

Senate Standing Committee on Education and Employment

**QUESTIONS ON NOTICE
Supplementary Budget Estimates 2014-2015**

Agency - Fair Work Ombudsman

Department of Employment Question No. EM1600_15

Senator Cameron asked on 23 October 2014 on proof Hansard page 44

Question

FWO - Odco System

Senator CAMERON: Maybe on notice, could you provide the committee with details of the problems that have been dealt with through litigation on the Odco system. There have been problems with that where young people have been mercilessly ripped off—

Answer

The Odco decision (Odco Pty Ltd v BWIU & Ors. No. VG 151 of 1988 in the Federal Court of Australia (unreported) and dated 24 August 1989.) found that the Odco method of engagement involved contracts entered into freely which effectively established the workers involved as independent contractors.¹

The Fair Work Ombudsman assesses matters on a case by case basis against this legal principle.

The court has found some arrangements that have purported to enable Odco arrangements that have not met the requirements and the workers were found to be employees, for example:

- Fair Work Ombudsman v Contracting Solutions Australia Pty Ltd & Ors
- Fair Work Ombudsman v Lovers of Property Pty Ltd and Ors
- Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd & Ors.

¹ The BWIU subsequently appealed to the Full Federal Court which declined to vary Justice Woodward's decision confirming the common law contractor status of the workers engaged. The BWIU later sought leave to appeal in the High Court which was unanimously refused.