



Health Check

Outcomes from the Fair Work Ombudsman's
National Health Care and Social Assistance Campaign

696 BUSINESSES AUDITED



86% compliant with pay slip
& record-keeping obligations



85% paying their
employees correctly



74% compliant with all
requirements



\$109 295
recovered for 193 employees

ERRORS IDENTIFIED



WAGES 38%

PAY SLIPS 36%

OVERTIME 5%

PENALTY RATES 11%

RECORD-KEEPING 6%

ALLOWANCES 3%

OTHER 1%

MEDIA AND COMMUNICATION



1 470 321
TOTAL VIEWS OF DIGITAL CONTENT



504 716
VIEWS OF FACEBOOK POSTS



29 918
TWEET VIEWS

FWO STATISTICS



180 000 ENQUIRES MADE
TO THE FAIR WORK INFOLINE WITH
AN AVERAGE OF 3000 PER MONTH



BETWEEN



5763

REQUESTS FOR ASSISTANCE
RECEIVED FROM THE
INDUSTRY



SINCE 2010

\$7 MILLION

RECOVERED FOR

OVER

5000

EMPLOYEES





About the campaign

The Fair Work Ombudsman (FWO) developed the National Health Care and Social Assistance Campaign (the campaign) to promote a culture of compliance within the Health Care and Social Assistance industry (the industry).

The industry is the largest employing industry in Australia. It is comprised of large numbers of small businesses and high levels of part-time and low skilled employees¹. Between July 2010 to June 2015:

- FWO received 5763 Requests for Assistance (RfAs) from the industry
- The Fair Work Infoline received over 180 000 calls from the industry, averaging 3000 calls per month. This call volume is trending upwards.

The industry has a high business retention rate. Seventy four per cent of businesses operating in June 2012 were still operating in June 2016.² This stability, coupled with a high proportion of businesses expanding their staffing profile, provides the FWO with an opportunity to influence long-term compliance behaviours. The campaign was spread over three phases and focused on the following sectors of the industry:

Sector	Reasoning
<p>Phase 1 – Medical Services</p> <p>(Including GP medical services, medical clinic operation, psychiatrists and dermatologists)</p>	<ul style="list-style-type: none"> ■ Employed approximately 155 000 employees, with just over 44% employed on a part-time basis³ ■ Over a third (34.7%) of the workforce born overseas, higher than the industry (32%) and the labour market overall (28%)⁴ ■ During 2014/15, a total of \$65 402 was recovered for 22 employees ■ Highly fragmented with a large number of small business (98%)⁵, higher than the national average (93%)
<p>Phase 2 – Allied Health Services</p> <p>(Including chiropractic and osteopathy, dental services, optometry and physiotherapy)</p>	<ul style="list-style-type: none"> ■ During 2014/15, more than \$150 000 was recovered for 70 employees ■ Had a large number of employing entities and showed strong employment growth (23.2%) compared to the projected employment growth for the five years to 2019 for all industries (10%)⁶ ■ There were a large number of small businesses (98%)⁷ compared to the national average (93%)

¹ Labour Market Information Portal, Industry Reports, Health Care and Social Assistance, 2014

² ABS cat 8165.0 - Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016, viewed 7 September 2017

³ ABS, Labour Force, Australia, Detailed, Quarterly, May 2015, data cube: SuperTABLE E06, cat. no. 6291.0.55.003, viewed 9 July 2015

⁴ Census 2011

⁵ ABS cat 8165.0

⁶ Dept. Employment, Labour Market Information Portal, Employment projections, Industry projections – five years to November 2019

⁷ ABS cat 8165.0

<p>Phase 3 – Residential Care Services</p> <p>(Includes aged care and retirement village operation)</p>	<ul style="list-style-type: none"> ■ Was the second highest employing sector in the industry with almost 210 000 employees⁸ ■ During 2014/15, more than \$57 000 was recovered for 79 workers ■ Highest proportion of migrant workers (36.5%) of any sector within the industry⁹ ■ High proportion of part-time employees (58%) compared to the industry overall (45%), with the majority being female employees (85%)¹⁰ which is significantly higher than the proportion of women in the workforce overall (45.7%)¹¹
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Fair Work Inspectors conducted a total of 696 audits. The audits were conducted in three phases starting with the Medical Services sector (203), followed by Allied Health Services (266) and Residential Care Services (227).

The businesses were audited against the requirements of the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and the applicable federal award or agreement, in particular:

- record-keeping
- pay slips
- base rates of pay
- penalty rates/overtime
- allowances/loadings.

The most predominant federal awards identified were:

- *Health Professional and Support Services Award 2010*
- *Social, Community, Home Care and Disability Services Industry Award 2010*
- *Aged Care Award 2010*
- *Clerks-Private Sector Award 2010.*

The size and make-up of businesses in the sector determined the number of audits conducted. Geographic distribution in the industry was also considered. This closely linked with population size and spread which led to most audits occurring in New South Wales, Victoria and Queensland.

In all audits, initial contact was made through a telephone conversation with the employer. These initial conversations enabled Fair Work Inspectors to readily establish that the business was operating in the industry and to tailor the audit. During the telephone call

⁸ ABS cat. no. 6291.0.55.003

⁹ Census 2011

¹⁰ Census 2011

¹¹ ABS (2014), *Labour force, Australia, Apr 2014*, cat. no. 6202.0

inspectors were able to explain the scope and reasoning for the campaign as well as the process and what to expect as a result of the audit.

