

Joint Standing Committee on Migration
Inquiry into the Working Holiday Maker Program
Fair Work Ombudsman responses to Questions on Notice

Hearing date: 9 September 2020

Question No: 01

Subject: Dispute lodgements relating to working holiday makers in 2020-21

Asked by: Julian Leaser MP (Page 11-12 of Hansard)

CHAIR (Julian Leaser MP): I'll just get that to hand. I acknowledge that these issues are real and have obviously been a problem in the past. To what extent have new matters come in the 2019-20 financial year? What can you tell us about the working holiday-maker visa statistics compared to other matters that you're dealing with that have come in newly in the 2019-20 financial year?

Mr Ronson: I don't have any statistics for the last couple of months. It's probably a bit early. The stats I gave you are probably the most current we've got and they end on 30 June 2020. I'm happy to take on notice that question with respect to July and August because I don't have that data today.

Answer:

In the first two months of the 2020-21 financial year, 9% of all formal disputes completed by the FWO involved working holiday makers (subclass 417 and 462 visas), compared to 6% of all formal disputes during the same period in 2019-20.

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Question No: 02

Subject: Countries of origin of Working Holiday Makers

Asked by: Julian Leaser MP (Page 12 of Hansard)

CHAIR: What can you tell us about the countries that people are from? Are there people from particular countries that are overrepresented in these statistics? Are there particular people in particular parts of Australia or particular parts of different industries? What can you tell us about the types of complaint that these figures comprise?

Mr Ronson: In terms of the countries of origin, I know that we had statistics in our 2016 inquiry report, which was the one that you referenced before. That was the original inquiry into the Working Holiday Maker program. Those recommendations fed into the government's Migrant Workers Taskforce. For example, I have a recollection that, at the time, back in 2016, the top three nations were Taiwan, Great Britain and South Korea. In terms of countries or locations in more recent years, I'd have to take that on notice and come back to the committee.

Answer:

The **top three countries** for FWO formal disputes completed involving working holiday makers (subclass 417 and 462 unless otherwise noted) where citizenship country is provided, in 2019-20 were:

Citizenship Country	Proportion of working holiday maker formal disputes
France	17%
United Kingdom	13%
Italy	9%

The **top five industries** (where Industry is known) for FWO formal disputes completed involving working holiday makers in 2019-20 were:

Industry	Proportion of WHM formal disputes completed in 2019-20
Accommodation and Food Services	29%
Administrative and Support Services	14%

Construction	12%
Agriculture, Forestry and Fishing	12%
Retail Trade	8%

The **top five allegations** for FWO formal disputes completed involving working holiday makers in 2019-20 were:

Allegation	Proportion of WHM formal disputes completed in 2019-20
Wages and Conditions	26%
Wages - Not Paid for Time Worked	20%
Wages - Unpaid Trial Work	12%
Termination	11%
Wages - Underpayment of Hourly Rate	10%

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Question No: 03

Subject: Formal dispute lodgements by geographic area

Asked by: Julian Leaser MP (Page 12 of Hansard)

CHAIR: What about for parts of Australia, the industries and the sorts of allegations that are made?

Mr Ronson: In terms of parts of Australia, it tends to be, of course, the eastern seaboard, unsurprisingly, because the great majority of the Australian workforce is operating on the eastern seaboard. I can get the stats in terms of visa holders. I don't have them necessarily with respect to working holiday-makers, but we can provide statistics to the committee on a state-by-state breakdown of visa holders.

CHAIR: Could you could provide those statistics to us, and if you're able to break them down into working holiday-makers, because we're looking specifically the working holiday-maker visa—

Mr Ronson: If we can do that, we'll be able to provide those to the committee. It's fair to say that it's very much Victoria New South Wales and Queensland where most of the activity is.

CHAIR: What I'm trying to dig into is whether there are particular parts of all of those states where these complaints are—

Mr Ronson: Yes.

Answer:

State breakdown of disputes

The state breakdown (where the location is known) for FWO formal disputes completed in 2019-20 involving visa holders and working holiday makers (subclass 417 and 462 visas) was as follows:

State	All Visa Holders	Working Holiday Makers
New South Wales	32%	25%
Victoria	28%	21%
Queensland	22%	28%
Western Australia	10%	13%
South Australia	3%	5%
Tasmania	2%	4%
Northern Territory	2%	4%
Australia Capital	1%	0%

Territory		
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The regions in New South Wales, Queensland and Victoria with the highest levels of formal disputes completed were in and around regions in metropolitan Sydney, Melbourne, and South East Queensland.

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Question No: 04

Subject: Percentage of matters resolved in favour of Working Holiday Maker workers

Asked by: Julian Leaser MP (Page 15 of Hansard)

CHAIR: Just one last point to Mr Ronson. Mr Ronson, when you come back to us with a range of those statistics, particularly about the number of complaints you've resolved, I'd also be interested in what percentage of those complaints which you've resolved have been resolved in favour of the working holiday-maker visa holder. That's the other thing I'd be interested in hearing. I've taken up a lot of time; I'm going to hand over to the deputy chair.

Answer:

The FWO assesses each individual dispute on a case-by-case basis in line with our publicly available [Compliance and Enforcement Policy](#). This Policy outlines how the FWO exercises its statutory functions and assesses each matter to determine how we will respond. While the FWO considers the views of both parties, the focus of our investigations is whether the available evidence supports the alleged contraventions and as such, our systems are designed to capture data on these factors, rather than whether disputes were resolved in favour of either party.

