



# Far North Queensland Campaign

Outcomes from the Fair Work Ombudsman's  
Far North Queensland Regional Campaign 2015





# FAR NORTH QUEENSLAND CAMPAIGN

266 BUSINESSES AUDITED

## WHAT DID WE FIND?



**85%** of businesses were compliant with pay slip & record-keeping obligations



**79%** of businesses paying their employees correctly



**67%** of businesses compliant with all requirements



**\$142,953** recovered for 136 employees from 38 businesses

## WHERE DID WE GO?



CAIRNS  
INNISFAIL  
MANUNDA  
PORTSMITH

BUNGALOW  
TULLY  
MISSION BEACH  
CARDWELL

## ENFORCEMENT ACTIONS



8

FORMAL  
CAUTIONS



3

INFRINGEMENT  
NOTICES



1

COMPLIANCE  
NOTICE



1

ENFORCEABLE  
UNDERTAKING

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## Summary

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In October 2015, the Fair Work Ombudsman (FWO) commenced an education and compliance campaign (the campaign) focussing on the Cairns-South and Innisfail-Cassowary Coast areas of the Cairns region (the region) in Far North Queensland (FNQ). The region was identified as suitable for a campaign based on analysis of a range of data including Requests for Assistance (RfA) received by the FWO. Factors behind selecting this region included:

- higher than average monetary recovery for the region in 2014 (\$137,849) compared with the average recovery for all other Queensland regions (\$106,395)
- higher than average recoveries for individual employees in the region (\$3063.31) in 2014 compared with the average recovery per employee across all other Queensland regions (\$2855.87)
- projected industry growth in the Cairns region<sup>1</sup>
- providing an opportunity for the FWO to reach out to small businesses in a regional area that often lack dedicated staff to perform human resources and payroll functions.

Of the 266 businesses audited:

- 225 (85%) were compliant with record-keeping and pay slip requirements
- 210 (79%) were paying their employees correctly
- 177 (67%) were compliant with all requirements
- \$142,953 was recovered from 38 businesses on behalf of 136 employees
- Eight formal cautions, three Infringement Notices (on-the-spot fines) and one Compliance Notice were issued
- One Enforceable Undertaking was executed.



## What We Did

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The FWO contacted stakeholders in the region to discuss the planning, delivery and promotion of the campaign. The campaign received media coverage through 4KZ Innisfail, the Cairns Post and the Herbert River Express.

Local media coverage also ensured that information about both the campaign and the FWO was delivered beyond those businesses included in the campaign and many businesses reported hearing about the campaign before the FWO had contacted them.

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<sup>1</sup> Source: Department of Employment, Labour Market Information Portal, 2014 Employment Projections, Regional projections - interactive tool (Excel), Cairns SA4 region.



In addition to media coverage, FWO also gave a presentation in Tully with the Tully District Chamber of Commerce, on employer obligations as well as promoting the online tools and resources freely available at [www.fairwork.gov.au](http://www.fairwork.gov.au).

Businesses selected for audit in this campaign were done so randomly, however a higher priority was assigned to those industries from which the FWO had received higher numbers of RfA.

Fair Work Inspectors (Inspectors) contacted businesses in the major centres of the region, including Cairns, Bungalow, Portsmith, Manunda, Innisfail, Mission Beach, Tully and Cardwell 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 errors were identified, Inspectors required businesses to rectify the issue and provide proof of having done so (including back-paying any underpaid employees).

Inspectors also provided businesses with information and resources to help them comply with their obligations under Commonwealth workplace laws. In particular, businesses were provided with the online resources freely available on the FWO website [www.fairwork.gov.au](http://www.fairwork.gov.au), including [pay rates](#), fact sheets, templates, best practice guides, [My Account](#) and [online training courses](#).



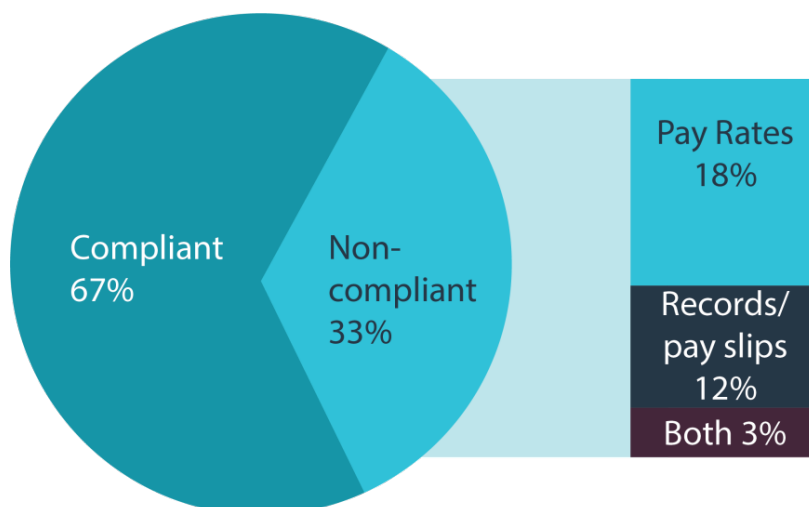
## Findings

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Of the 266 businesses audited:

- 177 (67%) were compliant with all requirements
- 89 (33%) had at least one error:
  - 48 (18%) had errors relating to pay rates
  - 33 (12%) had errors relating to pay slips or record-keeping
  - 8 (3%) had both pay rate and record/pay slip errors.

Figure 1: Compliance Rates



This means that:

- 225 (85%) businesses were compliant with record-keeping and pay slip requirements
- 210 (79%) businesses were paying their employees correctly
- \$142 953 was recovered from 38 businesses on behalf of 136 employees.



## Compliance and Enforcement

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Eight formal cautions were issued. A formal caution is a written warning that is issued when the FWO has found non-compliance and wants to put a business on notice that future non-compliance could result in the FWO taking enforcement action against the business including seeking financial penalties through the courts.

Three Infringement Notices were issued. An Infringement Notice is an on-the-spot fine issued to a business for not complying with the record-keeping or pay slip requirements of the Act and Regulations.

### Case Study- Infringement Notice

Inspectors audited a local restaurant business found that an employer had underpaid a casual employee on a working holiday visa. They also found that the employee's payslip was missing the superannuation fund name and superannuation contribution amount, information that is required to be included under the Regulations. The FWO recovered over \$1,100 in back pay for the employee, and determined that an Infringement Notice should also be issued to the employer for failing to meet their record-keeping and pay slip obligations in relation to a vulnerable employee.

One Compliance Notice was issued. A Compliance Notice is a written notice legally requiring a business to rectify contraventions of the Act.

### Case Study- Compliance Notice

Inspectors identified that a Café owner had incorrectly classified employees under the *Restaurant Industry Award 2010* (the Award). As a result the employees were underpaid both the base rates of pay and penalty rates that applied under the Award. The FWO issued a Compliance Notice on the employer, specifying the amounts outstanding to individual employee. The employer fully cooperated with the FWO and back-paid \$2,112.32 to six employees in accordance with the Compliance Notice.



One Enforceable Undertaking (EU) was executed. An Enforceable Undertaking is a legally binding agreement between an employer and the FWO in which the employer accepts responsibility for serious breaches of the Act. The employer agrees to pay all outstanding monies owed to their employees, and to terms that ensure future compliance, such as training sessions for senior managers, and periodic compliance reporting. EUs typically operate for a period of between two to five years.

### Case Study- Enforceable Undertaking

The FWO entered into an EU with AJ & S Pty Ltd, trading as Sushi Train Cairns (AJ &S), and its director, who had purchased the business in 2014. The business engages a local workforce in Cairns, of which a large number are visa workers. The director did not fully understand Australian workplace laws, having no prior experience in operating a business.

As a result, the director assumed amounts paid to staff were adequate, and took no steps to update pay rates. While he had engaged the services of an accounting firm for tax purposes it did not occur to him to reassess his pay rates at any time. The director cooperated fully with the audit process and has back-paid \$53 993.58 to 24 workers.

Additionally, the director has undertaken to:

- Back-pay an outstanding amount of \$2997.26 to four workers who have since returned to their country of origin
- Have an external accounting professional conduct two further audits in 2017 and 2018
- Send an apology letter to the employees
- Register with FWO My account
- Place a notice in the workplace outlining the contraventions and actions taken

Under the terms of the EU, the director must report audit findings and any underpayments to employees, including rectifications, to the FWO.