Fair Work Inspectors also promoted the key educational messages developed in consultation with industry stakeholders. These messages included:

- There are productivity gains to be made from properly managing workplace relations.
- You can rely on our advice and act with confidence.
- The FWO's website and online resources are user-friendly and efficient, with time-poor small businesses particularly in mind.



Outcomes at a glance

696 businesses were audited nationally with the following results:

- 516 (74%) businesses met all requirements.
- 602 (86%) businesses met all record-keeping and pay slip requirements.
- 590 (85%) businesses were paying their employees correctly.
- \$109 295 was recovered from 56 businesses on behalf of 193 employees.
- 16 infringement notices (on the spot fines), 12 formal cautions and one (1) compliance notice were issued.



Stakeholders

FWO engaged with a wide range of industry stakeholders on the design, development and delivery of the campaign. This enabled FWO to design the campaign with the benefit of specialist advice from within the industry, and to gain insight into the industry sectors. The engagement assisted FWO to frame the campaign and to identify future opportunities to work together to enhance an understanding of, and compliance with, workplace laws in these sectors.

These stakeholders included:

- Optometry Australia
- Australian Medical Association
- United Voice
- Health & Community Services Union
- Australian Services Union
- Aged & Community Services Australia
- Leading Age Services Australia.

Stakeholders provided critical industry insights which informed the content of FWO's communication and awareness campaign. The FWO will continue to work with these stakeholders in response to the findings of this campaign. A full list of stakeholders is available in **Appendix A**.



Communication and public awareness

The communication and public awareness strategy was designed to promote the campaign and educate employers and employees on their obligations and entitlements. The strategy focused on the key issues in the sectors based on the discussions with stakeholders during the pre-campaign engagement activities, including:

- flexible working arrangements
- hours of work, including the spread of hours
- leave, including parental leave
- pay rates
- types of employment (particularly part-time and casual).

The FWO used a mix of traditional media channels such as radio and television along with a strong digital media focus. Digital media content was viewed 1 470 321 times during the course of the campaign. Digital display advertising had the most views (965 605).

Facebook content was the most effective, achieving a 4.27% click-through rate, above the 0.02% benchmark for government Facebook campaigns. It also resulted in 504 716 views, 11 365 actions (likes, comments and shares) and 2050 new likes for the FWO Facebook page.

Twitter posts resulted in 29 918 views. Samples of Facebook and Twitter posts that were used in this campaign are provided in **Appendix B**. The campaign also received coverage in traditional media, as detailed in **Appendix C**.

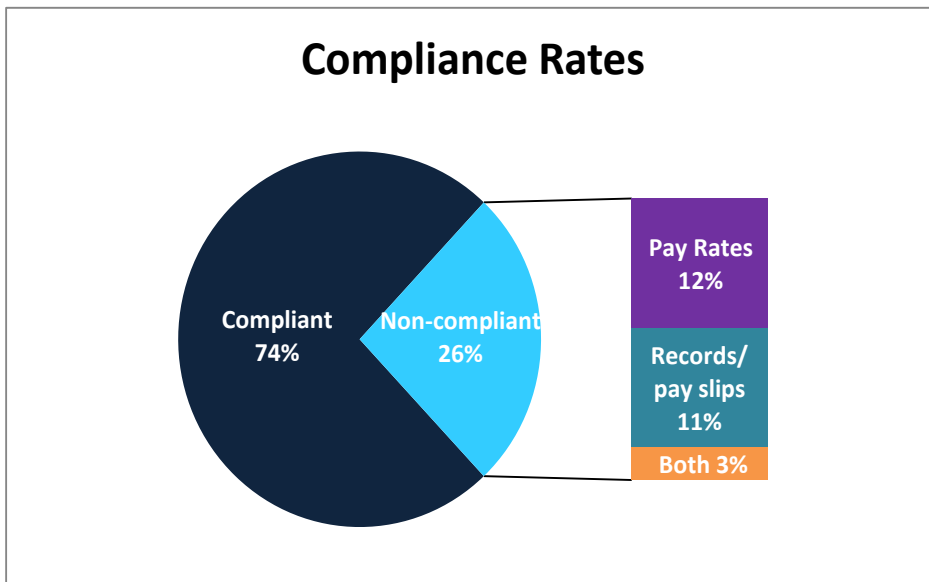


National findings

Of the 696 businesses audited:

- 516 (74%) met all requirements (see **Figure 1**)
- 180 (26%) had at least one error
- 86 (12%) had errors relating to pay rates
- 74 (11%) had errors relating to pay slips or record-keeping
- 20 (3%) had both pay rate and records/pay slip errors.

