also provided strategic guidance and recommendations to ensure that the Fair Work Ombudsman's IT systems supported business strategy, ongoing performance and risk management.

## Audit Committee

The Audit Committee ensures that public resources are appropriately utilised and that financial statements are accurate and reliable. The Audit Committee also oversees the agency's internal audit function.

In 2009–10, the Audit Committee provided independent assurance, advice and assistance to the Fair Work Ombudsman on its:

- risk management procedures
- risk and control framework
- legislative compliance
- external accountability.

In September 2009, the Fair Work Ombudsman's Strategic Internal Audit Plan for 2009–10 was finalised. This one-year plan sought to ensure that the focus of activity was directed to areas of greatest risk and to those parts of the business where management believed the greatest value could be achieved. Regular updates on implementation of the plan were provided at each meeting of the Audit Committee.

In addition, the Audit Committee began the process of developing a three-year plan to cover the committee's activities in the future.

During the year, the Audit Committee also developed an Audit Committee Charter and an Internal Audit Committee Service Charter.

During 2009–10, the Audit Committee addressed the Australian Government's requirements in relation to fraud prevention, reporting, detection, investigation, prosecution and other associated issues with a Fraud Control Plan.

A Fraud Risk Assessment was completed in February 2010. The assessment included surveys and interviews undertaken to assess awareness of potential fraud and corruption, and the associated frameworks that were in place to control these.

Following the completion of the Fraud Risk Assessment, a Fraud Control Plan was developed to provide a formal and practical framework to manage fraud risks and meet the Government's requirements.

The Fair Work Ombudsman certifies that appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes were in place that comply with the Commonwealth Fraud Control Guidelines.

## Contracts Committee

The Contracts Committee ensures that agency-wide procedures for the procurement of major supplies and services, and for the management of significant contracts, are followed. It also ensures that the agency's procurement practices are consistent with the Commonwealth Procurement Guidelines.

In 2009–10, these duties were fulfilled with a committee comprising four Senior Executive Service officers.

## External scrutiny

In June 2010, the Commonwealth Ombudsman published the findings of its 'own motion investigation' in a report titled *Fair Work Ombudsman: Exercise of coercive information-gathering powers*.

The Commonwealth Ombudsman applauded the Fair Work Ombudsman's policies and procedures for managing investigations, which he said are in line with the Administrative Review Council's 20 best practice principles for the exercise of coercive information-gathering powers.

The investigation found a dramatic decline in complaints about the Office of the Fair Work Ombudsman (and its predecessor, the Workplace Ombudsman), from 665 complaints in 2007–08 to 65 in 2008–09. The Commonwealth Ombudsman reported that the decline can largely be attributed to the emphasis it places on best practice and continual improvement.

The Commonwealth Ombudsman recognised the proactive approach taken by the Fair Work Ombudsman to identify and address issues with its work practices, but said that there were always opportunities for agencies to further develop and improve systems and procedures. The Fair Work Ombudsman is already implementing most of the Commonwealth Ombudsman's recommendations.



# Management of human resources

The Human Resources (HR) Branch of the Fair Work Ombudsman is responsible for recruitment services, learning and development initiatives, leadership development and policy development and advice.

Major achievements of the HR Branch for 2009–10 include:

- successfully negotiating and implementing the *Fair Work Ombudsman Enterprise Agreement 2010–11*, including associated work within the payroll system and development of supporting HR guides and policies
- developing and implementing a large number of training programs and leadership development programs to support workforce capability
- completing selection processes to support business unit recruitment, including two bulk Contact Centre recruitments
- developing and launching the Reconciliation Action Plan 2009–11
- developing and implementing the Health and Safety management arrangements 2009–2011. This included establishing the National Health and Safety Committee and endorsement of the Health and Safety Management Action Plan
- implementing the first Fair Work Ombudsman Annual Achievement Awards.

## Learning and development

The Learning and Development Section was established in 2009–10 to develop and deliver educational training programs for Fair Work Ombudsman employees. During the year, training was delivered on the Fair Work Act and the role and services of the Fair Work Ombudsman, as well as the relevant enabling skills programs.

In 2009–10, 1.6% (\$2.438 million) of the Fair Work Ombudsman's allocated budget was dedicated to learning and development initiatives, this includes 61 027 training hours delivered to staff nationally.

Table 11 lists the training programs delivered throughout the year. In addition, the following training materials were developed:

- Certificate IV in Government (Workplace Relations)
- Diploma in Government (Workplace Relations)
- Legislative Induction Program
- Investigations Training
- Fair Work Act Training (Phase I, II & III)
- State Referral Inspector Training
- Technical Briefings
- Performance Management Training.

TABLE 11: TRAINING PROGRAMS DELIVERED IN 2009–10

Training Program	Duration	Sessions completed in 2009–10	Participants
Legislative Induction Program	3 weeks	17	236
State Referral Training	6 days	22	404
Fair Work Act – Phase II Training	2 days	37	423
Fair Work Act – Phase III Transitional Arrangements in Modern Awards	2 days	59	791
Technical Training (including state systems, agreements, awards, claims, AVR, etc.)	Various	80	607
Enabling Skills Programs*	Various	44	454

\* Programs included Australian Public Service (APS) Writing Workshop, Fresh Ideas for Work and Family, Judgement and Decision Making, Managing Difficult Clients, Performance Management, APS Policy Workshop, Fraud and Risk Management Awareness Presentation, Interpreting Legislation, Presentation Skills.

## Leadership development

In 2009–10, the Fair Work Ombudsman delivered three leadership development programs:

- **Team Leader Development Program (TLDP):** This program was aimed at APS6 and EL1 employees who were supervising staff or would be in the near future. The program developed their skills around managing people. Forty-three employees completed the program and the program received very positive feedback.
- **Targeted Leadership Enhancement Program:** The Targeted Leadership Enhancement Program is a progression of the TLDP aimed at employees who were considered to have prospects of promotion, or who had recently been promoted to the EL1/EL2 level. The program was piloted with a group of 24 employees.
- **Fair Work Ombudsman Leadership Innovation Program:** In April 2010, the Fair Work Ombudsman Leadership Innovation Program was launched to create a strong and cohesive leadership cadre within the Fair Work Ombudsman. The Fair Work Ombudsman Leadership Innovation Program was aimed at all SES and EL2 employees (comprising around 70 senior managers) and covered a range of leadership development activities. In 2009–10, the following activities were presented:
  - ‘Risk Management in Regulatory Operations’, presented by Professor Malcolm Sparrow
  - ‘Building Shared Purpose, Values and a Concept of Leadership’
  - ‘Hardwiring cohesive leadership practices’.

## Recruitment

The Fair Work Ombudsman seeks to be recognised as having the fairest and most timely Australian Public Service (APS) recruitment processes. During the year, the Fair Work Ombudsman was well placed in the market as an employer of choice. Large numbers of applications were received by the Recruitment Team, including a high number from repeat applicants who were keen to gain employment with the agency.

However, there were still difficulties in attracting quality candidates for IT positions and, in some cases, legal positions. Strategies to attract applicants for legal positions will be implemented during 2010–11.

In 2009–10, the Fair Work Ombudsman finalised over 128 ongoing engagements, 258 non-ongoing engagements, numerous contract extensions, a large number of internal and APS promotions as well as transfers to the Fair Work Ombudsman from other agencies. The Recruitment Team assisted with more than 130 recruitment processes from 1 July 2009.

The Recruitment Team, in conjunction with the Contact Centre, designed and implemented two bulk-recruitment selection processes to build the capability of the Contact Centre. The volume of applications was high (913 applications received for the bulk process in July 2009 and 475 for the slightly smaller process in April 2010). These recruitment processes resulted in the placement of 95 employees across five locations.

To build internal capability, the Recruitment Team developed an upgrade to the online recruitment system, NGA.net. This upgrade provides the Fair Work Ombudsman with an online request-to-recruit function, online assessment of candidates, electronic selection reports and the capacity to integrate directly to the payroll system for a smoother and speedier on-boarding process.

## Workplace diversity

The Fair Work Ombudsman is committed to workplace diversity and inclusion.

In March 2010, a Gender Issues Study was undertaken to provide input into a project reviewing perceptions of gender issues at different levels within the Fair Work Ombudsman. The long-term aim of the project is increased knowledge, awareness and understanding of gender and the adoption of a wider range of strategies for enhancing diversity.

During the year, the 2009–11 Reconciliation Action Plan was launched. The Reconciliation Action Plan has four main areas of focus:

1. Building respectful relationships with Aboriginal and Torres Strait Islander peoples
2. Developing awareness, understanding and appreciation of Aboriginal and Torres Strait Islander cultures
3. Encouraging and supporting the employment of Aboriginal and Torres Strait Islander peoples to add to the diversity and experience of all employees
4. Tracking and reporting on the progress of the Reconciliation Action Plan.

The Fair Work Ombudsman is committed to using the Reconciliation Action Plan strategies and to working closely with other agencies to achieve the APS-wide target of 2.7% Aboriginal and Torres Strait Islander employees by 2015.

## Enterprise agreement

In 2009–10, a new enterprise agreement was successfully negotiated, coming into effect on 4 February 2010. The enterprise agreement was considered a key element in creating a unified culture within the Fair Work Ombudsman. The voting participation was high, with 75% of eligible voters (employees) submitting a vote. Of the voters, 86% voted in support of the enterprise agreement.

Extensive consultation with staff was undertaken during the process of negotiation. Focus groups were held with employees across the country and with several bargaining representatives, including the Community and Public Sector Union. In addition, regular intranet articles and a dedicated inbox for receiving feedback and suggestions were used.

Several supporting human resources guides and policies were developed to reflect the enterprise agreement terms and conditions. These were made available for employees during the consideration period.

## Performance and Development Framework

The Performance and Development Framework, established in 2009–10, reflects the new enterprise agreement that came into effect on 4 February 2010.

The Performance and Development Framework aims to ensure that the highest quality performance, leadership standards and consistent practices are implemented throughout the agency. It includes a focus on key outcomes, the demonstration of the Fair Work Ombudsman key behaviours, and the development requirements for each individual employee. The Performance and Development Framework also provides for tailored learning, development and career planning for all employees.

A Managing Underperformance Guide was also developed in 2009–10.

## Rewards and recognition

The Fair Work Ombudsman is committed to building a modern, flexible and high performing workplace where individual, team and organisational achievements are demonstrated and valued. In late 2009, a Rewards and Recognition Policy was developed to support this view.

A significant part of the Rewards and Recognition Policy was the implementation of the Fair Work Ombudsman Annual Achievement Awards. The awards recognised achievement across six categories. Nominations were made by employees within the agency and awardees were selected by a committee representing a cross section of the agency at the Executive Level. The awards were presented at a formal ceremony in April 2010.



## Health and wellbeing

The Fair Work Ombudsman is committed to maintaining and improving the health and wellbeing of its employees. In 2009–10, this was supported by a strong focus on occupational health and safety and a range of proactive health improvement measures. Together, these contribute to, and improve, the overall health of the Fair Work Ombudsman workforce.

During 2009–10, the following initiatives were undertaken or implemented:

- development and implementation of Health and Safety Management Arrangements 2009–11
- inspections of Designated Work Groups, followed by corrective action
- occupational health and safety training delivered to all employees and incorporated into the induction program
- workstation assessments and rehabilitation case management services provided to meet the health, safety and rehabilitation needs of employees
- implementation of recommendations from the occupational health and safety audit conducted in April/May 2009, which included development of a Health and Safety Management Action Plan, review of the occupational health and safety risk management guide and delivery of occupational health and safety training through induction
- a vaccination program, including seasonal influenza, Q fever and hepatitis A/B
- a health and wellbeing intranet area, providing free information and resources on health and wellbeing issues
- delivery of mental health awareness workshops to EL2 managers
- procurement and implementation of an Employee Assistance Program.

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## Purchaser–provider arrangements

The Fair Work Ombudsman’s procurement policies are consistent with the provisions of the *Financial Management and Accountability Act 1997* and the *Commonwealth Procurement Guidelines*.

The Fair Work Ombudsman makes full use of AusTender in its procurement activities. To assist in the effective monitoring and reporting of contracting activities, a contracts register is maintained and required information is published on Fair Work Online ([www.fairwork.gov.au](http://www.fairwork.gov.au)). An annual procurement plan is published on AusTender in accordance with the *Commonwealth Procurement Guidelines*.

During 2009–10, the Fair Work Ombudsman purchased information technology services and a number of other administrative functions from the Department of Education, Employment and Workplace Relations under a memorandum of understanding.

The Fair Work Ombudsman entered into a memorandum of understanding with the Workplace Authority to deliver its obligated functions and services from 1 July 2009 to 31 January 2010 under the Fair Work Act.

