

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

**QUESTIONS ON NOTICE
Budget Estimates 2012-2013**

Agency - Fair Work Ombudsman

DEEWR Question No. EW0184_13

Senator Abetz asked on 28 May 2012 , Hansard page 55

Question

Unfair dismissal cases

Mr Lehn: My experience in these matters is that, if there is a commercial settlement reached between the parties, it is often confidential and we would not necessarily even be privy to that information. Senator ABETZ: I understand that. Fair Work Australia, for those unfair dismissal cases they are aware of, are able to provide us with the figures-if you can, please do; if you cannot, that is understood.

Answer

The Fair Work Ombudsman provided the following response

On page 41 of the Fair Work Ombudsman Annual report 2010-11, a table appears containing a 'breakdown of attributes of alleged discrimination complaints received in 2010-11'.

A list of the number of the alleged discrimination complaints outlined in the table which were valid was then requested and responded to (Parliamentary Question on Notice 1522).

Included within the Fair Work Ombudsman's response were 12 matters that were '*resolved with the assistance of the Fair Work Ombudsman*'. Provided below is additional information on the outcome of the 12 alleged discrimination complaints received by the Fair Work Ombudsman in 2010-11 that were resolved with the assistance of the agency.

Given the small number of relevant complaints, information has been limited in some instances in order to maintain the privacy of the parties.

Age discrimination

The Fair Work Ombudsman assisted with the resolution of three complaints alleging discrimination on the basis of age.

One complainant was assisted in receiving outstanding entitlements of just over \$6,000 net. In relation to the discrimination aspect of the complaint, no prima facie contraventions were established. However, educational material was sent to the employer as part of the finalisation process.

The second matter also involved educational material being provided to the employer. No prima facie contraventions were established and, accordingly, no entitlements were recovered in relation to this complaint.

In the third matter, the confidential complainant advised that after lodging the complaint and speaking to the Fair Work Ombudsman, all issues were resolved with the employer. No further action was taken by the Fair Work Ombudsman.

Family or carer's responsibilities

The Fair Work Ombudsman assisted with the resolution of one complaint alleging discrimination on the basis of family or carer's responsibilities. In this matter, the complainant was also requesting outstanding entitlements. On investigation, the complainant was paid outstanding entitlements of just over \$1,100 net.

Following this payment, the complainant did not wish to pursue the discrimination element of the complaint and the matter was withdrawn.

Physical or mental disability

The Fair Work Ombudsman assisted with the resolution of two complaints alleging discrimination on the basis of physical or mental disability.

In one matter, outstanding entitlements of over \$800 net were paid to the complainant as a result of the Fair Work Ombudsman's assistance.

The second matter did not involve any monetary payments. However, the matter was resolved through an educational meeting with the employer.

Pregnancy

The Fair Work Ombudsman assisted with the resolution of three complaints alleging discrimination on the basis of pregnancy.

As a result of the Fair Work Ombudsman's assistance, one complainant received an agreed amount in a confidential Deed of Settlement, and the other two were able to successfully secure agreed dates of return to work.

In these complaints, the employers were provided information concerning the complainant's return to work rights following a period of maternity leave.

Race

The Fair Work Ombudsman assisted with the resolution of one complaint alleging discrimination on the basis of race.

In this matter, the complainant received outstanding entitlements of just over \$2,500 net and the discrimination complaint was no longer pursued by the complainant.

Sex

The Fair Work Ombudsman assisted with the resolution of one complaint alleging discrimination on the basis of sex. In this matter, the complainant received

outstanding entitlements of just over \$8,000 net and the discrimination complaint was no longer pursued by the complainant.

Sexual preference

The Fair Work Ombudsman assisted with the resolution of one complaint alleging discrimination on the basis sexual preference. As a result of an investigation, the Fair Work Ombudsman identified that the employer was not complying with its obligations in relation to employees' time and wage records. A compliance form was signed by the employer and returned to the Fair Work Ombudsman.

The discrimination investigation was closed with no prima facie contravention. The Fair Work Ombudsman found that after calculations were performed, the complainant was not disadvantaged. As a result of this complaint, the employer has been provided advice and assistance in relation to record keeping for employees.