



Australian Government

# Fair Work OMBUDSMAN

## Queensland Clubs Follow Up Campaign September 2009

### Final Report 18 November 2009

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#### Summary

The Fair Work Ombudsman<sup>1</sup> conducted a follow up campaign in the Queensland Clubs industry (excluding South-East Queensland) between April and August 2009. This campaign followed the initial Clubs campaign in 2008 in which Fair Work Inspectors checked the records of 87 employers in central and northern Queensland. They found 52 employers had underpaid 890 workers a total of \$141,000.

In the 2009 campaign, we targeted 99 employers for a compliance audit. Of the 80 audits finalised to date, we found 21 (26%) employers to be compliant in terms of the parameters of the audit, and 59 (74%) employers to be non compliant. In this follow up campaign, we recovered over \$206,369 for more than 1100 workers. Of the 56 employers who had to back pay employees, 13 (23%) had identified their own errors before we conducted the audit.

84% of non compliance in the campaign resulted from employers using incorrect wage rates. Other contraventions included the under or non payment of overtime, weekend and public holiday penalty rates.

Other outcomes of the campaign:

- An increase in compliance by ten employers identified as non compliant in the 2008 campaign; and
- All employers found to be contravening workplace laws in the follow up campaign resolved their matters voluntarily.

#### Results

Between April and August 2009, Fair Work Inspectors targeted 99 registered and licensed clubs for audit in central and northern Queensland.

#### *Breakdown of Employers*

Initial number of employers targeted	
First time audited	89
Audited in 2008	10
<b>Total</b>	<b>99</b>

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<sup>1</sup> Campaigns prior to 1 July 2009 were commenced and undertaken by the Fair Work Ombudsman's predecessor the Workplace Ombudsman.

## Status of Audits

At 31 October 2009, when the results of the campaign were compiled:

17 (17%) of the targeted employers could not be audited because; the enterprise had no employees, the Fair Work Inspector was unable to contact the employer, or the enterprise was no longer trading.

80 (81%) audits had been undertaken and finalised.

2 audits (2%) remained outstanding due to ongoing investigations.

The following table provides an overview of the status of audits as at 31 October 2009:

Status of audits	
Number of audits unable to be completed	17
Number of audits undertaken and finalised	80
Number of audits undertaken and outstanding	2
<b>Total</b>	<b>99</b>

To date money has been recovered from 56 employers, 13 (23%) had identified their own errors before the FWO conducted the audit.

Overall, this has been a very successful targeted campaign demonstrating the effectiveness and need for ongoing education and future compliance activities in the industry.

## Findings of audits

Of the 80 audits finalised to date, we found 21 (26%) employers to be compliant in terms of the parameters of the audit, and 59 (74%) with contraventions relating to wages, payslips, time/wage records, overtime rates, weekend penalties, public holiday rates, district allowances and other miscellaneous reasons.

## Money Recovered

We have recovered a total of \$206,369 for more than 1100 workers as a result of this campaign.

- \$197,782 was recovered from employers not audited in the 2008 campaign, and identified as being non-compliant in this campaign;
- \$8,587 was recovered from employers identified as being non-compliant in the 2008 campaign;

\$54,129 was recovered from 13 employers who identified their own errors, and subsequently made back payments to 329 employees after being notified of the campaign in 2008. These employers were not formally audited.

The recoveries are detailed in the table below.

<b>Recoveries</b>		
	<b>Number</b>	<b>Amount</b>
All employers included in the campaign	56	\$206,369
Audited in 2008	3	\$8,587
Identified own errors	13	\$54,129

### **Types of Contraventions**

Non compliance with the correct payment of wages was the most prevalent issue. Other common contraventions related to the under or non payment of public holiday, weekend and overtime penalty rates, and district allowances. A small percentage of contraventions related to employers not complying with record keeping and payslip requirements, but generally they complied with these regulations.

Key issues identified by Fair Work Inspectors undertaking the audits were:

- Incorrect wage rates;
- Juniors serving alcohol and the effect this had on their wage rate;
- Underpayment or non payment of weekend penalty rates;
- Underpayment or non payment of public holiday penalty rates;
- Underpayment or non payment of overtime penalty rates;
- Underpayment or non payment of district allowance.

### **Background**

In making the decision to undertake a follow up targeted campaign of registered and licensed clubs in Queensland, we took the following into consideration:

- An analysis of Fair Work Ombudsman's database;
- The results of the 2008 initial campaign;
- The industry employs a high proportion of young workers.

### **Campaign aim and objectives**

The aim of the campaign was to improve compliance with the *Workplace Relations Act 1996* (the Act), the *Workplace Regulations 1996* (the Regulations) and the Notional Agreement Preserving the State Club Employees' Award (Excluding South-East Qld) (the NAPSA). A further aim was to review the effectiveness of the initial Queensland Clubs Industry Campaign conducted in 2008.

The specific objectives of the campaign were to:

1. Provide information about the outcomes of the initial campaign to employers who were not audited in that campaign;
2. Educate employers not audited in the initial campaign about where to obtain up to date information on pay rates for their employees;
3. Audit the level of compliance of employers who were contacted in the initial mail out but not audited;
4. Review levels of compliance of approximately 10% of employers found to be in contravention during the 2008 campaign.

## **Stakeholder Involvement**

Clubs Queensland is the peak industry body and union of employers for registered and licensed clubs in Queensland. We informed Clubs Queensland of the results of the 2008 campaign, and the commencement of the follow up campaign. Contact with the Clubs Queensland representative was initiated by FWO's Queensland State Director in March 2009.

## **Campaign Methodology**

Prior to undertaking the follow up campaign, we wrote to 99 employers in central and northern Queensland. We provided employers with information about the initial and follow up campaigns and educational resources. As all employers had been contacted for the 2008 campaign, there was no educative mail out phase.

Employers were asked to complete the *Entity and Employee Information Forms* and they were given two options in regards to the letter.

### *Option A*

Employers who were paying incorrect wage rates, but had reviewed the rates from 1 December 2006 (date of 2006 Federal pay increase), and back paid employees (where applicable), were requested to provide evidence, including:

- total amount of back payment;
- number of employees and period of time to which the back payment related;
- evidence of payments.

A form marked *Option A* was provided to assist employers to complete this easily, ensuring all information was forwarded in response.

### *Option B*

Employers who believed they were paying correct wage rates from 1 December 2006, were requested to provide evidence of this, including:

- copies of time sheets for all employees for the month of January 2007; and
- copies of payslips for all employees for the month of January 2007.

We then conducted a review to ensure that the correct rates were being paid. If they were not, the employer was issued with a Breach Notice or Contravention letter, asked to calculate the amount outstanding, and confirm back payments made to employees.

The ten employers found to be non compliant in the initial campaign were asked to send records for the month of January 2009.

## **Conclusion**

It is evident from the results of the campaign, that this was a very worthwhile exercise. Employees have received over \$206,369 in back payments, and employers in the industry are now more aware of their obligations and the role of the Fair Work Ombudsman. In addition, the Fair Work Ombudsman can demonstrate that proactive targeted compliance work not only achieves positive outcomes at the time of an audit or campaign, but that this method of employer education and targeted auditing assists us to improve the level of long term and ongoing compliance.