

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

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

**Agency - Fair Work Ombudsman**

**DEEWR Question No.EW0273\_11**

**Senator Abetz asked on 1/06/2010, Hansard page 80.**

**Question**

**BREACH LETTERS**

Senator ABETZ—Have we had any occasion where the Fair Work Ombudsman, in writing ‘breach letters’—if I can use that term—to an employer in relation to a determination of contravention, has had to say that their letter of contravention subsequently has been withdrawn, a further contravention letter dated such-and-such was issued and then a final contravention letter dated such-and-such was issued? I am asking whether the Ombudsman has had three cracks at finally getting a contravention letter right. Mr Wilson—If you wish to give us more detail, we will find the answer to that question. But, without detail as to the employer that you are referring to, it would be impossible for us to find that information. Senator ABETZ—Has that ever occurred? Mr Wilson—You have had my answer. Senator ABETZ—Has it ever occurred? It must be within your knowledge— Mr Wilson—No, it is not. I have taken the question on notice. Senator ABETZ—It is not within your knowledge. What about Mr Ronson’s knowledge? Mr Wilson—I have taken that question on notice.

**Answer**

*The Fair Work Ombudsman has provided the following response:*

The Fair Work Ombudsman’s current operational case management system is not able to provide the number of instances where a contravention letter has been issued and withdrawn on three occasions for the same matter.

However, varying circumstances may alter the course of an investigation and may result in a contravention letter being re-issued. For example, the Fair Work Ombudsman Operations Manual provides that the alleged wrongdoer may respond to the contravention letter by providing new evidence that disproves some or all of the alleged contraventions. In such cases, the Fair Work Inspector would consider the new evidence and advise the alleged wrongdoer if the contravention letter stands in full, stands in part, or is withdrawn. The alleged wrongdoer will be advised in writing to comply with any remaining items of the contravention letter.

The Fair Work Ombudsman has a robust investigation process. Fair Work Inspectors’ key decisions are approved in writing by a manager in order to ensure consistent and accurate decision-making. Any decision made by a Fair Work Inspector to issue and, if later required, withdraw a contravention letter occur in close consultation with management.

The provision of particulars relating to a specific circumstance where a contravention letter has been re-issued on three occasions would assist the Fair Work Ombudsman to locate and provide the relevant details.