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# Analysis of financial performance

The Fair Work Ombudsman's financial results for 2009–10 are outlined in the financial statements section of this report.

The net result of the first year of the Fair Work Ombudsman's operations was a surplus of \$10.366 million. This outcome was primarily due to lower than forecast payments being made to state partner agencies in New South Wales, Queensland and South Australia.

The Fair Work Ombudsman maintained sufficient cash through the year to fund its operations. There are adequate funds held in the Official Public Account as undrawn appropriations, which will be used to pay employee entitlements and other payables as and when they fall due.



5



Financial  
statements



## INDEPENDENT AUDITOR'S REPORT

To the Minister for Employment and Workplace Relations

### Scope

I have audited the accompanying financial statements of the Office of the Fair Work Ombudsman for the year ended 30 June 2010, which comprise: the Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Schedule of Asset Additions; Schedule of Administered Items; and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

### *The Responsibility of the Fair Work Ombudsman for the Financial Statements*

The Fair Work Ombudsman is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards (which include the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Office of the Fair Work Ombudsman's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office of the Fair Work Ombudsman's internal

control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Fair Work Ombudsman, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

*Independence*

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

**Auditor's Opinion**

In my opinion, the financial statements of the Office of the Fair Work Ombudsman:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Office of the Fair Work Ombudsman's financial position as at 30 June 2010 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



Rebecca Reilly  
Executive Director

Delegate of the Auditor-General ^

Canberra  
9 September 2010

**STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCIAL OFFICER**

In our opinion, the attached financial statements for the year ended 30 June 2010 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



Nicholas Wilson  
Chief Executive



September 2010



Mark Scully  
Chief Financial Officer



September 2010

**STATEMENT OF COMPREHENSIVE INCOME***for the year ended 30 June 2010*

	Notes	2010 \$'000
<b>EXPENSES</b>		
Employee benefits	3A	74,568
Suppliers	3B	67,511
Depreciation and amortisation	3C	12,474
Losses from asset sales	3D	83
<b>Total Expenses</b>		<b>154,636</b>
<b>LESS:</b>		
<b>OWN-SOURCE INCOME</b>		
<b>Own-Source Revenue</b>		
Sale of goods and rendering of services	4A	20,104
Rental income	4B	17
<b>Total own-source revenue</b>		<b>20,121</b>
<b>Gains</b>		
Other gains	4C	236
<b>Total gains</b>		<b>236</b>
<b>Total Own-Source Income</b>		<b>20,357</b>
<b>Net Cost of Services</b>		<b>(134,279)</b>
Revenue from Government	4D	144,645
<b>Surplus</b>		<b>10,366</b>
<b>OTHER COMPREHENSIVE INCOME</b>		
Changes in Asset Revaluation Reserve		2,126
<b>Total Other Comprehensive Income</b>		<b>2,126</b>
<b>Total Comprehensive Income Attributable to the Australian Government</b>		<b>12,492</b>

The above statement should be read in conjunction with the accompanying notes.

**BALANCE SHEET***as at 30 June 2010*

	Notes	2010 \$'000
<b>ASSETS</b>		
<b>Financial Assets</b>		
Cash and cash equivalents	5A	1,331
Trade and other receivables	5B	<u>77,311</u>
<b>Total financial assets</b>		<u>78,642</u>
<b>Non-Financial Assets</b>		
Land and buildings (leasehold improvements)	6A	26,969
Property, plant and equipment	6B	503
Intangibles	6D	4,414
Other non-financial assets	6F	<u>1,346</u>
<b>Total non-financial assets</b>		<u>33,232</u>
<b>Total Assets</b>		<u>111,874</u>
<b>LIABILITIES</b>		
<b>Payables</b>		
Suppliers	7A	12,153
Other payables	7B	<u>7,276</u>
<b>Total payables</b>		<u>19,429</u>
<b>Provisions</b>		
Employee provisions	8A	14,062
Other provisions	8B	<u>8,716</u>
<b>Total provisions</b>		<u>22,778</u>
<b>Total Liabilities</b>		<u>42,207</u>
<b>Net Assets</b>		<u>69,667</u>
<b>EQUITY</b>		
Contributed equity		57,175
Reserves		2,126
Retained surplus		<u>10,366</u>
<b>Total Equity</b>		<u>69,667</u>

The above statement should be read in conjunction with the accompanying notes.

**STATEMENT OF CHANGES IN EQUITY**

for the year ended 30 June 2010

	Retained Surplus 2010 \$'000	Asset Revaluation Reserve 2010 \$'000	Contributed Equity 2010 \$'000	Total Equity 2010 \$'000
<b>Opening Balance</b>	-	-	-	-
Balance carried forward from previous period	-	-	-	-
<b>Opening balance</b>	-	-	-	-
<b>Comprehensive Income</b>	10,366	-	-	10,366
Surplus for the year	-	2,126	-	2,126
Other comprehensive income - changes in Asset Revaluation Reserve	-	2,126	-	2,126
<b>Total comprehensive income attributable to the Australian Government</b>	<b>10,366</b>	<b>2,126</b>	<b>-</b>	<b>12,492</b>
<b>Transactions With Owners</b>				
Appropriation (equity injection)	-	-	5,174	5,174
Restructuring	-	-	52,001	52,001
<b>Total transactions with owners</b>	<b>-</b>	<b>-</b>	<b>57,175</b>	<b>57,175</b>
<b>Closing Balance Attributable to the Australian Government</b>	<b>10,366</b>	<b>2,126</b>	<b>57,175</b>	<b>69,667</b>

Notes

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The above statement should be read in conjunction with the accompanying notes.

**CASH FLOW STATEMENT**  
*for the year ended 30 June 2010*

	Notes	2010 \$'000
<b>OPERATING ACTIVITIES</b>		
<b>Cash received</b>		
Goods and services		22,150
Appropriations		118,159
Net GST received from Australian Taxation Office		4,348
Other cash received		174
<b>Total cash received</b>		<u>144,831</u>
<b>Cash used</b>		
Employees		68,425
Suppliers		75,084
<b>Total cash used</b>		<u>143,509</u>
<b>Net Cash From Operating Activities</b>	10	<u>1,322</u>
<b>INVESTING ACTIVITIES</b>		
<b>Cash used</b>		
Purchase of non-financial assets		1,688
<b>Total cash used</b>		<u>1,688</u>
<b>Net Cash Used By Investing Activities</b>		<u>(1,688)</u>
<b>FINANCING ACTIVITIES</b>		
<b>Cash received</b>		
Contributed equity		1,688
<b>Total cash received</b>		<u>1,688</u>
<b>Net Cash From Financing Activities</b>		<u>1,688</u>
<b>Net Increase in Cash Held</b>		1,322
Cash transferred at the beginning of the year	9	<u>9</u>
<b>Cash and Cash Equivalents at the End of the Year</b>	5A	<u><u>1,331</u></u>

The above statement should be read in conjunction with the accompanying notes.

## SCHEDULE OF COMMITMENTS

as at 30 June 2010

	2010
	\$'000
<b>BY TYPE</b>	
<b>Commitments receivable</b>	
Sublease rental income	(12)
GST recoverable on commitments	(7,070)
<b>Total commitments receivable</b>	<u>(7,082)</u>
<b>Commitments payable</b>	
Operating leases	77,788
<b>Total commitments payable</b>	<u>77,788</u>
<b>Net Commitments by Type</b>	<u>70,706</u>
<b>BY MATURITY</b>	
<b>Commitments receivable</b>	
<b>Sublease rental income</b>	
One year or less	(12)
<b>Total sublease rental income</b>	<u>(12)</u>
<b>GST recoverable on commitments</b>	
One year or less	(1,384)
From one to five years	(4,728)
Over five years	(958)
<b>Total GST recoverable on commitments</b>	<u>(7,070)</u>
<b>Commitments payable</b>	
<b>Operating leases</b>	
One year or less	15,238
From one to five years	52,015
Over five years	10,535
<b>Total operating leases</b>	<u>77,788</u>
<b>Net Commitments by Maturity</b>	<u>70,706</u>

Note - Commitments are GST inclusive where relevant.

Major categories of commitments as at the reporting date are described below:

### Leases for Office Accommodation

Office accommodation leases are for varying periods up to ten years. Lease payments are subject to increases as specified in the leases. These increases are a combination of fixed annual adjustments and periodic movements to reflect market rates.

### Motor Vehicles

A fleet of motor vehicles is leased which includes vehicles used by staff in performing their day to day activities as well as vehicles provided for private use by senior executives. Motor vehicle leases are generally for a period of two years.

This schedule should be read in conjunction with the accompanying notes.

**SCHEDULE OF CONTINGENCIES**

*as at 30 June 2010*

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As at 30 June 2010 there were no quantifiable contingent assets or contingent liabilities relating to the Fair Work Ombudsman - see Note 11.

**SCHEDULE OF ASSET ADDITIONS**  
*for the period ended 30 June 2010*

The following non-financial assets were added in 2009-10:

	Land and Buildings (Leasehold Improvements)	Property, Plant and Equipment	Intangibles	Total
	\$'000	\$'000	\$'000	\$'000
By purchase - appropriation equity	575	56	433	1,064
From acquisition of entities or operations (including restructuring)	33,350	1,322	6,581	41,253
<b>Total Additions</b>	<b>33,925</b>	<b>1,378</b>	<b>7,014</b>	<b>42,317</b>

This schedule should be read in conjunction with the accompanying notes.

**SCHEDULE OF ADMINISTERED ITEMS**

	Notes	2010 \$ (*)
<b>Income Administered on Behalf of Government</b>		
<i>for the year ended 30 June 2010</i>		
Fees and fines	15A	1,772,069
Interest	15B	<u>25,690</u>
<b>Total Income Administered on Behalf of Government</b>		<b><u>1,797,759</u></b>
<b>Expenses Administered on Behalf of Government</b>		
<i>for the year ended 30 June 2010</i>		
Impairment expense	16	<u>1,721,995</u>
<b>Total Expenses Administered on Behalf of Government</b>		<b><u>1,721,995</u></b>
<b>Assets Administered on Behalf of Government</b>		
<i>as at 30 June 2010</i>		
<b>Financial Assets</b>		
Receivables	16	722,535
Other financial assets	16	<u>18,228</u>
<b>Total Assets Administered on Behalf of Government</b>		<b><u>740,763</u></b>
<b>Administered Cash Flows</b>		
<i>for the year ended 30 June 2010</i>		
<b>Operating Activities</b>		
<b>Cash received</b>		
Fees and fines		751,158
Interest		<u>11,421</u>
<b>Total cash received</b>		<b><u>762,579</u></b>
<b>Net Cash From Operating Activities</b>		<b><u>762,579</u></b>
<b>Net Increase in Cash Held</b>		<b><u>762,579</u></b>
Cash to Official Public Account		762,579
Cash at the beginning of the year		<u>-</u>
<b>Cash and Cash Equivalents at the End of the Year</b>		<b><u>-</u></b>

This schedule should be read in conjunction with the accompanying notes.

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

## **SCHEDULE OF ADMINISTERED ITEMS**

### **Administered Commitments**

*as at 30 June 2010*

As at 30 June 2010 there were no administered commitments relating to the Fair Work Ombudsman.

### **Administered Contingencies**

*as at 30 June 2010*

As at 30 June 2010 there were a number of actions being pursued through the courts, but at this stage the value of penalties that may be imposed by the courts against companies / individuals is not quantifiable.

**Notes to and forming part of the Financial Statements**

- Note 1: Summary of Significant Accounting Policies
- Note 2: Events After the Reporting Date
- Note 3: Expenses
- Note 4: Income
- Note 5: Financial Assets
- Note 6: Non-Financial Assets
- Note 7: Payables
- Note 8: Provisions
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- Note 10: Cash Flow Reconciliation
- Note 11: Contingent Liabilities and Assets
- Note 12: Executive Remuneration
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- Note 14: Financial Instruments
- Note 15: Income Administered on Behalf of Government
- Note 16: Assets Administered on Behalf of Government
- Note 17: Administered Reconciliation Table
- Note 18: Administered Financial Instruments
- Note 19: Appropriations
- Note 20: Special Accounts
- Note 21: Compensation and Debt Relief
- Note 22: Reporting of Outcomes

## Note 1: Summary of Significant Accounting Policies

### 1.1 Objectives of the Fair Work Ombudsman

The Fair Work Ombudsman (the Agency) is an independent statutory office created by the *Fair Work Act 2009* and commenced operations on 1 July 2009. The Agency replaces the former Workplace Ombudsman and the general advisory functions previously undertaken by the Workplace Authority.

The Agency's functions include promoting harmonious, productive and cooperative workplace relations and ensuring compliance with Commonwealth workplace laws.

The Agency is structured to meet one outcome:

Outcome 1: Compliance with workplace relations legislation by employees and employers through advice, education and, where necessary, enforcement.

