

Mr Stephen Palethorpe
Secretary
The Senate Standing Committee on Education and Employment
By email: eec.sen@aph.gov.au

20 April 2017

Dear Mr Palethorpe

RE: Senate Inquiry into Corporate Avoidance of the Fair Work Act

On Tuesday, 18 April I appeared before the Committee in relation to the above inquiry.

I wanted to clarify some of the comments I made to the Committee about the level of employer non-compliance with the Fair Work Act in the hospitality industry.

The statistics I referred to during the hearing are drawn from the Fair Work Ombudsman's 2015-16 [Year in Review](#).¹ The data cited comes from the National Hospitality Campaign which was conducted in three stages over recent years and based on audits of businesses in this industry.

The audits found that in hospitality, compliance with the requirements of the Fair Work Act was extremely low – significantly lower than other industries subject to the same processes. The FWO's research found that compliance across the hospitality industry **as a whole was** just 48% - less than half of all businesses met their obligations in relation to the employment of staff. To be clear, this does not simply reflect the proportion of businesses audited by the FWO, but rather it reflects the position of the national industry.

Much of this non-compliance related to the underpayment of wages and entitlements. Some divisions of the hospitality industry had extremely low levels of compliance:

- takeaway foods: 33%
- restaurants, cafés and catering: 42%
- accommodation, pubs, taverns and bars: 69%.

The audits followed a period of extensive communication with businesses and a public awareness campaign conducted by the FWO.

Businesses were notified prior to the audits conducted, with an education campaign being run in conjunction with the Restaurant and Catering Association and other industry groups, as well as United Voice and the SDA. For instance, 52,789 employers in restaurants, cafes and catering alone were contacted and advised of the campaign, well ahead of any audits undertaken by the Inspectorate.

The circumstances of this audit demonstrate a culture of non-compliance with the Fair Work Act that the current system does little to systematically address.

¹ <https://www.fairwork.gov.au/annual-report/year-in-review>

It would be much appreciated if you could provide a copy of this correspondence to the Committee members.

Should you or the Committee require any further information about the issues outlined above please contact Jacqui Woods on _____ or _____ .

Yours sincerely

Jo-anne Schofield
National Secretary