

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2005-2006 SUPPLEMENTARY BUDGET SENATE ESTIMATES HEARING
2 and 3 NOVEMBER 2005**

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

OFFICE OF THE EMPLOYMENT ADVOCATE

Question Number: W560-06

Question:

Senator Marshall asked in writing:

According to page 52 of the OEA Annual Report 2004/5, the OEA received 331 complaints during 2004/5. Please detail how these complaints were handled and the outcome for each.

Answer:

The complaints investigated by the OEA in 2004-2005 are summarised below in Table 1.

Just over 90% of the 331 complaints received related to AWA matters, primarily concerning allegations of breaches of AWAs. 58% (191) of investigations related to breaches of AWAs.

The OEA aims to resolve 80% of investigations into alleged breaches of the Workplace Relations Act 1996 within 40 days. Over the year 2004-2005, 82% of investigations were resolved within this timeframe.

The finalisation reasons of complaints received in 2004-2005 and finalised over the years 2004-2005 and 2005-2006 are summarised in Tables 2 and 3. The OEA seeks to resolve breaches by voluntary compliance, that is by the voluntary correction of behaviour and remedying of the breach. Of the investigations where this is an appropriate outcome, that is where the OEA has determined there is a breach of the Act and the complaint is within jurisdiction (168 complaints), 44% (74 complaints) were resolved by voluntary compliance.

Table 1 AWA Primary Complaint, Complaints Investigated 2004-2005

Primary complaint	No of investigations	% of investigations
AWA matters		
breach of AWA	191	57.7%
coercion	14	4.2%
false declaration	13	3.9%
lack of genuine consent	44	13.3%
information	11	3.3%
ndt issues	17	5.1%
no explanation of AWA	3	0.9%
number of days held before signing	4	1.2%
not filed / not approved	5	1.5%
Sub Total – AWA Matters	302	91.2%
Freedom of Association		
agreement type	6	1.8%
anti-union	1	0.3%
general	7	2.1%
industrial action compulsion	1	0.3%
membership discrimination	1	0.3%
no ticket no start	0	0.0%
union preference	1	0.3%
no jurisdiction	8	2.4%
right of entry	0	0.0%
resignation not accepted	4	1.2%
Sub Total – Freedom of Association	29	8.8%
Total	331	100.0%

Table 2 Finalisation Reasons, Complaints received and finalised 2004-2005

Finalisation Reason	No of investigations	% of investigations
inquiry only - info provided	9	3.2%
complaint withdrawn	18	6.3%
no jurisdiction / referred to other agency	43	15.1%
concluded - insufficient evidence	23	8.1%
concluded - no breach	63	22.1%
decision not to proceed	38	13.3%
subsumed by another matter	1	0.4%
voluntary compliance – formal	36	12.6%
voluntary compliance – informal	38	13.3%
unclassified	16	5.6%
Total	285	100.0%

Table 3 Complaints received in 2004/05 and finalised 2005/06

Finalisation Reason	No of investigations	% of investigations
Inquiry Only - Info Provided	2	4%
Complaint Withdrawn	2	4%
No Jurisdiction/ Referred to Other Agency	8	17%
Concluded - Insufficient Evidence	4	9%
Concluded - No Breach	8	17%
Decision not to proceed	8	17%
Subsumed by another matter	0	0
Voluntary Compliance – Formal	6	15%
Voluntary Compliance – Informal	8	17%
Unclassified	0	0
Total	46	100.0%