The Agency's activities are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Agency in its own right.

Administered activities involve the management or oversight by the Agency, on behalf of the Australian Government (Government), of items controlled or incurred by the Government.

Departmental activities are identified under one output group - Output Group 1 - Education services and compliance activities.

### 1.2 Basis of Preparation of the Financial Report

The financial statements and notes are required by section 49 of Schedule 1 to the *Financial Management and Accountability Act 1997* and are a General Purpose Financial Report (the financial report).

The financial report has been prepared in accordance with:

- Finance Minister's Orders (FMOs) for reporting periods ending on or after 1 July 2009; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial report has been prepared on an accruals basis and is in accordance with the historical cost convention, except for certain assets which are reported at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial report is presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an Australian Accounting Standard or Interpretation, or by the FMOs, assets and liabilities are recognised in the Balance Sheet when, and only when, it is probable that future economic benefits will flow to the Agency or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an Australian Accounting Standard or Interpretation. Liabilities and assets that are unrealised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable or remote contingencies, which are reported at Note 11).

Unless an alternative treatment is specifically required by an Australian Accounting Standard or Interpretation, incomes and expenses are recognised in the Statement of Comprehensive Income when, and only when, the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Administered revenues, expenses, assets, liabilities and cash flows reported in the Schedule of Administered Items (and related notes) are accounted for on the same basis and using the same policies as for departmental items, except where otherwise stated at Note 1.25.

### 1.3 Significant Accounting Judgements and Estimates

No accounting judgements or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next financial year.

#### 1.4 New Australian Accounting Standards

##### Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard in the current reporting period. Of the new standards, amendments to standards and interpretations issued by the AASB that are applicable to the current reporting period none have had a material financial impact on the Agency.

##### Future Australian Accounting Standard requirements

Of the new standards, amendments to standards and interpretations issued by the AASB that are applicable to future reporting periods, none are expected to have a material financial impact on the Agency.

#### 1.5 Revenue

##### Revenue from Government

Amounts appropriated for departmental output appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue when the Agency gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

##### Resources received free of charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. The use of these resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

##### Other types of revenue

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the revenue and transaction costs incurred can be reliably measured;
- the seller retains no managerial involvement nor effective control over the goods; and
- it is probable that the economic benefits associated with the transaction will flow to the Agency.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. Revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the Agency.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance. Collectability of debts is reviewed at the reporting date. Allowances are made when collectability of the debt is no longer probable.

Interest revenue is recognised using the effective interest method as set out in AASB 139 - Financial Instruments: Recognition and Measurement.

#### 1.6 Gains

##### Resources received free of charge

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. The use of these resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government agency or authority as a consequence of a restructuring of administrative arrangements (refer to Note 1.7).

**Sale of assets**

Gains from the disposal of assets are recognised when control of the asset has passed to the buyer.

**1.7 Transactions with the Government as Owner****Equity injections**

Amounts appropriated which are designated as equity injections (less any formal reductions) are recognised directly in Contributed Equity in that year.

**Restructuring of administrative arrangements**

Net assets received from, or relinquished to, another Government agency or authority under a restructuring of administrative arrangements are adjusted at their book value directly against Contributed Equity.

**1.8 Employee Benefits**

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for short-term employee benefits (as defined in AASB 119 - Employee Benefits) and termination benefits due within 12 months of the reporting date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

**Leave**

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Agency is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration, including the Agency's employer superannuation contribution rates, to the extent that the leave is likely to be taken during service rather than paid out on termination.

The estimate of the present value of the long service leave liability takes into account attrition rates and pay increases through promotion and inflation using the shorthand method prescribed in the FMOs.

**Separation and redundancy**

Provision is made for separation and redundancy benefit payments. The Agency recognises a provision for termination benefits when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

**Superannuation**

Employees of the Agency are members of either the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), the PSS Accumulation Plan (PSSap) or other schemes.

The CSS and PSS are defined benefit schemes. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Government and is settled as and when employees become entitled to benefits. This liability is reported by the Department of Finance and Deregulation as an administered item.

The Agency makes employer contributions to the defined benefit schemes at rates determined by an actuary to be sufficient to meet the cost to the Government of the superannuation entitlements of the Agency's employees. The Agency accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June 2010 represents outstanding contributions for the final fortnight of the year.

**1.9 Leases**

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the leased property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

**1.10 Borrowing Costs**

All borrowing costs are expensed as incurred.

**1.11 Cash**

Cash and cash equivalents includes notes and coins held and any deposits in bank accounts with an original maturity of three months or less that are readily convertible to known amounts of cash and which are subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

**1.12 Financial Risk Management**

The Agency's activities expose it to normal commercial financial risk. As a result of the nature of the Agency's business and internal and Government policies dealing with the management of financial risk, the Agency's exposure to market, credit, liquidity and cash flow and fair value interest rate risk is considered to be low.

**1.13 De-recognition of Financial Assets and Liabilities**

Financial assets are de-recognised when the contractual rights to the cash flows from the financial assets expire or the asset is transferred to another entity. In the case of a transfer to another entity, it is necessary that the risks and rewards of ownership are also transferred.

Financial liabilities are de-recognised when the obligation under the contract is discharged, cancelled or expires.

**1.14 Loans and Receivables**

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as loans and receivables. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

**1.15 Impairment of Financial Assets**

Financial assets are assessed for impairment at each reporting date.

If there is objective evidence that an impairment loss has been incurred for financial assets held at cost, the amount of the impairment loss is measured as the difference between the asset's carrying amount and the present value of the estimated future cash flows. The carrying amount is reduced by way of an impairment allowance account. The loss is recognised in the Statement of Comprehensive Income.

**1.16 Suppliers and Other Payables**

Suppliers and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

### 1.17 Other Financial Liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

Other financial liabilities are subsequently measured at amortised cost using the effective interest method, with the interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability or, where appropriate, a shorter period.

### 1.18 Contingent Assets and Contingent Liabilities

Contingent assets and contingent liabilities are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent a liability or asset in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain, and contingent liabilities are disclosed when the likelihood of settlement is greater than remote.

### 1.19 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost or for nominal consideration are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of the restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

### 1.20 Land and Buildings (Leasehold Improvements), Property, Plant and Equipment

#### Asset recognition threshold

Purchases are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to make-good provisions in property leases taken up by the Agency, where there exists an obligation to restore the property to its original condition at the end of the lease term. These costs are included in the value of the Agency's land and buildings (leasehold improvements) assets with a corresponding provision for the restoration also being recognised.

#### Revaluations

Fair values for each class of asset are determined as shown below:

<b>Asset class</b>	<b>Fair value measured at:</b>
Land and Buildings (Leasehold Improvements)	Lesser of depreciated replacement or reproduction cost
Property, Plant and Equipment	Market selling price

Following initial recognition at cost, assets are carried at fair value less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on an asset class basis. Any revaluation increment is credited to equity under the heading of Asset Revaluation Reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised through surplus or deficit. Revaluation decrements for a class of asset are recognised directly through the surplus / deficit except to the extent that they reverse a previous revaluation increment for that class of asset.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset is restated to the revalued amount.

#### **Depreciation**

Depreciable assets are written-off to their estimated residual values over their forecast useful lives to the Agency using, in all cases, the straight-line method of depreciation. Land and buildings (leasehold improvements) are depreciated on a straight-line basis over the lesser of the estimated useful life of the improvements and the unexpired period of the lease.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable assets are based on the following forecast useful lives:

Land and buildings (leasehold improvements)	Lesser of lease term and useful life
Property, plant and equipment	5 years
Computer equipment	3 - 8 years

The aggregate amount of depreciation allocated for each class of asset during the financial year is disclosed in Note 3C.

#### **Impairment**

All assets were assessed for impairment at 30 June 2010. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Agency was deprived of the asset, its value in use is taken to be its depreciated replacement cost.

As at 30 June 2010, indicators of impairment were found for some assets held at fair value.

#### **1.21 Intangibles**

The Agency's intangible assets comprise internally developed software and purchased software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its forecast useful life. The forecast useful life of the Agency's software is 3 years.

All software assets were assessed for indications of impairment as at 30 June 2010.

#### **1.22 Taxation / Competitive Neutrality**

The Agency is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

#### **1.23 Insurance**

The Agency has insured for risks through the Government's insurable risk managed fund, Comcover. Workers' compensation is insured through Comcare.

Monies were received by the Agency from Comcare for the purpose of distributing compensation payments made in accordance with the *Safety Rehabilitation and Compensation Act 1998*. These receipts were reimbursements to the Agency where the Agency had made payments against accrued sick leave entitlements pending determination of an employee's claim.

## 1.24 Comparative Figures

Comparative figures are excluded as the Agency commenced operations on 1 July 2009.

## 1.25 Reporting of Administered Activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items.

### Administered cash transfers to and from the Official Public Account

Revenue collected by the Agency for use by the Government, rather than the Agency, is administered revenue. Collections are transferred to the Official Public Account (OPA), which is maintained by the Department of Finance and Deregulation. These transfers to the OPA are adjustments to the administered cash held by the Agency on behalf of the Government and are reported as such in the Schedule of Administered Items and in the Administered Reconciliation Table in Note 17. The Schedule of Administered Items largely reflects the Government's transactions, through the Agency, with parties outside the Government.

### Revenue

All administered revenues are revenues relating to the course of ordinary activities performed by the Agency on behalf of the Government.

Revenue comprises court awarded penalties relating to breaches of either the *Workplace Relations Act 1996* or the *Fair Work Act 2009*. This revenue is recognised at the nominal amount due less any impairment allowance. The collectability of debts is reviewed at each reporting date. Impairment allowances are made when some doubt exists as to the collectability of the debt.

### Receivables

Where receivables are not subject to concessional treatment, they are carried at amortised cost using the effective interest method. Gains and losses due to impairment, de-recognition and amortisation are recognised through the operating result. Administered receivables represents debts owed to the Agency by employers, workers and organisations as a result of court awarded penalties.

**Note 2: Events After the Reporting Date**

No significant events have occurred after the reporting date that are likely to affect either the ongoing structure or financial activities of the Agency.

### Note 3: Expenses

2010  
\$'000

#### Note 3A: Employee Benefits

Wages and salaries	53,814
Superannuation:	
Defined contribution plans	4,480
Defined benefit plans	5,888
Leave and other entitlements	10,093
Separation and redundancies	(692)
Other employee expenses	985
<b>Total Employee Benefits</b>	<b>74,568</b>

#### Note 3B: Suppliers

##### **Goods and services**

Contractors	20,243
Legal fees	4,591
Property outgoings	4,473
Telecommunications	3,501
Other	15,379
<b>Total goods and services</b>	<b>48,187</b>

Goods and services are made up of:

Provision of goods – external entities	1,809
Rendering of services – related entities	12,706
Rendering of services – external entities	33,672
<b>Total goods and services</b>	<b>48,187</b>

##### **Other supplier expenses**

Operating lease rentals - minimum lease payments	18,824
Workers compensation premiums	500
<b>Total other supplier expenses</b>	<b>19,324</b>
<b>Total Suppliers</b>	<b>67,511</b>

#### Note 3C: Depreciation and Amortisation

Depreciation:

Land and buildings (leasehold improvements)	9,082
Property, plant and equipment	792
<b>Total depreciation</b>	<b>9,874</b>

Amortisation:

Intangibles - computer software	2,600
<b>Total amortisation</b>	<b>2,600</b>
<b>Total Depreciation and Amortisation</b>	<b>12,474</b>

#### Note 3D: Losses from Asset Sales

Carrying value of assets sold	83
<b>Total Losses from Asset Sales</b>	<b>83</b>

**Note 4: Income**

	2010
	\$'000
<b><u>Note 4A: Sale of Goods and Rendering of Services</u></b>	
Rendering of services – related entities	20,104
<b>Total Sale of Goods and Rendering of Services</b>	<b><u>20,104</u></b>
<b><u>Note 4B: Rental Income</u></b>	
Operating lease rentals	17
<b>Total Rental Income</b>	<b><u>17</u></b>
<b><u>Note 4C: Other Gains</u></b>	
Resources received free of charge - audit fees	62
Other	174
<b>Total Other Gains</b>	<b><u>236</u></b>
<b><u>Note 4D: Revenue from Government</u></b>	
Appropriations:	
Departmental outputs	144,645
<b>Total Revenue from Government</b>	<b><u>144,645</u></b>

## Note 5: Financial Assets

	2010
	\$'000
<b>Note 5A: Cash and Cash Equivalents</b>	
Cash on hand or on deposit	1,215
Cash held by outsiders	116
<b>Total Cash and Cash Equivalents</b>	<u>1,331</u>

### Note 5B: Trade and Other Receivables

Goods and services - related entities	35
Appropriations receivable for existing outputs	76,347
GST receivable from the Australian Taxation Office	887
Other receivables	50
<b>Total trade and other receivables (gross)</b>	<u>77,319</u>
Less: Impairment allowance account - other	(8)
<b>Total Trade and Other Receivables (Net)</b>	<u>77,311</u>

Trade and other receivables are expected to be recovered in:

No more than 12 months	77,311
<b>Total Trade and Other Receivables (Net)</b>	<u>77,311</u>

Trade and other receivables are aged as follows:

Not overdue	77,300
Overdue by:	
Less than 30 days	10
More than 90 days	9
<b>Total trade and other receivables (gross)</b>	<u>77,319</u>

The impairment allowance account is aged as follows:

Overdue by:	
More than 90 days	8
<b>Total impairment allowance account</b>	<u>8</u>

### Reconciliation of the Impairment Allowance Account

	Other Receivables	Total
	2010	2010
	\$'000	\$'000
Opening balance - 1 July 2009	-	-
Impairment balance received from restructuring	13	13
Amounts written off	(4)	(4)
Amounts recovered and reversed	(3)	(3)
Increase / decrease recognised in net surplus	2	2
<b>Closing balance - 30 June 2010</b>	<u>8</u>	<u>8</u>

**Note 6: Non-Financial Assets**

	<b>2010</b>
	<b>\$'000</b>
<b><u>Note 6A: Land and Buildings (Leasehold Improvements)</u></b>	
Work in progress	274
Fair value	35,777
Accumulated depreciation	<u>(9,082)</u>
<b>Total Land and Buildings (Leasehold Improvements)</b>	<b><u><u>26,969</u></u></b>

No indicators of impairment were found for land and buildings (leasehold improvements).