Figure 1: Compliance rates



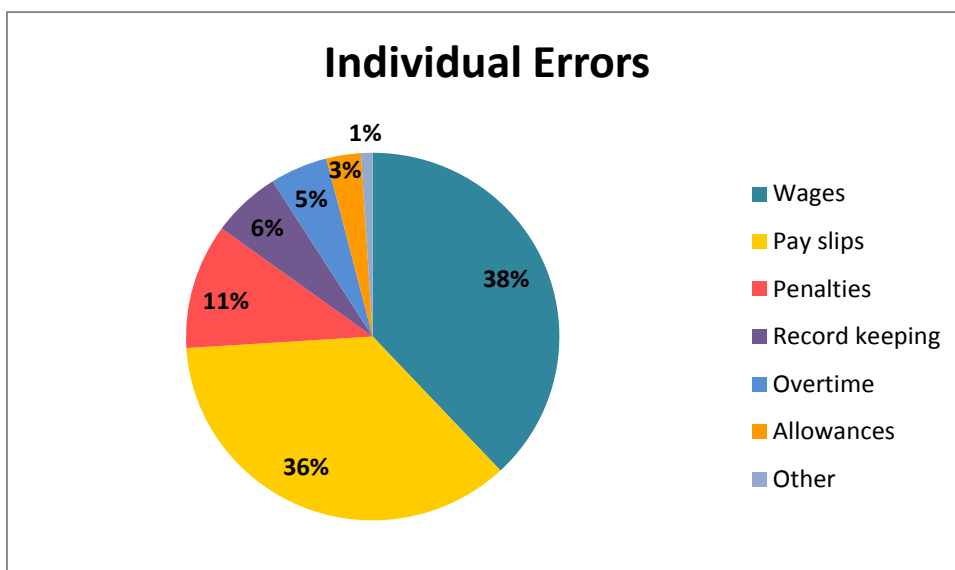
This means that 602 (86%) businesses met all record-keeping and pay slip requirements and 590 (85%) businesses were paying their employees correctly. For a breakdown of the information relating to the states and territories, see **Appendix D**.



Individual errors

There were 220 individual errors from 180 businesses. 58% were monetary-based errors while 42% were non-monetary (see **Figure 2**). The most common errors related to wages (38%) and pay slips (36%).

Figure 2: Individual errors

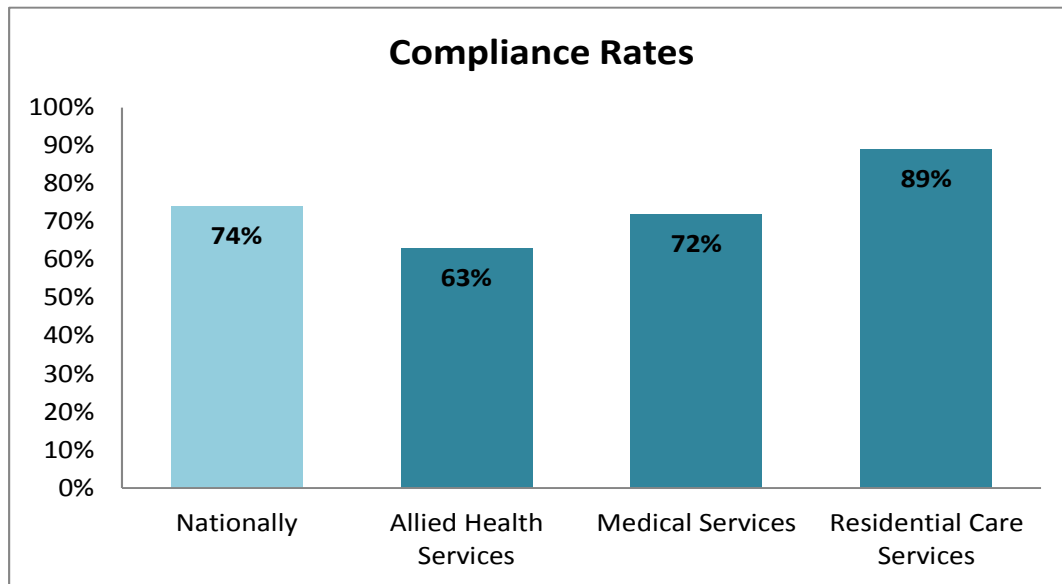




Industry breakdown

As shown in **Figure 3**, the Residential Care Services industry had the highest compliance rate with 89%, which is higher than the national rate (74%). The Allied Health Services industry had the lowest compliance rate with 63%.

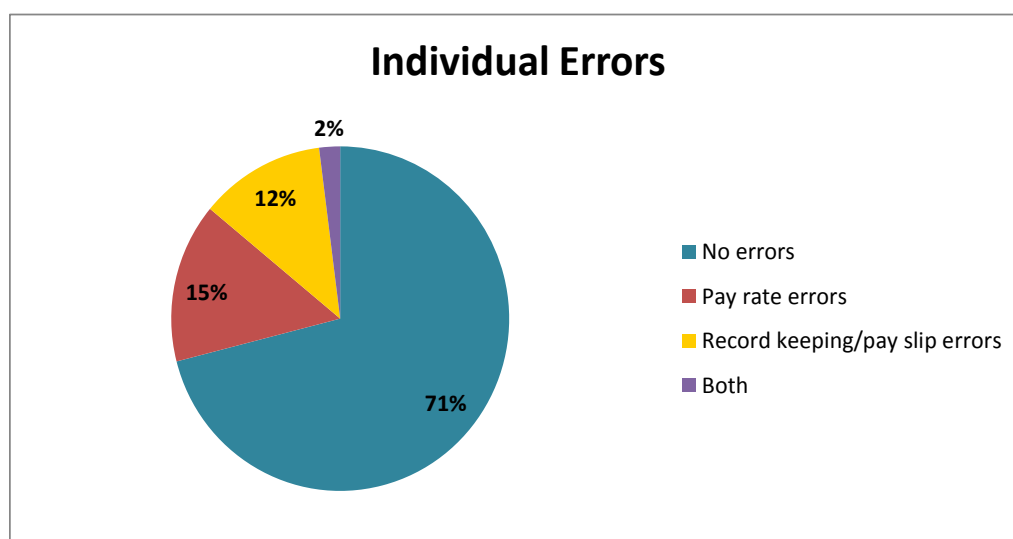
Figure 3: Industry compliance rates



Medical Services

In the Medical Services industry, 203 businesses were audited. 145 (71%) businesses were compliant with all requirements and 58 (29%) had at least one error. See **Figure 4** for a breakdown of the errors.