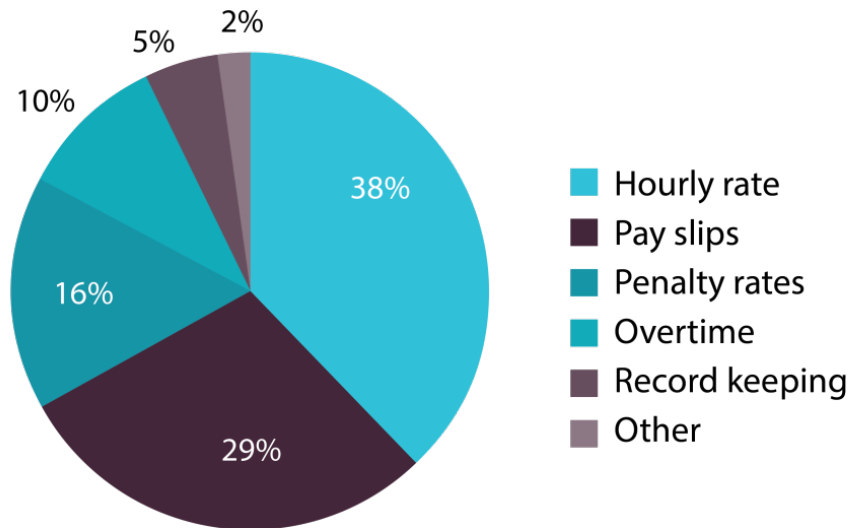


## Individual Errors

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The 89 businesses that were non-complaint had a total of 117 individual errors. The most common errors were underpayment of hourly rates (38%), pay slips (29%) and penalty rates (16%).

Figure 2: Individual Errors

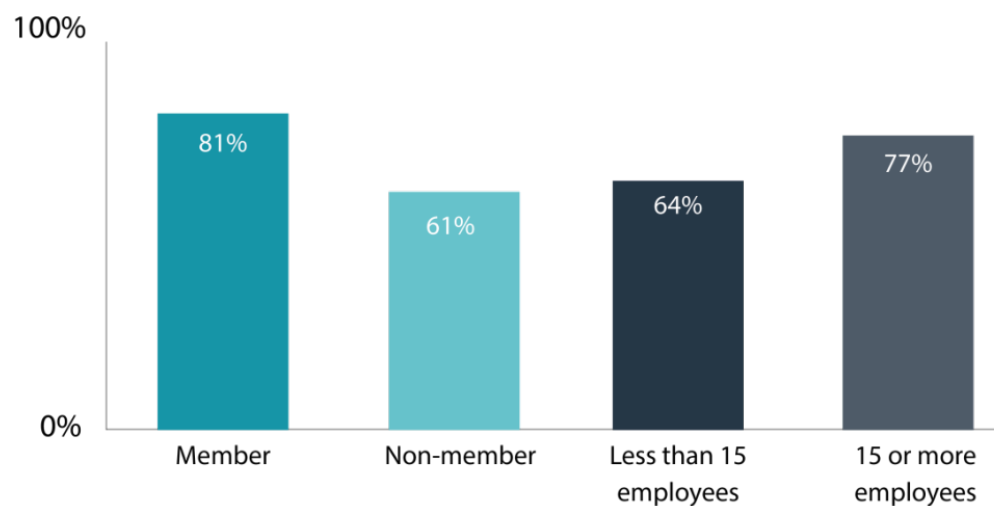


## Association Membership and Business Size

Businesses that were members of an industry or employer association had a higher compliance rate (81%) than businesses that were not members (61%).

Larger businesses (with 15 or more employees) had a higher compliance rate (77%) than smaller businesses (64%).

Figure 3: Compliance rates by association membership and business size







## Conclusion

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The campaign revealed 67% of businesses in the region were fully compliant with their workplace obligations. 79% of businesses were paying their employees correctly, and 85% of businesses were compliant with their record-keeping and pay slip obligations.

Larger businesses and members of industry or employer associations were found to be more compliant with their workplace relations obligations than small businesses, which often lack ready access to professional support. This demonstrates the importance of the FWO's continuing focus on providing advice and assistance to small businesses, particularly in locations such as Far North Queensland where the proportion of small businesses is high.

To support businesses in the region to comply with their workplace obligations, the FWO will:

- continue to educate employers on their obligations and encourage them to contact the FWO and others for assistance and advice on workplace relations matters
- promote key themes identified in campaigns through communication and media activities and use the findings of this campaign to inform future compliance activities
- promote the tools and resources available on the FWO website [www.fairwork.gov.au](http://www.fairwork.gov.au)

The results of this campaign will inform future education and audit activities, which may include businesses from the region. All businesses found to be non-compliant during this campaign will be considered for inclusion in the FWO's National Compliance Monitoring Campaign.

FWO will continue to work with businesses across the FNQ region to encourage sustained, conscious compliance with workplace laws, providing information, tools and resources designed to make compliance easier.



## About the Fair Work Ombudsman

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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 a national and state level.

This report covers the background, method and findings of the Far North Queensland 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 Lynda McAlary-Smith, Executive Director - Proactive Compliance and Education at [Lynda.McAlary-Smith@fwo.gov.au](mailto:Lynda.McAlary-Smith@fwo.gov.au)