No land or buildings (leasehold improvements) are expected to be sold or disposed of within the next 12 months.

The Agency revalued its land and buildings (leasehold improvements) assets during the year.

All revaluations were conducted in accordance with the revaluation policy outlined in Note 1. On 10 May 2010, an independent valuer conducted the revaluations. A revaluation increment of \$2.126 million for land and buildings (leasehold improvements) was credited to the Asset Revaluation Reserve and is included in Equity in the Balance Sheet. No revaluation decrements were expensed during the year.

**Note 6B: Property, Plant and Equipment**

Fair value	1,295
Accumulated depreciation	<u>(792)</u>
<b>Total Property, Plant and Equipment</b>	<b><u><u>503</u></u></b>

No indicators of impairment were found for property, plant and equipment.

No property, plant or equipment is expected to be sold or disposed of within the next 12 months.

**Note 6C: Reconciliation of Opening and Closing Balances of Land and Buildings (Leasehold Improvements) and Property, Plant and Equipment**

	Land and Buildings (Leasehold Improvements) \$'000	Property, Plant and Equipment \$'000	Total \$'000
<b>As at 1 July 2009</b>			
Gross book value	-	-	-
Accumulated depreciation	-	-	-
<b>Net book value - 1 July 2009</b>	-	-	-
<b>Additions:</b>			
By purchase	575	56	631
From acquisition of entities or operations (including restructuring)	33,350	1,322	34,672
Revaluations and impairments through equity	2,126	-	2,126
Depreciation	(9,082)	(792)	(9,874)
Disposal of assets	-	(83)	(83)
<b>Net Book Value - 30 June 2010</b>	<b>26,969</b>	<b>503</b>	<b>27,472</b>
<b>Net Book Value as at 30 June 2010 Represented by:</b>			
Gross book value	36,051	1,295	37,346
Accumulated depreciation	(9,082)	(792)	(9,874)
	<b>26,969</b>	<b>503</b>	<b>27,472</b>

	2010
	\$'000
<b><u>Note 6D: Intangibles</u></b>	
Computer software at cost:	
Internally developed – in progress	433
Internally developed – in use	6,559
Purchased – in use	22
Accumulated amortisation	<u>(2,600)</u>
<b>Total Intangibles</b>	<b><u><u>4,414</u></u></b>
No indicators of impairment were found for intangible assets.	
No intangibles are expected to be sold or disposed of within the next 12 months.	

**Note 6E: Reconciliation of Opening and Closing Balances of Intangibles**

	Computer Software Internally Developed \$'000	Computer Software Purchased \$'000	Total \$'000
<b>As at 1 July 2009</b>			
Gross book value	-	-	-
Accumulated amortisation	-	-	-
<b>Net book value - 1 July 2009</b>	-	-	-
<b>Additions:</b>			
By purchase or internally developed	433	-	433
From acquisition of entities or operations (including restructuring)	6,559	22	6,581
Amortisation	(2,583)	(17)	(2,600)
<b>Net Book Value - 30 June 2010</b>	<b>4,409</b>	<b>5</b>	<b>4,414</b>
<b>Net Book Value as at 30 June 2010 Represented by:</b>			
Gross book value	6,992	22	7,014
Accumulated amortisation	(2,583)	(17)	(2,600)
	<b>4,409</b>	<b>5</b>	<b>4,414</b>

	2010
	\$'000
<b><u>Note 6F: Other Non-Financial Assets</u></b>	
Prepayments	<u>1,346</u>
<b>Total Other Non-Financial Assets</b>	<b><u><u>1,346</u></u></b>

No indicators of impairment were found for other non-financial assets.

Other non-financial assets are expected to be recovered in no more than 12 months.

## Note 7: Payables

2010  
\$'000

### **Note 7A: Suppliers**

Trade creditors	7,639
Operating lease rentals	4,514
<b>Total Suppliers</b>	<b>12,153</b>

Suppliers expected to be settled within 12 months:

Related entities	1,662
External parties	5,966
<b>Total</b>	<b>7,628</b>

Suppliers expected to be settled in greater than 12 months:

External parties	4,525
<b>Total</b>	<b>4,525</b>
<b>Total Suppliers</b>	<b>12,153</b>

Settlement is usually made net 30 days.

### **Note 7B: Other Payables**

Salaries and wages	1,468
Separations and redundancies	28
Lease incentives	5,780
<b>Total Other Payables</b>	<b>7,276</b>

Other payables are expected to be settled in:

No more than 12 months	2,522
More than 12 months	4,754
<b>Total Other Payables</b>	<b>7,276</b>

**Note 8: Provisions**

	2010
	\$'000
<b>Note 8A: Employee Provisions</b>	
Leave	13,329
Other	733
<b>Total Employee Provisions</b>	<u>14,062</u>

Employee provisions are expected to be settled in:

No more than 12 months	10,995
More than 12 months	3,067
<b>Total Employee Provisions</b>	<u>14,062</u>

**Note 8B: Other Provisions**

Restoration obligations	292
Onerous leases	8,424
<b>Total Other Provisions</b>	<u>8,716</u>

Other provisions are expected to be settled in:

No more than 12 months	5,496
More than 12 months	3,220
<b>Total Other Provisions</b>	<u>8,716</u>

**Analysis of Other Provisions**

	Restoration Obligations \$'000	Onerous Leases \$'000	Total \$'000
Carrying amount - 1 July 2009	-	-	-
Provisions received from restructuring (see Note 9)	289	3,121	3,410
Additional provisions made	-	7,506	7,506
Amounts used	-	(2,203)	(2,203)
Unwinding of discount or change in discount rate	3	-	3
<b>Closing Balance Other Provisions - 30 June 2010</b>	<u>292</u>	<u>8,424</u>	<u>8,716</u>

The Agency currently has one agreement for the leasing of premises which has a provision requiring the Agency to restore the premises to its original condition at the conclusion of the lease. The Agency has made a provision to reflect the present value of this obligation.

The Agency has a number of agreements for the leasing of office accommodation which are surplus to its requirements. It has made provision to reflect the present value of the expected costs to be incurred that are in excess of the economic benefit expected to be derived from these leases.

**Note 9: Restructuring****Note 9A: Departmental Restructuring**

1 July 2009 was the first day of operation of the Agency. On 1 July 2009, the Agency assumed the functions of the former Workplace Ombudsman and the general advisory functions of the former Workplace Authority. The net book values of assets and liabilities transferred to the Agency for no consideration and recognised as at the date of transfer were:

	\$'000
<b>From the former Workplace Ombudsman:</b>	
<b>Net assets received</b>	
Cash and cash equivalents	9
Trade and other receivables	5,904
Other financial assets	16
Land and buildings (leasehold improvements)	20,052
Property, plant and equipment	725
Intangibles	506
Other non-financial assets	1,293
<b>Total net assets received</b>	<u>28,505</u>
<b>Net liabilities received</b>	
Suppliers	4,026
Other payables	4,340
Employee provisions	6,120
<b>Total net liabilities received</b>	<u>14,486</u>
<b>Net assets assumed</b>	<u>14,019</u>
<b>From the former Workplace Authority:</b>	
<b>Net assets received</b>	
Trade and other receivables	41,666
Land and buildings (leasehold improvements)	13,298
Property, plant and equipment	597
Intangibles	6,075
Other non-financial assets	935
<b>Total net assets received</b>	<u>62,571</u>
<b>Net liabilities received</b>	
Suppliers	7,271
Other payables	7,862
Employee provisions	6,046
Other provisions	3,410
<b>Total net liabilities received</b>	<u>24,589</u>
<b>Net assets assumed</b>	<u>37,982</u>
<b>Total Net Assets Assumed</b>	<u>52,001</u>

**Note 9B: Administered Restructuring**

On 1 July 2009, the Agency assumed responsibility for the administered functions of the former Workplace Ombudsman. The net book values of assets and liabilities transferred to the Agency for no consideration and recognised as at the date of transfer were:

	\$ (*)
<b>From the former Workplace Ombudsman:</b>	
<b>Net assets received</b>	
Receivables	1,365,485
Other financial assets	62,092
<b>Total net assets received</b>	<u>1,427,577</u>
<b>Total liabilities received</b>	<u>-</u>
<b>Net Assets Assumed</b>	<u>1,427,577</u>

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

**Note 10: Cash Flow Reconciliation**

	2010 \$'000
<b>Reconciliation of Cash and Cash Equivalents as per Balance Sheet to Cash Flow Statement</b>	
<b>Reported Cash and Cash Equivalents as per:</b>	
Cash Flow Statement	1,331
Balance Sheet	1,331
<b>Difference</b>	<u><u>-</u></u>
<b>Reconciliation of Surplus to Net Cash from Operating Activities:</b>	
Net cost of services	(134,279)
Revenue from Government	144,645
<b>Adjustments for non-cash items</b>	
Depreciation and amortisation	12,474
Losses from asset sales	83
<b>Changes in assets / liabilities</b>	
(Increase) in trade and other receivables	(26,254)
Decrease in other financial assets	16
Decrease in other non-financial assets	882
Increase in employee provisions	1,873
Increase in other provisions	5,929
Increase in suppliers	908
(Decrease) in other payables	(4,955)
<b>Net Cash From Operating Activities</b>	<u><u>1,322</u></u>

### **Note 11: Contingent Liabilities and Assets**

The Agency has provided an indemnity to the Reserve Bank of Australia (the Bank) against any loss or damage arising from any error, mistake, fraud or negligence resulting from the Bank acting in good faith on instructions given to it by the Agency and / or due to any failure by the Agency to observe any of its obligations in respect to its banking arrangements.

The likelihood of any payment being required under the indemnity is remote and unquantifiable.

**Note 12: Executive Remuneration****Note 12A: Actual Remuneration Paid to Senior Executives**

	2010
The number of senior executives who received or were due to receive total remuneration of \$130,000 or more:	
\$145,000 to \$159,999	1
\$175,000 to \$189,999	1
\$205,000 to \$219,999	2
\$220,000 to \$234,999	3
\$235,000 to \$249,999	1
\$250,000 to \$264,999	2
\$265,000 to \$279,999	2
\$310,000 to \$324,999	1
\$325,000 to \$339,999	1
\$340,000 to \$354,999	1
<b>Total</b>	<u><u>15</u></u>
<b>Total expense recognised in relation to senior executive employment</b>	<b>\$</b>
Short-term employee benefits:	
Salary (including annual leave taken)	2,330,839
Changes in annual leave provisions	249,113
Performance bonus	273,185
Other(*)	<u>301,801</u>
Total short-term employee benefits	3,154,938
Superannuation (post-employment benefits)	409,962
Other long-term benefits	<u>153,803</u>
<b>Total</b>	<u><u>3,718,703</u></u>

No termination benefits were paid to senior executives during the year.

(\*) Includes motor vehicle allowances and other allowances.