Figure 4: Medical Services errors



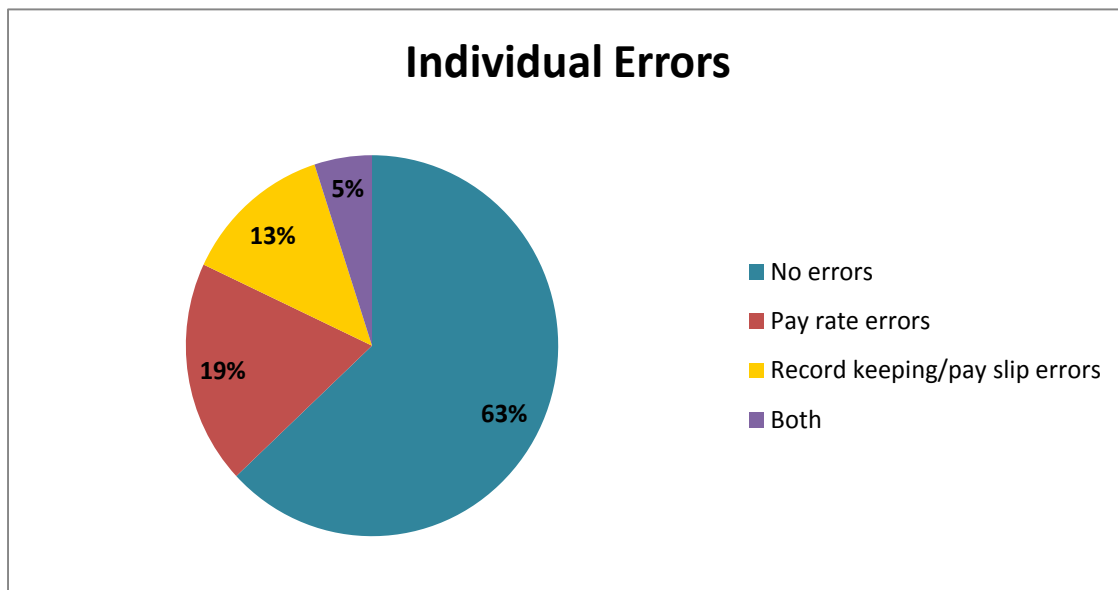
This means that 175 (86%) businesses met their record-keeping and pay slip requirements and 170 (83%) businesses were paying their employees correctly. The businesses with errors had a total of 26 individual errors, with the most common relating to pay slips (50%) and underpayment of hourly rates (40%). Six formal cautions and six infringement notices were issued, and \$31 888 was recovered on behalf of 40 employees.

Allied Health Services

In the Allied Health Services industry, 266 businesses were audited. 168 (63%) businesses were compliant with all requirements and 98 (37%) had at least one error. See **Figure 5** for a breakdown of the errors.

This means that 218 (82%) businesses met all record-keeping and pay slip requirements and 203 (76%) businesses were paying their employees correctly. The businesses with errors had a total of 121 individual errors, with the most common relating to underpayment of hourly rate (38%) and pay slips (34%). Nine infringement notices, five formal cautions and one compliance notice were issued, and \$55 910 was recovered on behalf of 119 employees.

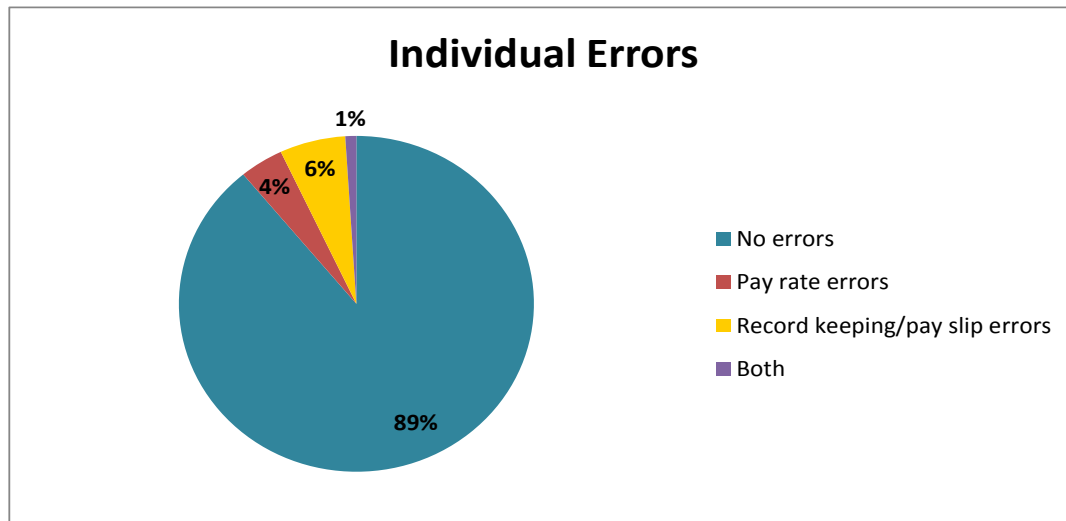
Figure 5: Allied Health Services errors



Residential Care Services

In the Residential Care Services industry, 227 businesses were audited. 203 (89%) businesses were compliant with all requirements and 24 (11%) had at least one error. See **Figure 6** for a breakdown of the errors.

