



# SA Barossa, Two Wells and Gawler Regional Campaign Report

March 2018

© Commonwealth of Australia, 2018

# Table of Contents

Table of Contents .....	2
Infographic .....	3
Summary .....	4
Campaign’s Methodology.....	5
Key Findings .....	6
Outcomes.....	9
Conclusions .....	11
About the Fair Work Ombudsman.....	12

# SA BAROSSA-TWO WELLS/GAWLER REGIONAL CAMPAIGN

## WHAT DID WE FIND?



**50%** of businesses were non-compliant with their obligations under workplace laws



**30%** of businesses were not paying their employees correctly



**31%** of businesses were non-compliant with record-keeping and payslip requirements



**\$11 438** recovered for 12 employees from 10 businesses

## WHERE DID WE GO?

**70 BUSINESSES  
AUDITED**



ANGASTON

LYNDOCH

FREELING

NURIOOTPA

GAWLER

TANUNDA

KAPUNDA

WILLIAMSTOWN

## COMPLIANCE & ENFORCEMENT OUTCOMES



**3** FORMAL CAUTIONS



**7** INFRINGEMENT NOTICES

# Summary

The Fair Work Ombudsman (FWO) commenced an education and compliance campaign (the campaign) across the Barossa, Two Wells and Gawler regions of South Australia (the region).

The region was identified as an appropriate focus for the FWO based on the following:

- Employment numbers in the region have been projected to increase by 2.3% over five years to November 2020<sup>1</sup>;
- The growth in employment in the region was projected across a number of key industries for the FWO, including Health Care and Social Assistance, Accommodation & Food Services, Construction and Retail Trade<sup>2</sup>; and
- The campaign provided an opportunity for the FWO to reach out and provide education assistance to small businesses in the region.

Of the 70 businesses audited:

- 35 (50%) were not compliant with all requirements
- 21 (30%) were not paying their employees correctly
- 22 (31%) were not compliant with record-keeping and pay slip requirements
- \$11 438 was recovered from 10 businesses on behalf of 12 employees
- three formal cautions and seven infringement notices (on-the-spot fines) were issued, totalling \$2880.00.

---

<sup>1</sup> Department of Employment, Labour market information portal March 2015.

<sup>2</sup> Department of Employment, Labour market information portal, Industry Employment Profiles – Australian regions (four quarter averages of Original Labour Force Survey Data, ANZSIC Divisions)

# Campaign's Methodology

The FWO liaised with stakeholders in the region to discuss the planning, delivery and promotion of the campaign. The campaign received coverage through local media outlets including media articles by the SA Barossa Council and the Workforce Guardian.

Businesses selected for participation in this campaign were selected randomly with higher weighting assigned to those industries from which the FWO had received a higher numbers of Requests for Assistance.

Fair Work Inspectors contacted businesses from towns in the Barossa, Two Wells and Gawler region, including Nuriootpa, Williamstown, Angaston and Lyndoch and assessed time and wages records for compliance with the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and the applicable award or agreement. Where Fair Work Inspectors identified breaches, they required the businesses to rectify the issue and provide proof of having done so (including back-paying any underpaid employees).

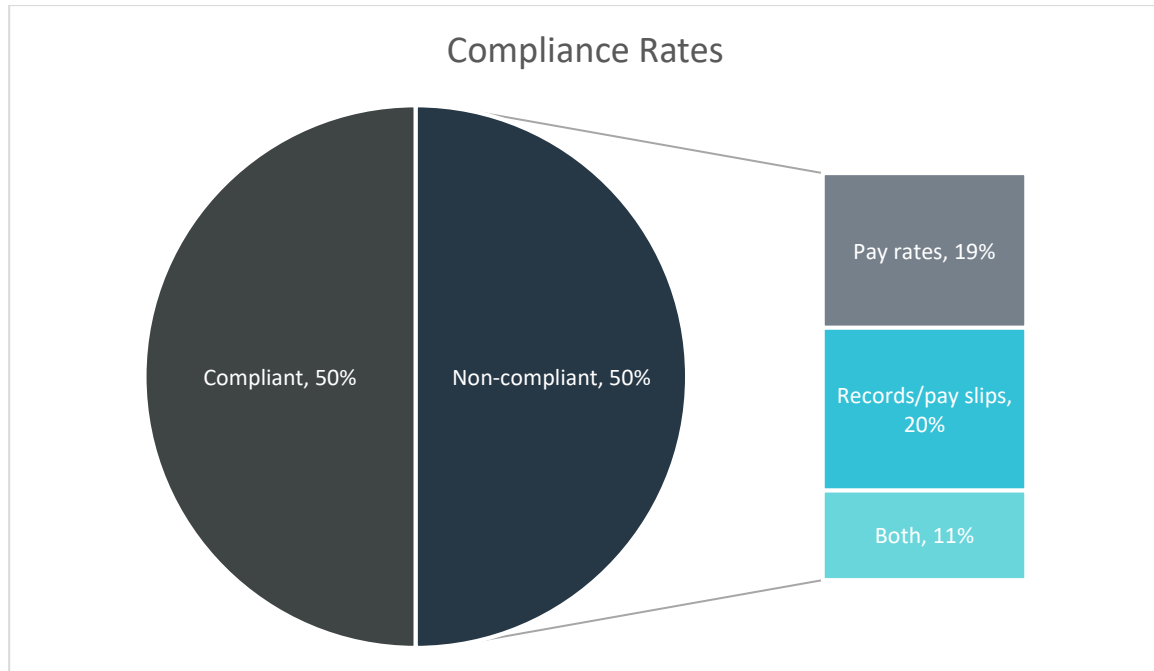
The businesses audited covered a range of industry sectors in the region with the most common modern awards applicable being:

- Clerks - Private Sector Award 2010
- Road Transport and Distribution Award 2010
- Electrical, Electronic and Communications Contracting Award 2010
- Pastoral Award 2010
- Horticulture Award 2010
- General Retail Industry Award 2010
- Hospitality Industry (General) Award 2010.

Fair Work Inspectors also provided businesses with information and resources to help them comply with their obligations under Australian workplace laws. In particular, businesses were provided with online resources available on the FWO website [www.fairwork.gov.au](http://www.fairwork.gov.au), including [pay rates](#), [hiring employees](#), [My account](#) and [online training courses](#).

# Key Findings

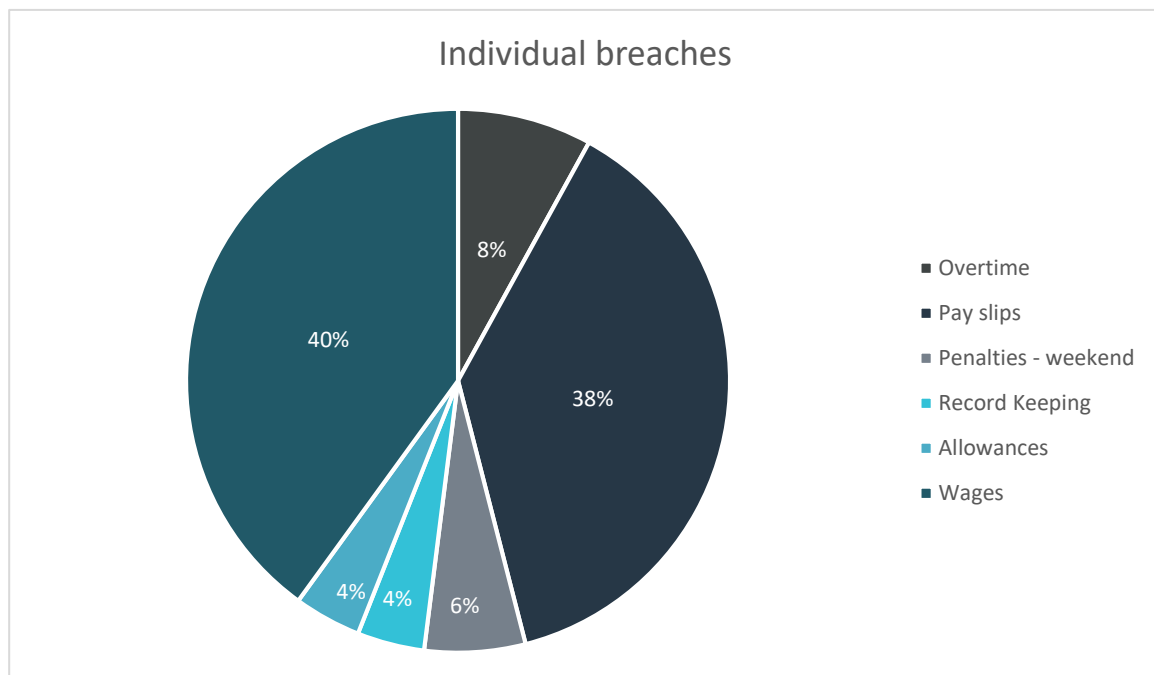
The campaign found that half of the businesses audited were not compliant with their obligations under workplace laws.



Of the 70 businesses audited:

- 35 (50%) businesses had at least one breach:
  - 13 (19%) had breaches relating to pay rates
  - 14 (20%) had breaches relating to pay slips or record-keeping
  - eight (11%) had both pay rates and records / pay slip breaches.
- 49 (70%) businesses were paying their employees correctly
- 48 (69%) businesses were compliant with record-keeping and pay slip requirements
- \$11 438 was recovered from 10 businesses on behalf of 12 employees.