**Note 12B: Salary Packages for Senior Executives**

**Average annualised remuneration packages for substantive senior executives**

	<b>At 30 June 2010</b>		
	<b>Number of Officers</b>	<b>Base Salary (including annual leave) \$</b>	<b>Total Remuneration Package(*) \$</b>
Total remuneration:			
\$175,000 to \$189,999	<b>1</b>	<b>126,303</b>	<b>178,137</b>
\$205,000 to \$219,999	<b>4</b>	<b>169,530</b>	<b>216,233</b>
\$220,000 to \$234,999	<b>2</b>	<b>168,010</b>	<b>225,307</b>
\$235,000 to \$249,999	<b>1</b>	<b>176,680</b>	<b>237,657</b>
\$250,000 to \$264,999	<b>4</b>	<b>196,040</b>	<b>255,167</b>
\$265,000 to \$279,999	<b>1</b>	<b>218,270</b>	<b>267,139</b>
\$325,000 to \$339,999	<b>1</b>	<b>238,360</b>	<b>326,510</b>
<b>Total</b>	<b><u>14</u></b>		

(\*) Non-salary elements available to senior executives include a motor vehicle allowance and superannuation. Performance bonuses are excluded as they are highly variable and can distort year on year comparisons.

**Note 13: Remuneration of Auditors**

	<b>2010</b>
	\$

Financial statement audit services were provided free of charge to the Agency.

The fair value of the services provided was:	
Audit	<u>62,000</u>
<b>Total</b>	<u><u>62,000</u></u>

The Auditor-General provided no other services.

## Note 14: Financial Instruments

	2010 \$'000
<b>Note 14A: Categories of Financial Instruments</b>	
<b>Financial Assets</b>	
Cash and cash equivalents	1,331
Loans and receivables:	
Goods and services	35
Other receivables	50
<b>Carrying Amount of Financial Assets</b>	<b>1,416</b>
<b>Financial Liabilities</b>	
Suppliers	12,153
<b>Carrying Amount of Financial Liabilities</b>	<b>12,153</b>

The Agency has no net income or expenses from financial instruments.

### **Note 14B: Fair Value of Financial Instruments**

The carrying amount of all financial assets and liabilities as at 30 June 2010 approximates their fair value.

**Note 14C: Credit Risk**

The maximum exposure to credit risk at the reporting date in relation to each class of recognised financial assets is the carrying amount of those assets. The exposure is minimal as loans and receivables are predominantly cash and the recovery of entitlements for staff who have transferred to the Agency from other Government agencies.

The maximum exposure to credit risk is the risk that arises from the potential default of a debtor. This amount is equal to the total amount of receivables and other financial assets. The Agency has assessed the risk of default on payment and has determined there is no allowance for impairment required in 2009-10.

The Agency manages its credit risk by undertaking background and credit checks prior to allowing a debtor relationship. In addition, the Agency has policies and procedures in place that guide employees through debt recovery techniques that are to be applied.

The Agency has no significant exposures to any concentrations of credit risk and holds no collateral to mitigate against credit risk.

The following table illustrates the Agency's gross exposure to credit risk.

	2010 \$'000
<b>Financial Assets</b>	
Cash and cash equivalents	1,331
Goods and services	35
Other receivables	50
<b>Total</b>	<u><u>1,416</u></u>

**Credit quality of financial instruments for 2010:**

	Not Past Due Nor Impaired 2010 \$'000	Past Due But Not Impaired 2010 \$'000	Past Due and Impaired 2010 \$'000	Total 2010 \$'000
<b>Financial Assets</b>				
Cash and cash equivalents	1,331	-	-	1,331
Goods and services	35	-	-	35
Other receivables	31	11	8	50
<b>Total</b>	<u><u>1,397</u></u>	<u><u>11</u></u>	<u><u>8</u></u>	<u><u>1,416</u></u>

**Ageing of financial assets that are past due but not impaired for 2010:**

	0 to 30 Days \$'000	31 to 60 Days \$'000	61 to 90 Days \$'000	90+ Days \$'000	Total \$'000
<b>Financial Assets</b>					
Other receivables	10	-	-	1	11
<b>Total</b>	<u><u>10</u></u>	<u><u>-</u></u>	<u><u>-</u></u>	<u><u>1</u></u>	<u><u>11</u></u>

**Note 14D: Liquidity Risk**

The Agency's financial liabilities are payables. The exposure to liquidity risk is based on the notion that the Agency will encounter difficulties in meeting its obligations associated with financial liabilities. This is highly unlikely due to appropriation funding and internal policies and procedures in place to ensure the Agency has access to appropriate resources to meet its financial obligations as and when they fall due.

**Maturities for non-derivative financial liabilities**

	<b>On Demand 2010 \$'000</b>	<b>Within 1 Year 2010 \$'000</b>	<b>1 to 5 Years 2010 \$'000</b>	<b>5 + Years 2010 \$'000</b>	<b>Total 2010 \$'000</b>
<b>Financial Liabilities</b>					
Suppliers	7,628	-	3,218	1,307	12,153
<b>Total</b>	<b>7,628</b>	<b>-</b>	<b>3,218</b>	<b>1,307</b>	<b>12,153</b>

**Note 14E: Market Risk**

The Agency holds basic financial instruments that do not expose it to currency, interest rate or other price risks.

**Notes to the Schedule of Administered Items**

**Note 15: Income Administered on Behalf of Government**

	2010 \$ (*)
<b><u>Note 15A: Fees and Fines</u></b>	
Court awarded penalties	1,750,729
Infringement notices	<u>21,340</u>
<b>Total Fees and Fines</b>	<b><u><u>1,772,069</u></u></b>
<b><u>Note 15B: Interest</u></b>	
Penalty interest	<u>25,690</u>
<b>Total Interest</b>	<b><u><u>25,690</u></u></b>

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

## Note 16: Assets Administered on Behalf of Government

	2010
	\$ (*)
<b>Financial Assets</b>	
<b>Receivables</b>	
Court awarded penalties	<u>3,060,054</u>
<b>Gross receivables</b>	<u>3,060,054</u>
Less: Impairment allowance account - Court awarded penalties	<u>(2,337,519)</u>
<b>Net Receivables</b>	<u>722,535</u>
Gross receivables are aged as follows:	
Not overdue	70,334
Overdue by:	
Less than 30 days	26,260
30 to 60 days	210,282
61 to 90 days	157,333
More than 90 days	<u>2,595,845</u>
<b>Gross receivables</b>	<u>3,060,054</u>
The impairment allowance account is aged as follows:	
Overdue by more than 90 days	<u>(2,337,519)</u>
<b>Total impairment allowance account</b>	<u>(2,337,519)</u>
Receivables are with entities external to the Government.	
<b>Reconciliation of the impairment allowance account</b>	
Opening balance - 1 July 2009	-
Impairment allowance received from restructuring	(615,524)
Increase recognised in net surplus	<u>(1,721,995)</u>
<b>Closing balance - 30 June 2010</b>	<u>(2,337,519)</u>
<b>Other Financial Assets</b>	
Accrued revenue	<u>18,228</u>
<b>Total Other Financial Assets</b>	<u>18,228</u>

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

**Note 17: Administered Reconciliation Table**

	2010 \$ (*)
Opening balance - 1 July 2009	-
Net administered assets received from restructuring (see Note 9)	1,427,577
Administered income	1,797,759
Administered expenses	(1,721,995)
Transfers to the Official Public Account	<u>(762,579)</u>
<b>Net Administered Assets - 30 June 2010</b>	<b><u><u>740,762</u></u></b>

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

**Note 18: Administered Financial Instruments**

	2010
	\$ (*)
<b><u>Note 18A: Categories of Financial Instruments</u></b>	
<b>Financial Assets</b>	
Loans and receivables:	
Receivables	3,060,054
Accrued revenue	18,228
<b>Carrying Amount of Financial Assets</b>	<b><u>3,078,282</u></b>
<b><u>Note 18B: Net Income and Expense from Financial Assets</u></b>	
Loans and receivables:	
Impairment allowance - expense	(1,721,995)
<b>Net Loss From Financial Assets</b>	<b><u>(1,721,995)</u></b>

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

**Note 18C: Fair Value of Financial Instruments**

	Fair Value 2010 \$ (*)	Carrying Value 2010 \$ (*)
<b>Financial Assets</b>		
Loans and receivables:		
Receivables	722,535	3,060,054
Accrued revenue	18,228	18,228
<b>Total Financial Assets</b>	<b>740,763</b>	<b>3,078,282</b>

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

**Note 18D: Credit Risk**

The maximum exposure to credit risk at the reporting date in relation to each class of recognised financial assets is the carrying amount of those assets.

The maximum exposure to credit risk is the risk that arises from the potential default of a debtor. This amount is equal to the total amount of receivables and other financial assets. The Agency has assessed the risk of default on payment and has allocated \$2,337,519 in 2009-10 to an allowance for impairment account.

The Agency is not in a position to manage its credit risk as the administered debtors are recognised following court proceedings and not through a trade relationship.

The Agency has no significant exposures to any concentrations of credit risk and holds no collateral to mitigate against credit risk.

The following table illustrates the Agency's gross exposure to credit risk.

	<b>2010</b>
	\$ (*)
<b>Financial Assets</b>	
Receivables	3,060,054
Accrued revenue	18,228
<b>Total</b>	<u><u>3,078,282</u></u>

**Credit quality of financial instruments for 2010:**

	<b>Not Past Due Nor Impaired 2010 \$ (*)</b>	<b>Past Due But Not Impaired 2010 \$ (*)</b>	<b>Past Due and Impaired 2010 \$ (*)</b>	<b>Total 2010 \$ (*)</b>
<b>Financial Assets</b>				
Receivables	70,334	652,201	2,337,519	3,060,054
Accrued revenue	18,228	-	-	18,228
<b>Total</b>	<u><u>88,562</u></u>	<u><u>652,201</u></u>	<u><u>2,337,519</u></u>	<u><u>3,078,282</u></u>

**Ageing of financial assets that are past due but not impaired for 2010:**

	<b>0 to 30 Days \$ (*)</b>	<b>31 to 60 Days \$ (*)</b>	<b>61 to 90 Days \$ (*)</b>	<b>90+ Days \$ (*)</b>	<b>Total \$ (*)</b>
<b>Financial Assets</b>					
Receivables	26,260	210,282	157,333	258,326	652,201
<b>Total</b>	<u><u>26,260</u></u>	<u><u>210,282</u></u>	<u><u>157,333</u></u>	<u><u>258,326</u></u>	<u><u>652,201</u></u>

(\*) These amounts are rounded to the nearest dollar, as required by the Finance Minister's Orders.

**Note 18E: Market Risk**

The Agency holds basic financial instruments that do not expose it to currency, interest rate or other price risks.

**Note 19: Appropriations**
**Table A: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations**

Particulars	Administered Expenses	Departmental Outputs	Total
	2010	2010	2010
	\$	\$	\$
Balance as at 1 July 2009	-	38,431,870	38,431,870
Appropriation Act:			
Appropriation Act (No. 1) as passed	-	134,637,000	134,637,000
<i>Financial Management and Accountability Act 1997 (FMA):</i>			
Appropriations to take account of recoverable GST (FMA s30A )	-	4,230,187	4,230,187
Relevant agency receipts (FMA s31 )	-	20,370,721	20,370,721
<b>Total appropriation available for payments</b>	-	197,669,778	197,669,778
Cash payments made during the year (GST inclusive)	-	130,534,248	130,534,248
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations	-	67,135,530	67,135,530
<b>Represented by:</b>			
Cash at bank and on hand	-	1,331,047	1,331,047
Departmental appropriations receivable	-	64,917,189	64,917,189
Receivables - GST receivable from the Australian Taxation Office	-	887,294	887,294
<b>Total as at 30 June 2010</b>	-	67,135,530	67,135,530

**Table B: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations**

Particulars	Operating			Non – Operating				Total
	Specific Purpose Payments 2010	Non Administered Expenses 2010	Equity 2010	Loans 2010	Previous Years' Outputs 2010	Administered Assets 2010	2010	
Balance as at 1 July 2009	-	-	7,943,422	-	-	-	7,943,422	
Appropriation Act:								
Appropriation Act (No. 2) as passed	-	-	5,174,000	-	-	-	5,174,000	
<b>Total appropriation available for payments</b>	-	-	13,117,422	-	-	-	13,117,422	
Cash payments made during the year (GST inclusive)	-	-	1,687,748	-	-	-	1,687,748	
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Other Than Ordinary Annual Services Appropriations	-	-	11,429,674	-	-	-	11,429,674	
<b>Represented by:</b>								
Departmental appropriations receivable	-	-	11,429,674	-	-	-	11,429,674	
<b>Total as at 30 June 2010</b>	-	-	11,429,674	-	-	-	11,429,674	

**Note 20: Special Accounts**

<b>Other Trust Monies Account</b>	
Legal Authority: <i>Financial Management and Accountability Act 1997; s20</i>	
Appropriation: <i>Financial Management and Accountability Act 1997; s20</i>	
Purpose: For the receipt of monies temporarily held on trust or otherwise for the benefit of a person other than the Commonwealth and to repay amounts where an Act or other law requires or permits the repayment of an amount received.	
This account is non-interest bearing.	
<b>Other Trust Monies Account - Financial Summary</b>	<b>2010</b>
	<b>\$</b>
Balance as at 1 July 2009	<b>962,097</b>
Receipts	<b>766,116</b>
Payments made	<b>(262,269)</b>
<b>Balance Carried Forward to Next Period</b>	<b>1,465,944</b>
<b>Represented by:</b>	
Cash - held in the Official Public Account	<b>1,465,944</b>
<b>Balance Carried Forward to Next Period</b>	<b>1,465,944</b>

On 1 July 2009, the Agency assumed responsibility for the Special Account of the former Workplace Ombudsman. The 1 July 2009 balance above reflects the 30 June 2009 closing balance of the Workplace Ombudsman.