Figure 6: Residential Care Services industry errors



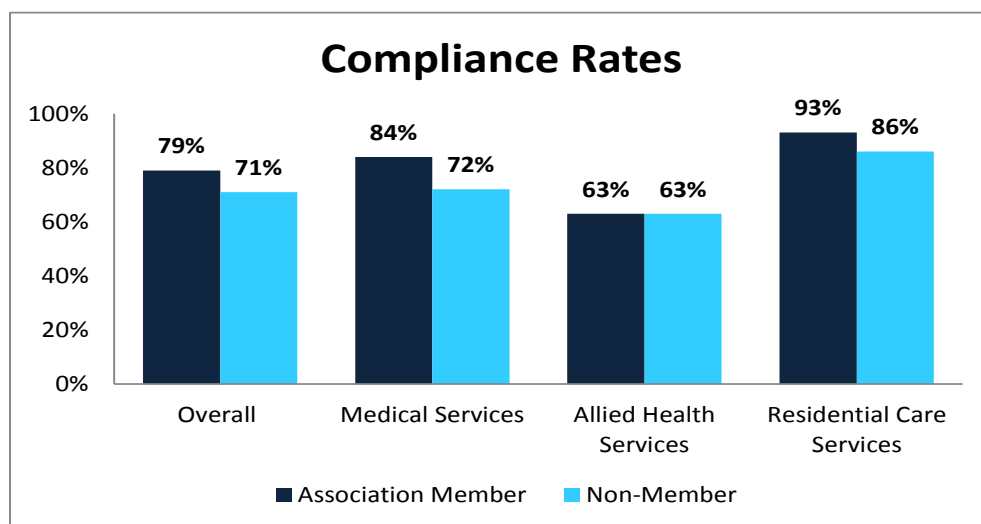
This means that 216 (95%) businesses were paying their employees correctly and 213 (93%) businesses met all record-keeping and pay slip requirements. The businesses with errors had a total of 26 individual errors, with the most common relating to pay slips (50%) and underpayment of hourly rates (31%). One formal caution was issued, and \$21 497 was recovered on behalf of 34 employees.



Association membership and business size

Businesses that were members of an industry or employer association had a higher compliance rate (79%) than businesses that were non-members (71%).

Figure 7: Association membership compliance rates

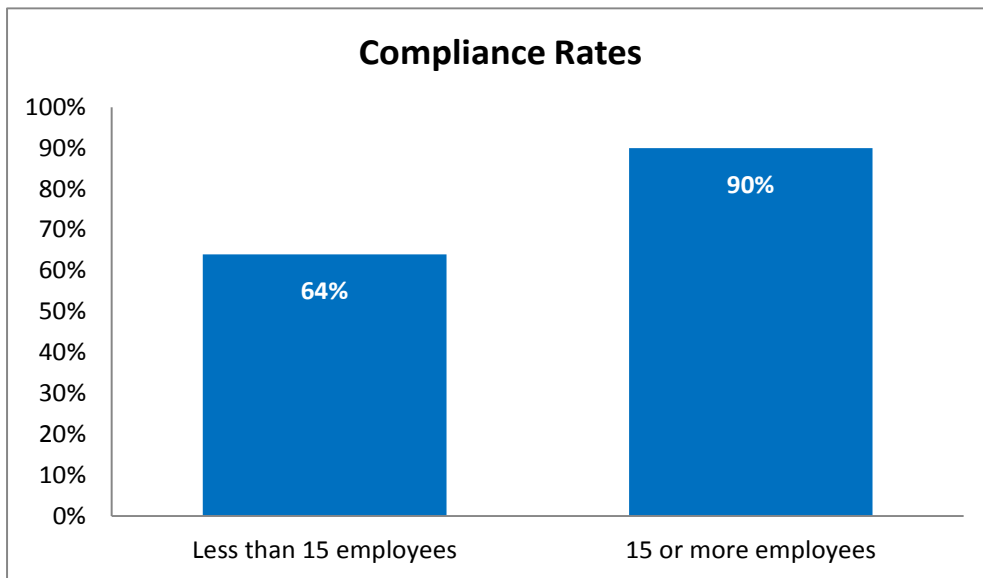


This suggests that employer associations have a positive effect on compliance rates through ongoing member engagement and support.

The size of the business also had an effect on audit outcomes. Businesses with 15 or more

employees had a compliance rate of 90% whereas businesses with 14 or less employees had a compliance rate of 64%.

Figure 8: Compliance rates by business size



Compliance and enforcement

Twelve formal cautions were issued. Formal cautions are issued when the FWO has found non-compliance. The written warning puts 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 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.

Case study: Formal caution

On reviewing the records provided by a dental clinic in NSW, the inspector conducting the audit identified issues with rates of pay and the lack of content on the pay slips. The business had four employees, all covered by the *Health Professionals and Support Services Award 2010* (the Award) with two of the employees receiving their minimum entitlements as per the Award. The remaining two were both casual Support Services Level 3 employees and were receiving less than the Award amount of \$24.86 per hour, as at 1 July 2015. The FWO determined that both underpaid employees were genuinely employed and treated as casual but that the employer had not included the casual loadings provided for in the Award.

