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3 October 2018

Mr Stephen Palethorpe  
Secretary  
Senate Standing Committee on Education and Employment  
[eec.sen@aph.gov.au](mailto:eec.sen@aph.gov.au)

Dear Mr Palethorpe

### Answers to Questions on Notice

On Friday, 14 September 2018, the Fair Work Ombudsman (**FWO**) appeared for the second time before the Standing Committee on Education and Employment in Canberra, to provide additional evidence to the *Inquiry into Exploitation of cleaners working in retail chains*.

Please find attached the FWO's response to a question on notice from Senator Cameron taken during the course of the hearing.

Yours sincerely

Daniel Crick  
Executive Director (A/g)  
**Policy, Analysis and Reporting Branch**  
**Fair Work Ombudsman**



Australian Government

# Fair Work OMBUDSMAN

## **Question:**

**Mr O'Shea:** The assurance protocol between the Fair Work Ombudsman and the department has been around for about 18 months now. Essentially, it provides a degree of comfort to a vulnerable visa holder who wants to approach the Fair Work Ombudsman to make allegations of exploitation. In the instances where they have also breached their visa requirements, we undertake, on their behalf, to speak to the Department of Home Affairs. The arrangements of the protocol are that Home Affairs, in certain instances, will give an undertaking not to cancel their visa provided that that worker is assisting us with the progress of an investigation or an assessment of their complaint. That's been very successful.

Obviously it was done to break down that very issue you were talking about—that is, the most vulnerable people feeling reluctant to come to the Fair Work Ombudsman for help if they, in fact, had breached their visa themselves. I don't have their numbers with me but I understand—

**Senator CAMERON:** Yes, can you give me some statistics on this?

**Mr O'Shea:** It is around 30.

**Ms Cavanagh:** We have some numbers. As at 30 June 2018, the Fair Work Ombudsman has referred 35 migrant workers to the department, and no migrant worker who has been referred to the department has been retained or removed.

**Senator CAMERON:** What have been the implications for the employers of these 35 workers who have breached the act?

**Mr O'Shea:** I don't have that information to hand but, essentially, what we're talking about are matters that the Fair Work Ombudsman is dealing with. So there would be outcomes associated with those matters—the details of which I don't have with me.

**Senator CAMERON:** On notice, can you provide details of what the outcomes were of those 35 workers?

**Mr O'Shea:** I daresay many of them are still tracking towards an outcome, but I can take that on notice to look at.

**Senator CAMERON:** And let us know how the tracking is going as well.

**Mr O'Shea:** Sure.

## **Answer:**

As at 30 June 2018, the Fair Work Ombudsman (FWO) had referred thirty-five matters to the Department of Home Affairs pursuant to the agencies' joint assurance protocol.

Fifteen of those matters are the subject of ongoing FWO enquiries, with two of those matters currently before the Court.

The FWO has completed the remaining matters, including through the use of a range of enforcement tools (infringement notices, compliance notices, letters of caution and, in one instance, litigation proceedings).