## Note 21: Compensation and Debt Relief

	2010 \$
<b>Departmental</b>	
No Act of Grace expenses were incurred during the reporting period.	-
No waivers of amounts owing to the Government were made pursuant to subsection 34(1) of the <i>Financial Management and Accountability Act 1997</i> .	-
No payments were provided under the Compensation for Detriment caused by Defective Administration (CDDA) Scheme during the reporting period.	-
No ex-gratia payments were provided for during the reporting period.	-
No payments were provided in special circumstances relating to Australian Public Service employment pursuant to section 73 of the <i>Public Service Act 1999</i> during the reporting period.	-
<b>Administered</b>	
No Act of Grace expenses were incurred during the reporting period.	-
No waivers of amounts owing to the Government were made pursuant to subsection 34(1) of the <i>Financial Management and Accountability Act 1997</i> .	-
No payments were provided under the Compensation for Detriment caused by Defective Administration (CDDA) Scheme during the reporting period.	-
No ex-gratia payments were provided for during the reporting period.	-
No payments were provided in special circumstances relating to Australian Public Service employment pursuant to section 73 of the <i>Public Service Act 1999</i> during the reporting period.	-

**Note 22: Reporting of Outcomes**

The Agency delivers services under one Outcome. The financial information is recorded against this Outcome.

**Note 22A: Net Cost of Outcome Delivery**

	Outcome 1	Total
	2010	2010
	\$'000	\$'000
<b>Expenses</b>		
Administered	1,722	1,722
Departmental	154,636	154,636
<b>Total expenses</b>	<b>156,358</b>	<b>156,358</b>
<b>Income from non-Government sector</b>		
Administered	-	-
Departmental	20,104	20,104
<b>Total</b>	<b>20,104</b>	<b>20,104</b>
<b>Other own-source income</b>		
Administered	1,798	1,798
Departmental	253	253
<b>Total</b>	<b>2,051</b>	<b>2,051</b>
<b>Net Cost of Outcome Delivery</b>	<b>134,203</b>	<b>134,203</b>

Outcome 1 is described in Note 1.1. Net costs shown include intra-Government costs that are eliminated in calculating the actual Budget Outcome.

**Note 22B: Major Classes of Departmental Expenses and Income by Outcome**

The major classes of departmental expenses and income that contribute to the Agency's outcome are as shown in the Statement of Comprehensive Income.

**Note 22C: Major Classes of Departmental Assets and Liabilities by Outcome**

The major classes of departmental assets and liabilities that contribute to the Agency's outcome are as shown in the Balance Sheet.

**Note 22D: Major Classes of Administered Expenses, Income, Assets and Liabilities by Outcome**

The major classes of administered expenses, income, assets and liabilities that contribute to the Agency's outcome are as shown in the Schedule of Administered Items.

# 6



## Appendices

## Appendix A: Staffing profile

TABLE 12: EMPLOYEES BY CLASSIFICATION AND LOCATION AT 30 JUNE 2010

Classification	ACT	NSW	QLD	SA	VIC	WA	NT	TAS	Total
APS 1	0	0	0	0	0	0	0	0	0
APS 2	0	1	0	0	0	0	0	0	1
APS 3	5	79	30	13	77	22	0	7	233
APS 4	15	81	14	38	48	11	3	6	216
APS 5	14	62	45	19	65	16	3	3	227
APS 6	21	48	13	8	40	8	1	2	141
EL 1	21	35	6	5	23	6	0	3	99
EL 2	10	10	2	2	14	2	0	0	40
SES	5	2	0	2	4	0	0	0	13
<b>TOTAL</b>	<b>91</b>	<b>318</b>	<b>110</b>	<b>87</b>	<b>271</b>	<b>65</b>	<b>7</b>	<b>21</b>	<b>970</b>

Note: Excludes the Fair Work Ombudsman

TABLE 13: ONGOING FULL-TIME AND PART-TIME EMPLOYEES BY GENDER AND LOCATION AT 30 JUNE 2010

Classification	ACT	NSW	QLD	SA	VIC	WA	NT	TAS	Total
Female full-time	40	143	54	39	101	26	5	3	411
Female part-time	7	26	13	6	32	6	0	0	90
Total female	47	169	67	45	133	32	5	3	501
Male full-time	33	113	35	25	81	23	1	7	318
Male part-time	2	4	0	0	5	0	0	0	11
Total male	35	117	35	25	86	23	1	7	329
<b>Total female and male</b>	<b>82</b>	<b>286</b>	<b>102</b>	<b>70</b>	<b>219</b>	<b>55</b>	<b>6</b>	<b>10</b>	<b>830</b>

Note: Excludes the Fair Work Ombudsman

**TABLE 14: NON-ONGOING FULL-TIME AND PART-TIME EMPLOYEES BY GENDER AND LOCATION AT 30 JUNE 2010**

<b>Classification</b>	<b>ACT</b>	<b>NSW</b>	<b>QLD</b>	<b>SA</b>	<b>VIC</b>	<b>WA</b>	<b>NT</b>	<b>TAS</b>	<b>Total</b>
Female full-time	6	12	5	7	30	6	1	8	75
Female part-time	0	3	0	1	4	0	0	1	9
<b>Total female</b>	<b>6</b>	<b>15</b>	<b>5</b>	<b>8</b>	<b>34</b>	<b>6</b>	<b>1</b>	<b>9</b>	<b>84</b>
Male full-time	2	14	3	8	18	4	0	2	51
Male part-time	1	3	0	1	0	0	0	0	5
<b>Total male</b>	<b>3</b>	<b>17</b>	<b>3</b>	<b>9</b>	<b>18</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>56</b>
<b>Total female and male</b>	<b>9</b>	<b>32</b>	<b>8</b>	<b>17</b>	<b>52</b>	<b>10</b>	<b>1</b>	<b>11</b>	<b>140</b>

*Note: Excludes the Fair Work Ombudsman*

**TABLE 15: ONGOING AND NON-ONGOING FULL-TIME AND PART-TIME EMPLOYEES BY GENDER AND LOCATION AT 30 JUNE 2010**

<b>Classification</b>	<b>ACT</b>	<b>NSW</b>	<b>QLD</b>	<b>SA</b>	<b>VIC</b>	<b>WA</b>	<b>NT</b>	<b>TAS</b>	<b>Total</b>
Female full-time	46	155	59	46	131	32	6	11	486
Female part-time	7	29	13	7	36	6	0	1	99
<b>Total female</b>	<b>53</b>	<b>184</b>	<b>72</b>	<b>53</b>	<b>167</b>	<b>38</b>	<b>6</b>	<b>12</b>	<b>585</b>
Male full-time	35	127	38	33	99	27	1	9	369
Male part-time	3	7	0	1	5	0	0	0	16
<b>Total male</b>	<b>38</b>	<b>134</b>	<b>38</b>	<b>34</b>	<b>104</b>	<b>27</b>	<b>1</b>	<b>9</b>	<b>385</b>
<b>Total female and male</b>	<b>91</b>	<b>318</b>	<b>110</b>	<b>87</b>	<b>271</b>	<b>65</b>	<b>7</b>	<b>21</b>	<b>970</b>

*Note: Excludes the Fair Work Ombudsman*

TABLE 16: SENIOR EXECUTIVE AND EXECUTIVE EMPLOYEES BY CLASSIFICATION AND GENDER AT 30 JUNE 2010

Classification	Female	Male	Total
EL 1	57	42	99
EL 2	12	28	40
SES Band 1	3	7	10
SES Band 2	0	3	3
<b>Total</b>	<b>72</b>	<b>80</b>	<b>152</b>

Note: Excludes the Fair Work Ombudsman

TABLE 17: WORKPLACE DIVERSITY PROFILE AT 30 JUNE 2010

	Total staff	Female	People from culturally or linguistically diverse backgrounds	People from Aboriginal or Torres Strait Islanders backgrounds	People with disabilities
Staff	970	586	107	4	11

TABLE 18: EMPLOYEE WORKPLACE AGREEMENTS BY CLASSIFICATION AT 30 JUNE 2010

Classification	AWA	EA	CLC	Total
APS 1	0	0	0	0
APS 2	0	1	0	1
APS 3	5	228	0	233
APS 4	4	212	0	216
APS 5	3	224	0	227
APS 6	4	137	0	141
EL 1	10	89	0	99
EL 2	9	30	1	40
SES	1	0	12	13
<b>Total</b>	<b>36</b>	<b>921</b>	<b>13</b>	<b>970</b>

Note: Excludes the Fair Work Ombudsman

Note: During the year many staff chose to move from Australian Workplace Agreements (AWA) to the Enterprise Agreement (EA) or a Common Law Contract (CLC).

**TABLE 19: SALARY RANGES BY CLASSIFICATION AT 30 JUNE 2010**

<b>Classification Level</b>	<b>Salary Range</b>
APS 1	\$41 259 – \$42 888
APS 2	\$46 796 – \$51 248
APS 3	\$52 458 – \$56 786
APS 4	\$58 406 – \$63 626
APS 5	\$60 000 – \$71 233
APS 6	\$70 791 – \$82 676
EL 1	\$89 773 – \$123 573
EL 2	\$103 907 – \$145 000
SES Band 1	\$159 350 – \$179 280
SES Band 2	\$200 940 – \$231 600

**TABLE 20: AGGREGATE PERFORMANCE BONUSES BY CLASSIFICATION FOR 2009–10**

<b>Classification</b>	<b>Amount (\$)</b>
APS 3	\$20 262.50
APS 4	\$29 622.94
APS 5	\$71 883.36
APS 6	\$67 548.76
EL 1	\$185 400.25
EL 2	\$227 559.11
SES Band 1	\$90 058.00
SES Band 2	\$26 883.00
<b>Total</b>	<b>\$719 217.92</b>

*Note: Performance bonuses were in many cases paid for part year performances before staff moved from AWAs to the EA or a CLC.*

**TABLE 21: SENIOR EXECUTIVE MOVEMENTS TO 30 JUNE 2010**

<b>Name</b>	<b>Reason for Action</b>
Graham Tanton	Transfer to another APS Agency
Steven Ronson	Promotion to SES Band 1
Samara Dobbins	Resignation
Janine Webster	Promotion to SES Band 1
Karsten Lehn	Transfer from another APS Agency
Jennifer (Penny) Weir	Transfer to another APS Agency
Jo Major	Transfer to another APS Agency

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# Appendix B: Occupational health and safety

## Reportable accidents and occurrences

Under section 68 of the *Occupational Health and Safety Act 1991*, the Fair Work Ombudsman was required to notify Comcare Australia of any notifiable accidents or dangerous occurrences arising out of work undertaken by any of its employees. One notifiable accident and one dangerous occurrence were reported to Comcare Australia in 2009–10.

## Investigations

Under section 74(1)(f) of the *Occupational Health and Safety Act 1991*, the Fair Work Ombudsman was required to report any investigations conducted during the year into any of its undertakings. No investigations were conducted in 2009–10.

## Commonwealth Disability Strategy

In 2009–10, the Fair Work Ombudsman's policies and practices complied with the requirements of the *Disability Discrimination Act 1992*. The agency's recruitment and selection policies provided selection panels with information about provisions for applicants with a disability.

The Fair Work Ombudsman made recruitment information available in a range of formats, and applied the principle of reasonable adjustment to a recruitment process, where appropriate.

The Fair Work Ombudsman provided equipment and made arrangements to enable people with disabilities to contribute effectively to the work of the agency.

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# Appendix C: Freedom of information

Section 8 of the *Freedom of Information Act 1982* (FOI Act) requires each Commonwealth agency to publish the following information.

## Organisation, functions and decision-making powers

The Fair Work Ombudsman is an independent statutory agency created by the Fair Work Act.