In addition to the underpayment of hourly rates, the pay slips did not comply with the Regulations as they failed to show the employee's superannuation fund name and hourly rate of pay. The employer was notified of the findings and was directed to review all records and identify all amounts owed, as well as ensure that pay slips would now include all content requirements. To assist with this process the inspector provided the

employer with links to the Award and pay calculator, pay guide and the FWO fact sheet – *Employer obligations in relation to employee records and pay slips*.

The employer provided calculations for a seven-month period showing that the two employees had been underpaid a combined gross amount of \$4370.84. After FWO reviewed the calculations the employer provided confirmation that back payments had been made and new pay slips had been provided that complied with the legislative requirements.

Throughout the audit process the employer demonstrated high levels of co-operation and a willingness to address all issues, there was no history with the FWO and the contraventions identified resulted from inexperience with the award. As a result the FWO determined that issuing a formal caution on the business was appropriate in the circumstances.

Sixteen infringement notices were issued. 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 \$3960 in infringement notices were issued during the campaign.

Case study: Infringement notice

The FWO audited a small dental clinic located in regional Queensland. The business only had one employee, who was assessed as a full-time Support Services Employee Level 6 covered by the *Health Professionals and Support Services Award 2010* (the Award). At the employer's direction, the inspector conducting the audit contacted the accountant who advised that the employee had a contract which stated the hours of work, hourly rate, superannuation details and leave provisions. In addition, the accountant explained that the contract was reviewed annually and that no pay slips were ever issued.

As the employee was full-time and only worked the set 38 hours per week as per the contract, there were no issues in relation to having no timesheets. However the inspector explained to both the employer and accountant that failure to issue pay slips was a contravention and an infringement notice would be issued. Given that no pay slips had ever been issued to the employee, an infringement notice was issued on the business for \$540.

The inspector advised the employer and the accountant on the content requirements needed for pay slips to be compliant with the Regulations.

One compliance notice was issued. A compliance notice is a written notice legally requiring a business to rectify contraventions of the Act. Failure to comply with a Compliance Notice results in the FWO commencing legal proceedings against the respondent. A total of \$5478.94 was back paid to two employees as a result of the compliance notice being issued.

An inspector audited an optometry business in NSW which employed two casual Support Services Level 3 employees covered by the *Health Professionals and Support Services Award 2010* (the Award). On reviewing the sample of records provided for the audit, the inspector identified a clear underpayment of the hourly rate for ordinary hours and Saturday work.

The pay slips assessed clearly showed that the employees received a flat rate of \$20 per hour for all hours worked. The Award, as at 1 July 2015, showed that employees of this status and classification should have been receiving \$24.86 per hour for ordinary hours worked Mon-Fri and \$34.81 for hours performed on a Saturday.

On ascertaining a significant underpayment per hour on the sample period provided, the inspector directed the employer to review all records and ascertain the quantum of the underpayments. Calculations were performed and thoroughly checked by FWO for a seven-month period, and it was established that the employees were underpaid \$3039.48 and \$2731.46 respectively.

The FWO issued a compliance notice on the employer, specifying the amounts outstanding for both employees. The employer fully co-operated with the FWO and back-paid a combined gross amount of \$5770.94 in accordance with the compliance notice.



Conclusion

The results of this campaign have shown the benefits of consulting with industry stakeholders to develop a tailored campaign and ensuring industry specific issues are addressed through education or, where appropriate, compliance initiatives.

The results of audits showed that 516 businesses (74%) were following Australian workplace laws, of note was the Allied Health Services sector, which had a lower compliance rate (63%) than the rest of the industry. The campaign also showed that small businesses and businesses that were not members of an employer or industry association were more likely to have errors. The FWO will continue to work with the industry and stakeholders to address the reasons for the non-compliance.

The FWO is committed to creating a culture of compliance with Australian workplace laws. All businesses that were found to have made errors in the campaign will be re-visited as part of the FWO's ongoing National Compliance Monitoring Campaign. If more errors are found, the FWO will consider further enforcement action including seeking financial penalties through the courts.

The FWO will continue to support a culture of compliance by empowering employers and employees to fix any issues within the workplace. To help achieve this, the FWO has

released a practical Guide to Resolving Workplace Issues, which can be accessed at www.fairwork.gov.au. While the FWO will monitor non-compliant businesses, supporting employers and employees to resolve issues in the workplace provides the best opportunity to maintain productive workplace relationships.

The use of digital media, especially social networks, proved to be effective in communicating the FWO's information and education messages.

As a result of this campaign, the next steps for the FWO will be to:

- continue to engage with stakeholders to drive long-term compliance in the sector
- develop and promote more tools and resources dedicated to helping small businesses
- share the results to the wider community via media, My account, social media and email
- promote key themes identified in the campaign through communication and media activities and use the findings of this campaign to inform future compliance activities
- continue to educate employers and employees through innovative educative activities.



About the Fair Work Ombudsman

The Fair Work Ombudsman (FWO) 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 FWO 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 National Health Care and Social Assistance Campaign 2015. For further information please contact the media team at media@fwo.gov.au.

If you would like further information about the Fair Work Ombudsman's campaigns please contact Nicky Chaffer, Executive Director – Proactive Compliance and Education at Nicky.Chaffer@fwo.gov.au.

