

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Additional Estimates 2010-2011**

**Outcome 5 - Workplace Relations**

**DEEWR Question No.EW1025\_11**

**Senator Abetz asked on 23/02/2011, Hansard page 119.**

**Question**

**WR- WORKPARTNERS**

Senator ABETZ—Could I ask you then, Minister and department, to give consideration to an education program amongst employers that the holders of these types of letters are not under official authorisations for the purposes of the legislation. Mr Kovacic—We would consider that. Senator ABETZ—And, Minister, could you take that on notice. Senator Chris Evans—I am not sure that I would launch an education campaign, but I certainly think it is appropriate for us to clarify it with the peak bodies or, on one of our engagements with stakeholders, to raise the issue and express our view about the veracity or value of these things. Senator ABETZ—All right. And we will get an opening statement at next estimates as to what you have done to pursue that. Senator Chris Evans—As I say, that is why I do not want to create the impression that I am going to go out and launch a TV ad campaign.

**Answer**

The letter referred to identifies the bearer as an authorised representative of a particular union, and states that the representative is authorised to provide information about the activities of the union and to undertake recruitment activity on its behalf. It appears that the letter is directed to employees, as it concludes by asking the recipient to ‘... consider the information the Representative provides and join our Union for more pay, protection, influence and savings.’

The letter does not appear to purport to be related to the exercise of a permit holder’s rights of entry under the *Fair Work Act 2009* (the FW Act). As noted above, the letter is directed at employees, not employers or occupiers of employer premises, as might be expected if it was purporting to give effect to any right of entry under the FW Act.

Such a letter is insufficient to secure entry under the FW Act to a workplace. Accordingly the bearer of the letter would have to rely on the permission and goodwill of the occupier to gain entry, as is the case for any other invitee (whose ‘license’ to be on premises can be given and revoked at any time by the occupier).

It is not clear from the context given that an employer/occupier would necessarily form a view that the bearer of such a letter is purporting to exercise a right of entry. Therefore the appropriateness of an education campaign, additional to the information already made available to employers (see below) to address what might be an isolated misunderstanding is unclear. If the Department is provided with

evidence to suggest this is a problem, it will give further consideration to what should be done by way of a response.

Having said that, the Department has brought the matter to the Fair Work Ombudsman's (FWO) attention and asked that he take such action as is warranted for individual complaints. It should be noted that the FWO provides on its website a right of entry fact sheet (see link below), and recourse to such would possibly avoid the kind of misunderstanding discussed above.

*<http://www.fairwork.gov.au/resources/fact-sheets/employer-obligations/Pages/right-of-entry-fact-sheet.aspx>*