In 2009–10, the Fair Work Ombudsman's statutory functions included promoting harmonious, productive and cooperative workplace relations and promoting and monitoring compliance with the Act and Fair Work instruments (such as modern awards, enterprise agreements and orders of Fair Work Australia). The Fair Work Ombudsman discharged its promotional duties *inter alia* by providing education, assistance and advice to employees, employers, outworkers, outworker entities and organisations and producing best practice guides on workplace relations or workplace practices.

The Fair Work Ombudsman also investigated workplace complaints or suspected contraventions of the Fair Work Act and Fair Work instruments, as well as safety net contractual entitlements (that is, entitlements in a contract of employment regarding matters dealt with in the National Employment Standards or a modern award). In appropriate cases, the Fair Work Ombudsman litigated to enforce workplace laws.

The Fair Work Ombudsman may also represent employees or outworkers who are, or might become, a party to proceedings under the Fair Work Act or a Fair Work instrument.

From 1 July 2009, the Fair Work Ombudsman replaced the Workplace Ombudsman and absorbed the general advisory functions previously undertaken by the Workplace Authority.

The Fair Work Act also established the Office of the Fair Work Ombudsman, consisting of the Fair Work Ombudsman, Fair Work Inspectors, Fair Work Infoline Advisers and other staff members.

The organisational structure chart of the Fair Work Ombudsman is on page 7.

In 2009–10, the Fair Work Ombudsman exercised decision-making powers under Commonwealth workplace laws, including the Fair Work Act, the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, the *Independent Contractors Act 2006 (Commonwealth)* and associated regulations.

The Fair Work Ombudsman provided information and education to stakeholders to improve voluntary compliance with Commonwealth workplace laws and reduce the need for enforcement. The Fair Work Ombudsman also promoted awareness of its role by carrying out targeted campaigns and audits of particular businesses and industries.

Where these measures failed to achieve voluntary compliance, the Fair Work Ombudsman was able to seek to compel compliance by issuing breach notices and, where necessary, by instituting court proceedings against businesses involved in serious breaches of Commonwealth workplace laws, thus deterring others from engaging in such conduct.

The Fair Work Ombudsman also exercised decision-making powers under the FOI Act and the *Privacy Act 1988*.

The Fair Work Ombudsman also entered into arrangements with the Workplace Authority Director to provide assistance to the Workplace Authority Director for the purposes of assisting in the performance of certain functions from 1 July 2009 until 31 January 2010 (when the Workplace Authority ceased to exist).

## Arrangements for outside participation in the functions of the agency

In 2009–10, the Fair Work Ombudsman took into consideration submissions made, or opinions expressed, by members of the public, including employers, employees, employer associations and unions, when formulating certain policies, allocating resources, and adopting procedures, strategies and practices related to the Fair Work Ombudsman's statutory functions. For instance, members of the public were able to express their opinions or make submissions in the following contexts:

- Feedback on the Fair Work Online website ([www.fairwork.gov.au](http://www.fairwork.gov.au)) or to the Fair Work Infoline (13 13 94) – for example, feedback on how the Fair Work Ombudsman could improve its service
- Consultation with industry bodies – for example, the Fair Work Ombudsman consulted peak employer and employee organisations and the general public in relation to the Fair Work Ombudsman's *Guidance Note 7 – Transitional arrangements in modern awards*
- Correspondence to the Fair Work Ombudsman and Ministerial correspondence.

## Categories of documents

A number of documents maintained by the Fair Work Ombudsman were available free of charge from the Fair Work Online website ([www.fairwork.gov.au](http://www.fairwork.gov.au)), or by contacting the Fair Work Infoline on 13 13 94. These included fact sheets, media releases, blank claim forms and guidance notes.

The Fair Work Ombudsman also maintained the following categories of documents. A request for access to these documents may be made to the Fair Work Ombudsman under the FOI Act:

- internal administrative records, including personnel and staffing records, internal procedures and policies, financial and expenditure records, audit reports
- documents relating to the administration of the Fair Work Ombudsman's functions, including documents relating to claims and complaints received by the Fair Work Ombudsman
- investigation and litigation files relating to matters being investigated by the Fair Work Ombudsman
- review files relating to requests for reviews from parties affected by decisions of the Fair Work Ombudsman
- targeted campaign files relating to targeted campaigns and audits conducted by the Fair Work Ombudsman
- legal documents, including contracts, leases, requests for tender documentation, tender proposals, evaluations, legal advice and court documents

- reference material used by staff and contract providers, including guidelines, manuals and operational advice
- reports, briefings, correspondence, minutes, payments, receipts, evaluation reports and submissions
- electronic records maintained on the Fair Work Ombudsman's databases
- research papers
- Ministerial correspondence and briefings
- freedom of information request files.

Documents formerly in the Workplace Ombudsman's possession became in the Fair Work Ombudsman's possession.

## Seeking access to documents held by the Fair Work Ombudsman

The FOI Act provides every person with the right to request access to documents in the Fair Work Ombudsman's possession.

Where a person makes a request to the Fair Work Ombudsman for access to documents in the Fair Work Ombudsman's possession, including all documents formerly held by the Workplace Ombudsman and some documents formerly held by the Workplace Authority, the Fair Work Ombudsman will consider in the first instance whether the documents can be made available without requiring a formal application under the FOI Act.

All requests for access to documents are first considered in accordance with the Fair Work Ombudsman's Document Access Policy. That policy can be viewed at [www.fairwork.gov.au](http://www.fairwork.gov.au)

If the documents are not released under the Document Access Policy, a formal application under the FOI Act will be considered.

The formal requirements for an application under the FOI Act are as follows. There is no mandatory form. For a request to be valid under the FOI Act, it must:

- a. be in writing
- b. be accompanied by a \$30 application fee
- c. specify an address in Australia for service of notices
- d. be sent or delivered to the agency at the address as listed in the current telephone directory
- e. contain sufficient information to enable the agency to identify the relevant documents.

An application is not valid until the application fee of \$30 is received. In some cases, applicants may seek remission of the application fee for reasons such as financial hardship or public interest. If remission of the fee is sought, supporting evidence should be forwarded with the application.

Under the FOI Act, additional charges may also be imposed on an applicant for searching, retrieving and copying documents in response to the request.

An application under the FOI Act should be directed to the following address:

Freedom of Information Contact Officer  
Fair Work Ombudsman  
GPO BOX 9887  
Melbourne VIC 3001

Applicants may discuss with the FOI Contact Officer the documents the applicant wishes to access before making a request or once a request has been made.

## FOI requests in 2009–10

The Fair Work Ombudsman received 18 freedom of information requests in 2009–10. An additional four requests were transferred from the Workplace Ombudsman to the Fair Work Ombudsman on 1 July 2009. Of the total of 22 requests:

- One was withdrawn
- Three were granted full access
- 17 were granted partial access
- One was refused access as no documents within the scope of the request could be found.

Five other requests were invalid requests that were withdrawn or deemed to have been withdrawn because of non-payment of the application fee.

There were no outstanding requests as at 30 June 2010.

# Appendix D: Advertising and market research

Details of payments made to market research, direct mail and media advertising organisations by the Fair Work Ombudsman in 2009–10 are listed in the following table. Where the total paid to an organisation is less than \$11 200, details have not been included. This is consistent with the *Commonwealth Electoral Act 1918*.

No advertising campaigns were undertaken by the Fair Work Ombudsman in 2009–10.

**TABLE 22: MARKET RESEARCH, DIRECT MAIL AND MEDIA ADVERTISING CONTRACTS OVER \$11 200 DURING 2009–10**

Organisation	Service provided	Total \$ paid in 2009–10 (GST inclusive)
<b>Market research organisations</b>		
Globe Communications	Education strategy research	\$201 300
TNS	Website useability research	\$66 979
<b>Direct mail organisations</b>		
Avant Card	School leaver's education campaign	\$12 364
Avant Card	1 January 2010 changes awareness campaign	\$19 184
Info Med	Pregnancy discrimination awareness	\$34 100
Avant Card	<a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a> promotion	\$22 484
<b>Media advertising organisations</b>		
Adcorp	Recruitment advertising	\$170 942

## Appendix E: Consulting services contracts

During 2009–10, the Fair Work Ombudsman entered into 18 new consultancy services contracts involving total expenditure of \$1.479 million. These consultancies support the outcomes of the Strategic Plan through the provision of services and/or technical skills that are not readily available within existing employee resources.

The Fair Work Ombudsman’s policy on the selection and engagement of consultants is in accordance with the Commonwealth Procurement Guidelines and is based on the core principle of value for money.

Consultants were engaged for assignments where the necessary skills and expertise were unavailable within the Fair Work Ombudsman or where there was a need for specialist independent research or assessment.

**TABLE 23: CONSULTING SERVICES CONTRACTS TO THE VALUE OF \$10,000 OR MORE LET DURING 2009–10**

Consultant	Services To Be Delivered	Amount	Selection Process <sup>(1)</sup>	Justification <sup>(2)</sup>
Audit & Assurance Consulting	Independent Chairman - Audit Committee	\$21 166	D	C
Brian Kimball	Review of Travel Allowances	\$14 025	D	B
Cosolve	Community Based Employment Advice Centre Review	\$25 559	D	C
Deloitte Touche Tohmatsu Pty Ltd	Internal Audit Services	\$249 403	P	C
Deloitte Touche Tohmatsu Pty Ltd	Advice on IT Strategy	\$19 990	P	C
Global Learning	Team Leader Development Program	\$252 205	P	B
Globe Communications	Development of an Education Strategy	\$201 300	S	B
Robbins Group	Human Resources Consultant for Enterprise Agreement	\$104 630	S	C
Saltbush Consulting	Security Risk Assessment	\$16 016	S	B

Consultant	Services To Be Delivered	Amount	Selection Process <sup>(1)</sup>	Justification <sup>(2)</sup>
Walter Turnbull	Facilitators for Fair Work Inspector Training	\$292 406	P	B
Yellow Edge	Review of Structure of Human Resources Branch	\$10 120	D	B
Yellow Edge	Leadership Innovation Program	\$246 610	P	B

(1): Explanation of selection process terms drawn from the Commonwealth Procurement Guidelines (December 2008):

- O. Open tender: A procurement procedure in which a request for tender is published inviting all suppliers that satisfy the conditions for participation to submit tenders.
- S. Select tender process: A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders in accordance with the mandatory procurement procedures.
- D. Direct sourcing: A procurement process in which an agency invites a potential supplier or suppliers of its choice to make submissions. Direct sourcing may include a competitive process, for example obtaining quotes.
- P. Panel: An arrangement under which a number of potential suppliers, usually selected through a single procurement process, may each supply property or services to an agency as specified in the panel arrangements.

(2): Justification to use consultancy:

- A. Skills currently unavailable within agency.
- B. Need for specialised or professional skills.
- C. Need for independent research or assessment.

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# Appendix F: Other mandatory information

## Ecologically sustainable development and environmental performance

The Fair Work Ombudsman was committed to and encouraged the efficient use of energy resources.

The Fair Work Ombudsman has incorporated best practice in environmental management to operate in an ecologically sustainable manner and to provide an environmentally sound workplace. This included promoting:

- energy savings
- reduced material use
- reduced waste
- recycling.

During 2009–10, the Fair Work Ombudsman:

- finalised its Environmental Policy in recognition of its responsibility to the Australian Government and the wider community to make a commitment to minimise the impact of its operations on the environment
- actively participated in the Earth Hour event of 27 March 2010, registering for the event and promoting this event to all employees in the Fair Work Ombudsman.