Stakeholders
Aged & Community Services Australia
Australian Aged Care Quality Agency
Australian Community Workers Association
Australian Dental Association
Australian Health Practitioner Regulation Agency
Australian Medical Association
Australian Medical Receptionist Association
Australian Services Union
Carers Australia
Community Services & Health Industry Skills Council
Dental Assistants Professional Association
Department of Health
Health and Community Services Union
Health Services Union
Leading Age Services Australia
My Aged Care
National Aged Care Alliance
Optometry Australia
United Voice

Appendix B – Facebook and Twitter Posts

Sample Medical Services Post



fairwork.gov.au

8 December 2015 · 🌐

If you employ medical receptionists, are you making sure they take their breaks?

Remember, everyone needs a little time out of their work day to recharge and eat food so if your workers aren't getting their proper breaks, it might be time for a check-up at your business.

Visit www.fairwork.gov.au/health for more information.



5,315 people reached

[Boost Post](#)

138

10 Comments 33 Shares

Like

Comment

Share



fairwork.gov.au

28 January · 🌐

Employee pay packets can be a little healthier when they're on annual leave.

If you employ allied health workers under the Health Professionals and Support Services Award, you need to pay 17.5% extra when they take annual leave.

Visit www.fairwork.gov.au/health for more information



46,049 people reached



Boost Post

👍 907

54 Comments 216 Shares

👍 Like 💬 Comment ➦ Share



fairwork.gov.au

22 February · 🌐



Your usual work might not be safe during pregnancy.

All pregnant employees are entitled to be moved to another job if they can't do their usual job safely. If there is no safe job, there are paid and unpaid leave options, depending on the situation.

If you work in the aged care or other residential care industry and are unable to complete your usual work during pregnancy, discuss safe job options with your employer. ... See more

The health industry campaign

www.fairwork.gov.au/health

Fair Work OMBUDSMAN

Australian Government

The banner features a photograph of a young woman smiling and supporting an elderly woman sitting in a wheelchair. To the right of the text are three orange hexagonal icons: a house, a pill, and a wheelchair.

38,225 people reached



Boost Post

👍❤️ 256

22 Comments 48 Shares

👍 Like 💬 Comment ➦ Share

Sample Twitter Posts



Fair Work Ombudsman @fairwork_gov_au · 1 Dec 2015

Not sure what level your medical receptionist is? It's time for a check-up! Visit: bit.ly/1R2aIBf pic.twitter.com/5wOeqZlu7O

[View Tweet activity](#)



Fair Work Ombudsman @fairwork_gov_au · 28 Jan 2016

Dental assistants get 17.5% extra on annual leave. Learn more about loadings. bit.ly/1R2aIBf

[View Tweet activity](#)



Fair Work Ombudsman @fairwork_gov_au · 28 Jan 2016

Dental assistants with part-time hours need to agree on a regular pattern of work: bit.ly/1R2aIBf pic.twitter.com/ExiCzhvXKM

[View Tweet activity](#)



Fair Work Ombudsman @fairwork_gov_au · 28 Jan 2016

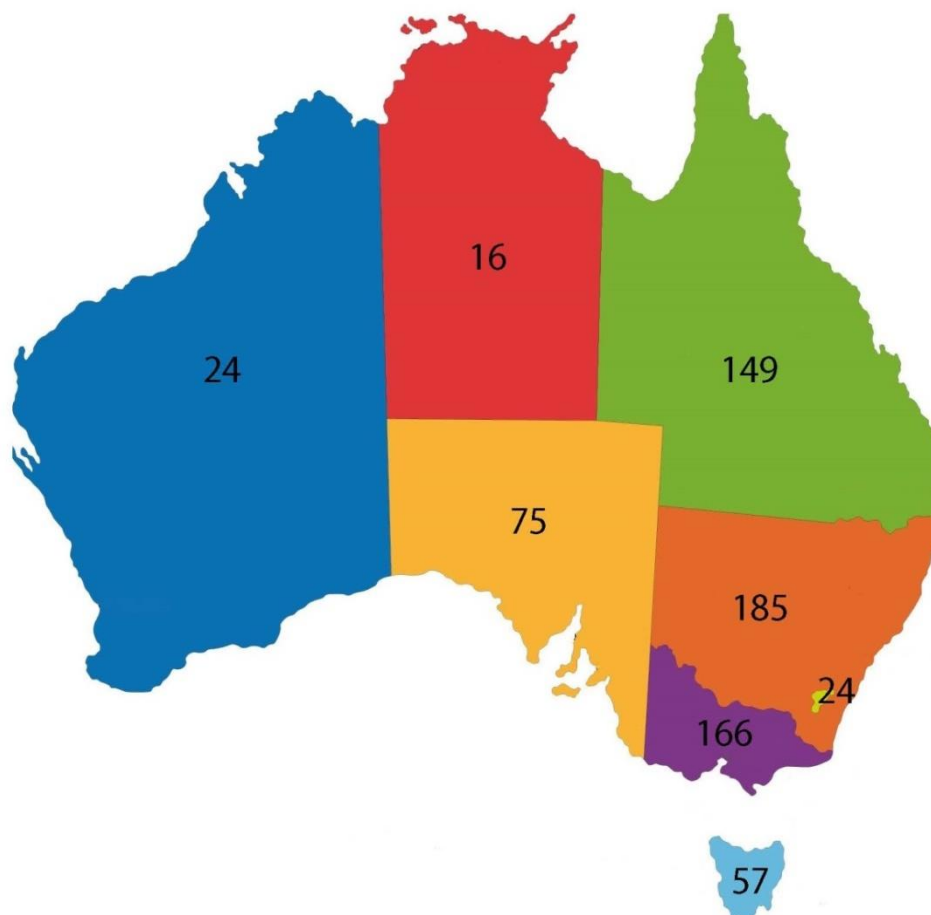
Employees going away on holidays get a bit more pay under the Health Professionals and Support Services Award: bit.ly/1R2aIBf