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Question No: 05

Subject: Languages available in FWO translated materials

Asked by: Maria Vamvakinou MP (Page 15 of Hansard)

Ms VAMVAKINO: Thank you. Just following up on some of those very detailed questions from the chair, you referred to in language programs that you make available. Did I correctly hear that there were three languages that you translate material into, or are there more? If so, which languages are they?

Ms Peters: There are many more. We delivered three communications campaigns that were in a number of languages. Our professionally translated information on the website, which includes the guides and resources, is available in 30 languages. The website translator translates into 36 languages. I'm afraid I'd need to come back to you with a list of what those languages actually are. The Fair Work Information Statement is translated into 38 languages. We're trying to cover quite a few.

Answer:

The FWO continues to refine and expand the range of online resources in a range of languages, in addition to English, to assist migrant workers. Some of the FWO's resources include:

- Professionally translated in-language information available in 30 languages via the Language help section on the FWO's main website www.fairwork.gov.au and includes downloadable resources and videos.
- A website translator on FWO's main website, Coronavirus sub-site www.coronavirus.fairwork.gov.au and Horticulture Showcase at www.fairwork.gov.au/horticulture-showcase that automatically translates information into 36 languages.
- The recently redesigned Fair Work Information Statement has been professionally translated into 38 languages – it is currently being updated to reflect the 2020 Annual Wage Review. Updates also include a call out box advising employees they can find out more about their workplace entitlements and obligations during the impact of coronavirus at the FWO's coronavirus sub-site.

The specific languages presented in the agency's translated material are:

Arabic	Dari	Hungarian	Nauruan	Somoan
Bislama	Dutch	Indonesian	Nepalese	Spanish
Bengali	Estonian	Italian	Pijin	Swedish
Bislama	Farsi	Japanese	Polish	Tamil

Bosnian	Fijian	Khmer	Portuguese	Tetum
Bulgarian	Filipino	Kiribati	Romanian	Thai
Cantonese	Finnish	Korean	Russian	Tok Pisin
Simplified Chinese	French	Latvian	Samoan	Tongan
Traditional Chinese	German	Lithuanian	Serbian	Turkish
Croatian	Greek	Macedonian	Sinhalese	Tuvaluan
Czech	Hebrew	Malay	Slovak	Ukrainian
Danish	Hindi	Mandarin	Slovene	Urdu
			Somali	Vietnamese

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Question No: 06

Subject: Use of enforcement tools by industry

Asked by: Senator Raff Ciccone (Page 17 of Hansard)

Senator CICCONE: Do you also have statistics around breaches and how many employers you've taken to court? Are you able to share that with the committee?

Mr Ronson: Yes, we can provide all the statistics—for the last five or six years or beyond, if you want it—of the number of matters we take, including visa holders and working holiday makers in particular. We can provide those statistics.

Mr Scully: I could do that now, Mr Ronson. For the 2019-20 year, which we've just finalised the statistics for, in terms of our compliance and enforcement tools, we issued 952 compliance notices, we issued 603 infringement notices—infringement notices are fines for record-keeping breaches and the like—we accepted 12 enforceable undertakings from employers and we filed 54 matters in court. They were our main enforcement outcomes for 2019-20.

Senator CICCONE: Are you able to provide them broken down by industry or sector?

Mr Scully: Not off the top of my head or from the information I have with me.

Senator CICCONE: Can you take that on notice?

Mr Scully: Yes.

Answer:

For the 2019-20 year, the FWO issued a total of 952 compliance notices, 603 infringement notices, executed 12 enforceable undertakings and filed 54 matters in court. Across all matters, the 2019-20 breakdown of the top industries was as follows:

Enforcement tool	Industry (ANZSIC Division)
Compliance Notice	<ol style="list-style-type: none"> 1. Accommodation and Food Services (75%) 2. Administrative and Support Services (17%) 3. Professional, Scientific and Technical Services (8%)
Infringement Notice	<ol style="list-style-type: none"> 1. Accommodation and Food Services (57%) 2. Agriculture, Forestry and Fishing (21%) 3. Manufacturing (7%) Professional, Scientific and Technical Services (7%) Transport, Postal and Warehousing (7%)
Litigations	<ol style="list-style-type: none"> 1. Accommodation and Food Services (57%)

commenced	<ol style="list-style-type: none">2. Administrative and Support Services (9%) Retail Trade (9%)3. Construction (7%) Transport, Postal and Warehousing (7%)
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Question No: 07

Subject: FWO's views on additional resourcing or enforcement tools

Asked by: Julian Leeser MP (Page 20 of Hansard)

CHAIR: The final thing I'd like you to consider—and you can take this on notice—are the two points that both Mr Drum and Senator Ciccone raised with you. We as a committee are charged with looking at whether the existing criteria and conditions relating to working holiday-makers are still adequate and appropriate to address the purpose of the program. A related issue for us—because it's been raised so often—are the complaints, compliance and enforcement in relation to people's rights under the Working Holiday Maker program as workers in Australia. To the extent that there are recommendations from previous inquiries that the government have said that they are going to implement in principle, that's good. But, if there are further powers or funding that the Fair Work Ombudsman is seeking, knowing about that helps us deal with that particular recommendation. I take the view that you put to Mr Drum and Senator Ciccone on this point seriously, but you may wish to give it some further consideration to assist us in relation in addressing our own terms of reference.

Answer:

The FWO applies and enforces the law as it stands and uses all powers and tools available to us to ensure workers receive their correct entitlements. The FWO is happy to assist the Committee with information and data, however as the independent regulator, it is not our role to comment on workplace policy issues. These are matters for the Attorney General's Department.