## Summary of resources

TABLE 24: EXPENSES AND RESOURCES FOR OUTCOME 1

<b>Outcome 1: Compliance with workplace relations legislation by employees and employers through advice, education and, where necessary, enforcement.</b>	<b>Budget 2009–10 \$'000</b>	<b>Actual Expenses 2009–10 \$'000</b>	<b>Variation \$'000</b>
	(a)	(b)	(a–b)
Program 1: Education Services and Compliance Activities			
Administered Expenses			
Ordinary Annual Services (Appropriation Bill No.1) (*)	–	–	–
Departmental Expenses			
Ordinary Annual Services (Appropriation Bill No.1)	\$134 637	\$134 279	\$358
Revenue from independent sources (Section 31)	\$20 104	\$20 357	\$(253)
<b>Total for Program 1</b>	<b>\$154 741</b>	<b>\$154 636</b>	<b>\$105</b>
<b>Total Expenses for Outcome 1</b>	<b>\$154 741</b>	<b>\$154 636</b>	<b>\$105</b>
		<b>2009–10</b>	
Average staffing level (number)		821	

(\*) *The Fair Work Ombudsman had no administered appropriations.*

*Note: Budget information reflects budgets as set out in the Portfolio Budget Statements 2009–10.*

## Agency Resource Statement

TABLE 25: AGENCY RESOURCE STATEMENT 2009–10

	<b>Actual Available Appropriations for 2009–10 \$'000</b>	<b>Payments Made 2009–10 \$'000</b>	<b>Balance Remaining 2009–10 \$'000</b>
	(a)	(b)	(a–b)
Ordinary Annual Services Departmental Outputs			
Departmental outputs	\$183 076	\$118 159	\$64 917
<b>Total Ordinary Annual Services</b>	<b>\$183 076</b>	<b>\$118 159</b>	<b>\$64 917</b>
Other Services Departmental Non-Operating			
Equity injections	\$13 117	\$1 688	\$11 429
<b>Total Other Services</b>	<b>\$13 117</b>	<b>\$1 688</b>	<b>\$11 429</b>
<b>Total Available Annual Appropriations</b>	<b>\$196 193</b>	<b>\$119 847</b>	<b>\$76 346</b>
<b>Total Appropriations Excluding Special Account</b>	<b>\$196 193</b>	<b>\$119 847</b>	<b>\$76 346</b>
Special Account			
Opening balance	\$962	–	\$962
Non-appropriation receipts	\$766	–	\$766
Payments	–	\$262	\$(262)
<b>Total Special Account</b>	<b>\$1 728</b>	<b>\$262</b>	<b>\$1 466</b>
<b>Total Net Resourcing for Fair Work Ombudsman</b>	<b>\$197 921</b>	<b>\$120 109</b>	<b>\$77 812</b>

# 7



## References

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# Glossary

<b>Australian Public Service (APS) employee</b>	A person engaged under section 22, or a person who is engaged as an APS employee under section 72, of the <i>Public Service Act 1999</i> .
<b>Assisted voluntary resolution (AVR)</b>	Assists alleged wrongdoers and complainants find a fair and mutually acceptable resolution to a workplace complaint, without having to immediately resort to formal investigation.
<b>Australian Workplace Agreement (AWA)</b>	An Australian workplace agreement (AWA) is an individual statutory agreement between an employer and an individual employee that sets out terms and conditions of employment. AWAs could not be made after 28 March 2008. However, an AWA made before 28 March 2008 continues to operate as an individual agreement based transitional instrument until it is terminated or replaced.
<b>Corporate governance</b>	The process by which agencies are directed and controlled. It is generally understood to encompass authority, accountability, stewardship, leadership, direction and control.
<b>Enforceable Undertakings</b>	A written commitment outlining how a person intends to rectify a contravention.
<b>Enterprise Agreement</b>	An agreement made under the Fair Work Act (on or after 1 July 2009) between one or more employers and a group of employees in relation to terms and conditions of employment for those employees.
<b>Fair Work Australia</b>	The national workplace relations tribunal created by the Fair Work Act. It is an independent body with power to carry out a range of functions covering: the safety net of minimum wages and employment conditions; enterprise bargaining; industrial action; dispute resolution and termination of employment.
<b>Fair work instruments</b>	See <i>industrial instruments</i> .
<b>Fairness test</b>	Applied to workplace agreements lodged between 7 May 2007 and 27 March 2008. The fairness test ensured that employees received fair compensation if their AWA or collective agreement removed or modified certain protected conditions, such as penalty rates and overtime loadings.
<b>Freedom of association</b>	The right of all employees to join or not join a union. They must not be pressured by the union or employer or any other person to make a decision about joining, not joining or leaving a union.

<b>Industrial action</b>	<p>Industrial action by employees includes: performing work in a different way from usual so as to restrict, limit or delay the performance of their work; failing or refusing to attend work or perform any work at all; or observing a ban, limitation or restriction on performing their work.</p> <p>Industrial action by employers includes locking employees out of their workplace so they cannot perform any work.</p>
<b>Industrial instruments</b>	<p>Sets out minimum conditions of employment for employees to whom they apply or they cover. Instrument types include modern awards, enterprise agreements, award-based transitional instruments and transitional minimum wage instruments and agreement-based transitional instruments.</p>
<b>Modern awards</b>	<p>An award made by the Australian Industrial Relations Commission as part of the award modernisation process that commenced operation on 1 January 2010. Modern awards supplement the National Employment Standards by setting out additional minimum terms and conditions that apply in a particular industry or occupation including monetary entitlements such as wages, penalty rates and allowances.</p>
<b>National Employment Standards (NES)</b>	<p>Ten minimum standards of employment that apply to national system employees from 1 January 2010. For a list of the NES visit <a href="http://www.fairwork.gov.au/nas">www.fairwork.gov.au/nas</a></p>
<b>National workplace relations system</b>	<p>Introduced on 1 July 2009 by the Fair Work Act and related legislation. Applies to most employers and employees in Australia. Key features of the national workplace relations system include the National Employment Standards and modern awards.</p>
<b>Notice to Produce</b>	<p>As part of an investigation, a Fair Work Inspector can issue a written notice that requires a person to provide records or documents at a particular location, within a specified time period (at least fourteen days). It is a contravention of the Fair Work Act if a person fails to comply with a Notice to Produce and has no reasonable excuse.</p>
<b>Outcomes</b>	<p>The results, impacts or consequence of actions by the Commonwealth on the Australian community. They should be consistent with those listed in agencies' PBS/PAES.</p>
<b>Programs</b>	<p>An activity or groups of activities that delivers benefits, services or transfer payments to individuals, industry/business or the community as a whole and are the primary vehicles for government agencies to achieve the intended results of their outcome statements.</p>
<b>Purchaser/provider arrangements</b>	<p>Arrangements under which the services of one agency are purchased by another agency to contribute to outcomes. Purchaser/provider arrangements can occur between Commonwealth agencies or between Commonwealth agencies and State/Territory government or private sector bodies.</p>

<b>Safety net contractual entitlements</b>	An entitlement under a contract between an employee and an employer that relates to minimum conditions in the National Employment Standards or a modern award.
<b>Sham contracting</b>	Where an employer tries to disguise an employment relationship as an independent contracting relationship. This may be done to avoid having to give the employee their proper entitlements.
<b>Small business employer</b>	An employer that employs less than 15 employees, including full-time, part-time and regular and systematic casual employees.
<b>Transitional arrangements</b>	A process of implementing certain monetary entitlements in modern awards in five 20% increments over a four year period from the first full pay period on or after 1 July 2010 in accordance with the model transitional provisions in a modern award.
<b>Unfair dismissal</b>	Occurs when a termination of employment is: harsh, unjust or unreasonable; not a genuine redundancy; the employer has not adhered to the Small Business Fair Dismissal Code (if relevant), and; the employee is protected by unfair dismissal provisions in the Fair Work Act.
<b>Winding-up applications</b>	Dissolving a partnership or corporation by collecting all assets and outstanding income, satisfying all the creditors claims, and distributing remaining assets.

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# Abbreviations and acronyms

ACCI	Australian Chamber of Commerce and Industry
ACF	Agency Consultative Forum
ACTU	Australian Council of Trade Unions
Ai Group	Australian Industry Group
ATA	Australian Teleservices Association
AVR	Assisted Voluntary Resolution
AWA	Australian Workplace agreement
BTSC	Business Transformation Steering Committee
CLC	Common Law Contract
CPSU	Community and Public Sector Union
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
EA	Enterprise Agreement
EL2	Executive Level 2
Fair Work Act	<i>Fair Work Act 2009</i>
FLIP	Fair Work Ombudsman Leadership Innovation Program
FOBIC	Field Operations Business Improvement Committee
FOI	Freedom of Information
FOI Act	<i>Freedom of Information Act 1982</i>
FWO-CAN	Fair Work Ombudsman Culture Ambassadors Network
HISC	Horticulture Industry Shared Compliance
ICG	Interim Consultative Group
IVR	Interactive Voice Recognition
KPI	Key Performance Indicator
NAPLAN	National Assessment Program – Literacy and Numeracy
NES	National Employment Standards
NHSC	National Health and Safety Committee
OHS	Occupational Health and Safety
O-Week	Orientation Week
PBS	Portfolio Budget Statements
PDF	Performance Development Framework
RAP	Reconciliation Action Plan
SBEU	Small Business Education Unit
SES	Senior Executive Service
SIAP	Shared Industry Assistance Projects
TLDP	Team Leader Development Program
TLEP	Targeted Leadership Enhancement Program
TWU	Transport Workers Union

# List of requirements

Part of report	Description	Requirement	Page
	Letter of transmittal	Mandatory	ii
	Table of contents	Mandatory	iii
	Index	Mandatory	144
	Glossary	Mandatory	136
	Contact officer(s)	Mandatory	v
	Internet home page address and Internet address for report	Mandatory	v
Review by Fair Work Ombudsman	Review by Fair Work Ombudsman	Mandatory	2–4
	Summary of significant issues and developments	Suggested	2–4
	Overview of agency's performance and financial results	Suggested	2–4
	Outlook for following year	Suggested	2–4
Agency overview	Overview description of agency	Mandatory	6
	Role and functions	Mandatory	6
	Organisational structure	Mandatory	7
	Outcome and program structure	Mandatory	10
	Where outcome and program structures differ from PBS format, details of variation and reasons for change	Mandatory	Nil to report

Part of report	Description	Requirement	Page
Report on performance	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	12–52
	Actual performance in relation to deliverables and KPIs set out in PBS	Mandatory	13
	Performance of purchaser/provider arrangements	If applicable, suggested	64
	Where performance targets differ from the PBS, details of both former and new targets, and reasons for the change	Mandatory	Nil to report
	Narrative discussion and analysis of performance	Mandatory	12–52
	Trend information	Mandatory	12–52
	Significant changes in nature of principal functions/ services	Suggested	12–52
	Factors, events or trends influencing departmental performance	Suggested	12–52
	Contribution of risk management in achieving objectives	Suggested	54–57
	Social justice and equity impacts	Suggested	12–52
	Performance against service charter, customer service standards, complaints data, and the agency's response to complaints	If applicable, mandatory	21–39
	Discussion and analysis of the agency's financial performance	Mandatory	65
	Discussion of any significant changes from the prior year or from budget	Suggested	Nil to report
	Agency resource statement and summary resource tables by outcomes	Mandatory	133–134
Developments since the end of the financial year that have affected or may significantly affect the agency's operations or financial results in future	If applicable, mandatory	Nil to report	

Part of report	Description	Requirement	Page
Corporate governance	Statement of the main corporate governance practices in place	Mandatory	54
	Names of the senior executive and their responsibilities	Suggested	55
	Senior management committees and their roles	Suggested	54
	Corporate and operational planning and associated performance reporting and review	Suggested	54–57
	Approach adopted to identifying areas of significant financial or operational risk	Suggested	54–57
	Agency heads are required to certify that their agency comply with the Commonwealth Fraud Control Guidelines	Mandatory	57
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	54
	How nature and amount of remuneration for SES officers is determined	Suggested	102–103
External scrutiny	Significant developments in external scrutiny	Mandatory	58
	Judicial decisions and decisions of administrative tribunals	Mandatory	Nil to report
	Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	Mandatory	58
Management of human resources	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	59–63
	Workforce planning, staff turnover and retention	Suggested	59–63
	Impact and features of enterprise or collective agreements, determinations, common law contracts and AWAs	Suggested	62
	Training and development undertaken and its impact	Suggested	59–60
	Occupational health and safety performance	Suggested	63, 124
	Productivity gains	Suggested	Nil to report
	Statistics on staffing	Mandatory	120–123
	Enterprise or collective agreements, determinations, common law contracts and AWAs	Mandatory	62
	Performance pay	Mandatory	123
Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	Nil to report

Part of report	Description	Requirement	Page
Purchasing	Assessment of purchasing against core policies and principles	Mandatory	64
Consultants	The annual report must include a summary statement detailing the number of new consultancy services contracts let during the year; the total actual expenditure on all new consultancy contracts let during the year (inclusive of GST); the number of ongoing consultancy contracts that were active in the reporting year; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	Mandatory	130–131
	Statement that contracts and consultancies information is available through the AusTender website		64
Australian National Audit Office access clauses	Absence of provisions in contracts allowing access by the Auditor-General	Mandatory	Nil to report
Exempt contracts	Contracts exempt from AusTender	Mandatory	Nil to report
Commonwealth Disability Strategy	Report on performance in implementing the Commonwealth Disability Strategy	Mandatory	124
Financial statements	Financial statements	Mandatory	67–118
Other information	Occupational health and safety (section 74 of the <i>Occupational Health and Safety Act 1991</i> )	Mandatory	124
	Freedom of information (subsection 8(1) of the <i>Freedom of Information Act 1982</i> )	Mandatory	125–128
	Advertising and market research (section 311A of the <i>Commonwealth Electoral Act 1918</i> ) and statement on advertising campaigns	Mandatory	129
	Ecologically sustainable development and environmental performance (section 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> )	Mandatory	132
	Grant programs	Mandatory	Nil to report
	Correction of material errors in previous annual report	If applicable, mandatory	Nil to report

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