## Individual breach types



There were 48 breaches recorded against 35 businesses. 58% were monetary-based and 42% non-monetary.

The most common breaches identified related to underpayment of hourly rates (40%), pay slips (38%) and overtime (8%).

The reasons for non-compliance that businesses provided to the FWO are consistent with those that the FWO identifies during many of our campaigns, including:

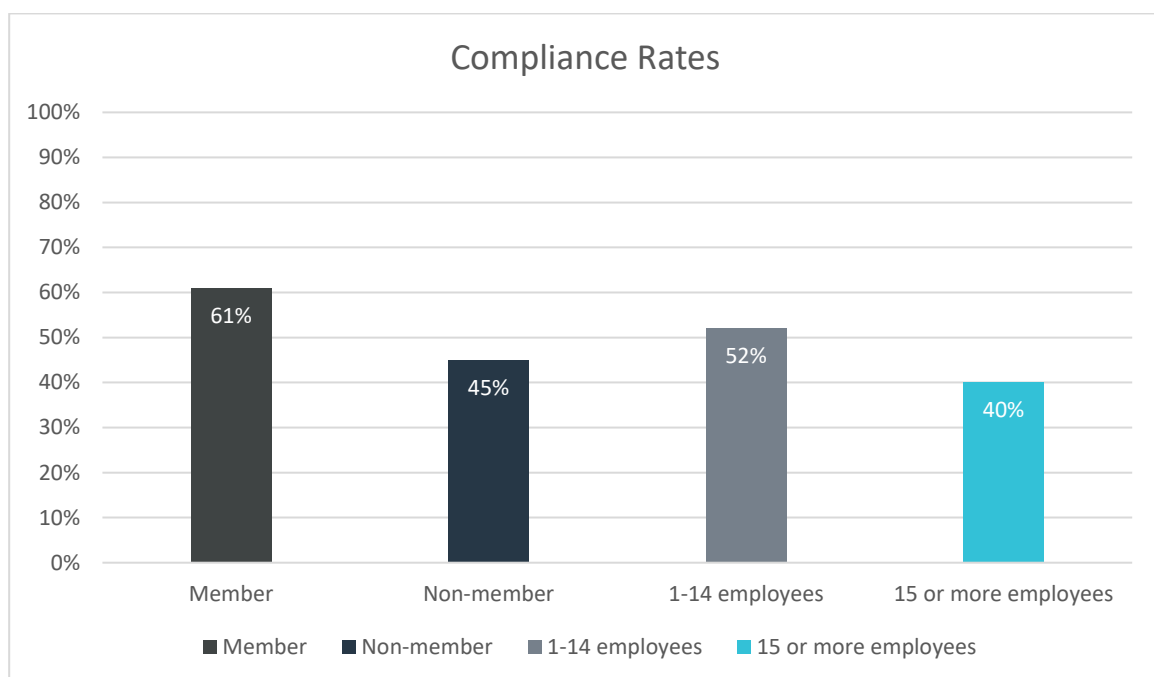
- confusion over the correct award coverage;
- receipt of incorrect advice from a third party; and
- missed the annual wage increase.

## Association Membership and Business Size

The FWO finds that businesses are more likely to be compliant with workplace laws when they have access to specialised workplace relations advice such as through membership to an employer organisation, or access to accounting or legal advice or a dedicated human resources professional within the business. Larger businesses are more likely to have the resources to employ a human resources or payroll professional in house.

Businesses that were members of an industry or employer association had a higher compliance rate (61%) than businesses that were non-members (45%). This is consistent with the FWO's experience across our campaigns, where the average compliance rate in 2016-17 financial year was 65% for members and 49% for non-members of an association.

Smaller businesses (with less than 15 employees) had a higher compliance rate (52%) than larger businesses (40%). The compliance rate for larger businesses was lower than expected, with the average compliance rate for large businesses across the FWO's campaigns being 67%. This is largely attributable to the sample size where the number of larger businesses was 10 (four compliant, six non-compliant) as opposed to 60 small business (31 compliant, 29 non-compliant).





# Outcomes

The campaign resulted in the following compliance and enforcement outcomes:

- three formal cautions; and
- seven infringement notices, totalling \$2880.

## Case Study – Formal Caution

Formal cautions are issued when the FWO has found non-compliance and it is considered appropriate to put a business on notice that future non-compliance could result in the FWO seeking financial penalties. If the FWO becomes aware of any further instances of non-compliance, the fact that the business was issued with a formal caution (in writing) will be taken into account in deciding whether to commence civil proceedings against the business, and it may be used as evidence in any penalty determinations.