[View Tweet activity](#)

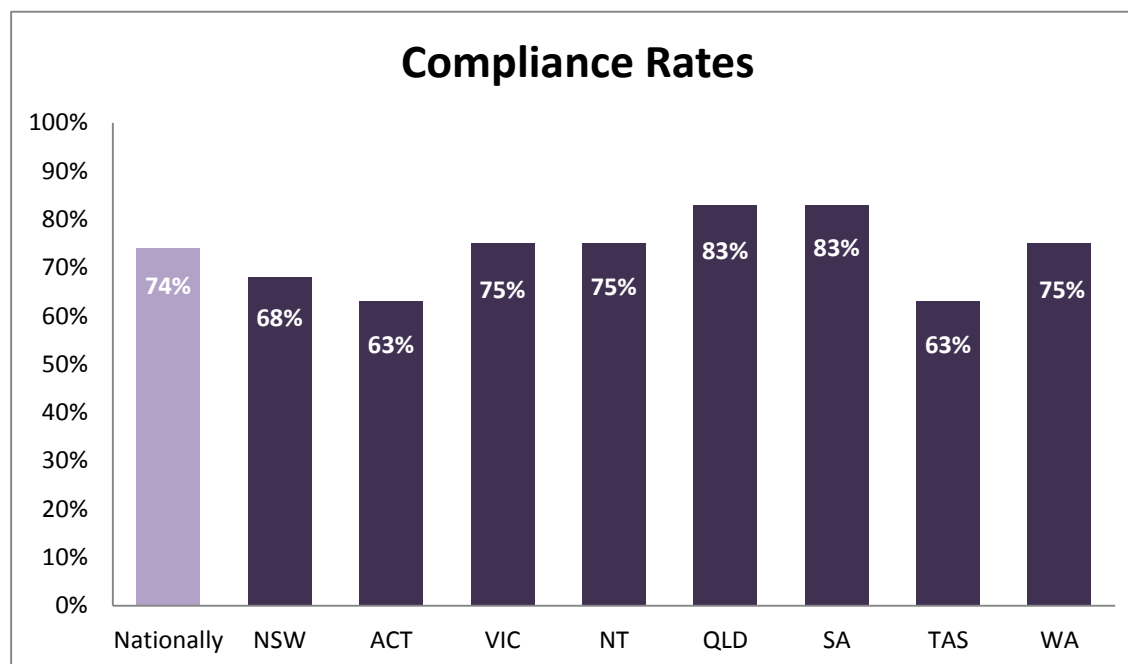
Appendix C – Traditional Media Coverage

Balonne Beacon	Northern Rivers Echo
Ballina Shire Advocate	Northern Star
Byron Shire News	South Burnett Times
Caboolture News	Stanthorpe Border Post
Central Queensland News	Sunshine Coast Daily
Central Telegraph	Surat Basin Online
Charleville Western Times	The Chronicle
Chinchilla News	The Coffs Coast Advocate
Coolum & North Shore News	The Daily Examiner
Dalby Herald	The Daily Mercury
Fraser Coast Chronicle	The Gympie Times
Fraser Coast Chronicle ePaper	The Ipswich Advertiser
Gatton Star	The Morning Bulletin
Gladstone Observer	The Queensland Times
Inclean Magazine Australia	The Satellite
Migration Alliance	The Western Star
National Radio News	Tweed Daily News
News Mail	Warwick Daily News
News Local - Mt Druitt - St Mary's Standard	Whitsunday Coast Guardian news
Noosa News	Whitsunday Times

Audits completed across states and territories



The highest compliance rates were found in Queensland and South Australia. They both had a compliance rate of 83%. The lowest compliance rates were found in the Australian Capital Territory and Tasmania. They both shared a compliance rate of 63%.



State or Territory	Compliant	Non-compliant	Most common errors	Amount recovered
New South Wales	125 (68%)	60 (32%)	Underpayment (38%) Pay slips (30%)	\$43 530 for 109 employees
Victoria	125 (75%)	41 (25%)	Pay slips (38%) Underpayment (36%)	\$15 047 for 25 employees
Western Australia	18 (75%)	6 (25%)	Pay slips (43%) Underpayment (43%)	\$26 124 for 18 employees
Queensland	123 (83%)	26 (17%)	Pay slips (43%) Underpayment (33%)	\$8445 for 11 employees
South Australia	62 (83%)	13 (17%)	Pay slips (47%) Underpayment (18%)	\$504 for 3 employees
Tasmania	36 (63%)	21 (37%)	Underpayment (57%) Pay slips (39%)	\$9455 for 16 employees
Northern Territory	12 (75%)	4 (25%)	Underpayment (60%) Pay slips (20%)	\$3660 for 7 employees
Australian Capital Territory	15 (63%)	9 (37%)	Underpayment (33%) Pay slips (25%)	\$2529 for 4 employees