

QLD Club Employees Targeted Campaign (excluding SE QLD)

Date December 2007 – July 2008

FINAL REPORT

Introduction

This report provides a summary of the Queensland (QLD) Club Employees Targeted Campaign which was conducted by the Workplace Ombudsman between December 2007 and July 2008. Three QLD offices Cairns, Townsville and Rockhampton were the only offices involved with the campaign as the focus Industrial Instrument applied to all QLD areas excluding South-East QLD.

During the information stage of the campaign, 175 information packs were distributed to Clubs in QLD.

Of the 87 employers audited 26 (30%) were found to be compliant and 46 suspected breaches were identified. Of these, 43 (93%) related to rates of pay; the remaining 7% related to loadings and penalty rates. All employers notified of breaches voluntarily complied with the Breach Notice and it is possible that the strong presence of the employer association, Clubs QLD, may have contributed to this positive outcome.

A total of \$103,270 (with 12% of audits pending) was recovered for 715 workers.

Background

The need to conduct a targeted campaign focusing on registered and licensed clubs in QLD became apparent during the National Young Workers Targeted Campaign which was conducted by the Workplace Ombudsman during the second half of 2007.

The Rockhampton office in QLD audited a registered and licensed Club as part of the Young Workers Targeted Campaign. Findings of the audit included failure to apply the minimum rates of pay as per the Australian Pay and Classification Scale derived from the Clubs Employees NAPSA 2003 (excluding South-East QLD). Throughout the investigation it was identified that the particular issue arose from an hours of work clause within the NAPSA which referred to a 40 hour week. The incorrect interpretation of this clause meant that the Club was effectively paying below the standard.

With approximately 175 Clubs in the Central & Northern QLD area (numbers obtained from Clubs QLD website) whose employees are covered by the Clubs Employees NAPSA 2003 (excluding south-east QLD), there was a high possibility that other employees covered by this award may have been receiving less than they are entitled to.

Due to the Workplace Ombudsman's obligation to ensure that employees are receiving their correct entitlements, further investigation into the Clubs industry was warranted.

The campaign was approved at all levels and commenced in December 2007.

Campaign Aim and Objectives

The proposed aim of the campaign was to improve compliance with Commonwealth workplace laws in Registered and Licensed Clubs in QLD (excluding SE QLD) and specifically:

- To scope the size and list of employers within Workplace Ombudsman's jurisdiction;
- To conduct a first stage educative campaign providing information to those employers;
- To assess and where necessary, increase compliance with workplace laws particularly with respect to minimum wages and penalties relating to shift work or late/early work;
- To commence litigation action in cases of serious breaches; and.
- To conduct a random follow-up audit to measure the effectiveness of the campaign

Stakeholder Involvement

The following stakeholders were contacted by letter prior to the start of the campaign.

- a) Minister for Employment and Workplace Relations
- b) Members of Parliament
- c) Clubs QLD
- d) Liquor Hospitality and Miscellaneous Union (LHMU)
- e) Australian Chamber of Commerce and Industry
- f) Media

They were provided with information about the campaign and employer and employee associations were invited to circulate information to their members.

Federal Members of Parliament (MP) in the focus areas of the campaign were also contacted by letter. The general response was positive and we received two in particular from MPs who advised they were very interested in the work we were doing and requested to be informed of our outcomes.

Due to the wage rate issue identified through the Young Workers Targeted Campaign, the QLD Director and Deputy State Directors had already formed a relationship with Clubs QLD. Meetings were held with representatives from Clubs QLD in the month prior to the commencement of the campaign.

Articles containing information about the Targeted Campaign were placed on the Workplace Ombudsman Internet and Workplace Ombudsman Intranet.

Methodology

The project plan followed the standard desk based campaign format of an industry wide and stakeholder mail-out and educative phase, followed by individual employers being selected for auditing.

In the initial stages of the campaign, information packs containing a selection of Workplace Ombudsman fact sheets, *Role of the Workplace Ombudsman*, *Time and Wages Records*, *Payslips*, *Hospitality Industry*, and *Young Workers* were included with the letter that was sent as part of the industry wide mail out. 175 Clubs were contacted during the initial mail out which was the total number of Clubs QLD members located in the focus area and these details were obtained from the association's website.

Employers were selected for a compliance audit from those who were on the initial mailing list. The selected employers were informed in writing with a request for time and wage records and other specified information for the period 4 June 2007 to 1 July 2007. This focus period was relevant to the Clubs Campaign for two reasons. The issues identified through the Young Workers Targeted Campaign uncovered that the pay increase of 1/12/2006 was not applied therefore a period containing those rates was applicable has been selected. There was also a public holiday in the period allowing checks to be performed on penalty rates as well as regular wage rates.

To assist selected employers with the request they were provided with an Entity Information Form to complete which was attached to the Audit Letter.

Workplace Inspectors then assessed the information received against the relevant industrial instrument. If the employer was found to be non-compliant the Workplace Inspector would undertake further investigation as appropriate. This could have included interviewing the employer and witnesses, undertaking calculations and in most cases would include negotiating voluntary compliance.

Where non compliance was confirmed a Breach Notice was issued. All employers notified of breaches voluntarily complied with the Breach Notice and it is possible that the strong presence of the employer association, Clubs QLD, may have contributed to the willingness employers had to rectify the identified breaches.

Audits were largely desk based. It was necessary for inspectors to visit or inspect some sites and field work was undertaken as deemed necessary.

Results

Our effective stakeholder engagement meant that all Clubs QLD members received notification about the campaign along with updated information and pay rates applicable to their employees from the employer association. 175 information packs were distributed to Clubs in QLD during the information stage of the campaign.

During the compliance audit period, January 2008 to July 2008, 76 compliance audits were completed in QLD as part of the Clubs Industry Targeted Campaign.

Status of Audits

At 31 July 2008, when the results of the campaign were compiled:

- 76 of the 87 audits (87%) were finalised. Of these, 4 of the 76 (5%) had resulted in a quick outcome for such reasons as finding that the enterprise had no employees or that the enterprise was no longer trading.

- 11 of the 87 audits (12 %) remained outstanding due to ongoing investigations.

Ongoing Investigations

Although the original timeframe for the campaign has lapsed, there are a number of ongoing investigations. Some of the ongoing investigations relate to outstanding breaches which are likely to result in further monies recovered for employees. This report will be updated once the outstanding audits have been finalised.

Identified Breaches and Money Recovered

At 31 July 2008, there were a total of 46 suspected breaches identified. Of these, 43 (93%) related to rates of pay; the remaining 7% related to loadings and penalty rates.

A total of \$103,270 (with 12% of audits pending) was recovered for 715 workers.

From the ongoing investigations, additional breaches may be identified and further amounts recovered for employees, however, amounts cannot be estimated at this time.

The level of education was very high in this campaign due to our positive relationship with the main industry Employer Association which is very active in communicating with its members.

Outcomes

The effectiveness of the campaign was to be measured against the aim and objectives in the following way:

Measure	Number
No. employers contacted during the initial mail out stage	175
No. compliant employers	26
No. employers not within WO jurisdiction	0
No. breaches identified	46
Monies recovered for employees	\$103,270
No. audits which result in litigation	0
No. Breach Notices issued	46
Result of a follow up audit 6 months after the campaign	

Conclusions

This campaign was undertaken due to a specific area of non-compliance identified through previous targeted work undertaken by the Workplace Ombudsman. The results present evidence that this campaign achieved positive outcomes in both providing education and achieving compliance.