Fair Work Inspectors audited a small retail establishment in Angaston that had one casual employee who worked approximately six hours per week and was being paid \$20 per hour. When records were requested, the employer stated that while a time and wage book is kept, the employee is not provided with a pay slip.

The employer advised that they were unaware of their obligation to provide pay slips and of minimum wage requirements. Inspectors used the Pay and Conditions Tool on the FWO website to determine that the underpayment to the staff member had been \$3.74 per hour and to calculate a back payment amount.

The employer rectified the underpayments and committed to providing pay slips and the correct pay rate going forward. While an infringement notice had been initially considered, the decision was made to issue a formal caution instead due to the employer's prompt rectification of the underpayment, including the full back payment to the employee, and the ongoing commitment to comply with workplace laws.

Businesses such as this are also now able to access the FWO's new online learning course on record-keeping and pay slips which will assist employers with their requirements under Australian workplace laws. The course is available on the FWO website.

## Case Study – Infringement Notice

An infringement notice is a fine given to a business for non-compliance with record-keeping or pay slip requirements of the Act and the Regulations. A total of \$2880 in infringement notices were issued during the campaign.

A transport delivery business, that had been in operation since 2012, provided the requested records for the audit. The business employed 16 casual employees; three were covered by the *Clerks – Private Sector Award 2010* and 13 by the *Road Transport and Distribution Award 2010*.

The Fair Work Inspector conducting the audit identified a significant issue for all employees covered by the *Road Transport and Distribution Award 2010* (the Award). The sample pay slips provided did not show hours of work or hourly rates, instead, they showed only the total amount paid for the pay period.

Upon questioning the employer, the Inspector found that these employees were receiving piece rates based on the amount and size of the deliveries made.

Piece rate payments are not permitted by the Award and no time or wage records were being kept, making the process of calculating whether underpayments had occurred very difficult. Based on information provided by the business, inspectors calculated wages on the estimated hours worked, specifically, load sizes and delivery estimates.

Failure to make and keep records, and failure to provide the required information on pay slips are serious contraventions of the Act. As such, the FWO issued the business with an infringement notice of \$1800 for failing to keep records as required under the Regulations.

# Conclusions

The campaign found 50% of businesses in the region were not compliant with their workplace obligations; 30% of businesses were not paying their employees correctly and 31% of businesses were not compliant with their record-keeping and pay slip obligations.

Businesses that were members of industry or employer associations were found to be more compliant with their workplace relations obligations than those businesses that were not members. This suggests that employer associations have a positive effect on compliance rates through ongoing member engagement and support. It also demonstrates the importance of FWO's continuing focus on offering advice and assistance to businesses, particularly to small businesses and those in regional locations which may be less likely to be represented by a workplace relations practitioner.

All businesses found to be non-compliant during this campaign will be considered for inclusion in the FWO's ongoing National Compliance Monitoring Program; a program the FWO has developed to regularly check back on businesses that have been found to be non-compliant in campaign activities.

The FWO provides a range of free resources to educate employers on their obligations and encourages businesses to use the information, tools and resources available at [www.fwo.gov.au](http://www.fwo.gov.au) all designed to make compliance easier. The FWO also encourages employers to contact the FWO and others for assistance and advice on workplace relations matters when they need more help. The FWO has a dedicated Small Business Helpline that can be accessed via the Fair Work Infoline on 13 13 94 to provide tailored advice to small business employers.

The website contains online learning modules for example, that cover an array of topics, including a record-keeping and payslip module, which helps employers (especially small business without HR support) learn how to make, update and manage employment records for their business.

Employers involved in the campaign are provided with information about how they can keep up to date and receive personalised information about workplace law and employment issues by registering for [My Account](#) and the [FWO's employer newsletter](#).

The FWO will continue to work with businesses across the Barossa, Two Wells and Gawler region to encourage sustained and conscious compliance with workplace laws.

# About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent agency created by the *Fair Work Act 2009* on 1 July 2009. Our main role is to promote harmonious, productive and cooperative workplace relations.

Each year the Fair Work Ombudsman runs proactive campaigns to assist employers and employees understand their rights and obligations under Commonwealth workplace relations laws.

These campaigns can focus on particular industries, regions and/or labour market issues and are conducted on national or regional levels.

This report covers the background, method and findings of the South Australia - Barossa, Two Wells and Gawler Regional Campaign. For further information and media enquiries please contact the media team at [media@fwo.gov.au](mailto:media@fwo.gov.au)

If you would like further information about the Fair Work Ombudsman's campaigns please contact Glenn Jordan, Executive Director - Proactive Compliance and Education at [glenn.jordan@fwo.gov.au](mailto:glenn.jordan@fwo.gov.au).