

Senate Standing Committee on Legal and Constitutional Affairs
Inquiry into the Migration Amendment (Protecting Migrant Workers) Bill 2021 [Provisions]
Fair Work Ombudsman responses to Questions on Notice

Hearing date: 23 February 2022

Question No: 01

Subject: Migrant worker recoveries

Asked by: Senator Raff Ciccone (Page 51 of Hansard)

Senator Ciccone: Just following on from some of the questions from the chair, I note your 2020-21 annual report says the Fair Work Ombudsman used 'enforcement tools to deal with the most serious cases of noncompliance against' migrant workers, and you recovered \$824,443 in unpaid wages. The wage recovery for migrant workers by the ombudsman is, I think, relatively modest. But how many migrant workers had wages recovered by the ombudsman? Are you able to provide a breakdown of how many of those people are migrant workers?

Mr Scully: actually don't know if these numbers add up; I haven't calculated that. But the high-level number that I have is that it was 437 employees that were paid.

Senator Ciccone: Were they all migrant workers?

Mr Scully: That is under the category of visa holders, so yes.

Senator Ciccone: I don't know if you can break that down a bit further. You can take that on notice.

Mr Scully: I might take that on notice because the numbers that I'm looking at don't quite add up to what I expected them to add up to. So I will take that on notice.

Answer:

The data in the FWO's report relates to known visa holders. The breakdown by visa is as follows:

Visa type	2020-21 Recoveries	Number of workers
457/482	\$81,043	10
417	\$86,662	76
462	\$41,364	67
Student	\$182,480	105
Other/unspecified	\$432,894	179
All visa holders	\$824,443	437

These figures are likely an underrepresentation of the actual number of visa holders that we have assisted. This is because, consistent with our obligations under the *Privacy Act 1988* (Cth), the FWO does not require workers to disclose their visa status when they seek our advice or assistance. Workers may choose to volunteer that information, but it is not a pre-requisite in order for the FWO to identify or recover their unpaid entitlements.

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Question No: 02

Subject: Consultation on Bill

Asked by: Senator Raff Ciccone (Page 52 of Hansard)

Senator Ciccone: Has your agency been asked to express views about the drafting of this bill?

Ms Peters: The Migrant Workers Interagency Group, which was the cross-government group that was established to implement the Migrant Workers Taskforce recommendations, was consulted on the bill. We've also been consulted through the Attorney-General's Department as the responsible policy agency.

Senator Ciccone: As part of that, has the ombudsman provided the department advice?

Ms Peters: I'd need to take that on notice, but I believe our feedback and input went primarily to the Fair Work Act provisions that would be included.

Answer:

Through our participation in the Migrant Workers Interagency Group and established relationships with our responsible policy agency, the Attorney-General's Department (AGD), the FWO was consulted on the Migration Amendment (Protecting Migrant Workers) Bill 2021 during its development.

It is standard practice for the FWO to be consulted on draft legislation from time to time, to provide feedback and input relevant to its role as the workplace regulator and experience enforcing the *Fair Work Act 2009* (Cth). For example, the FWO provided information about our visa holder enforcement activities.

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Question No: 03

Subject: FWO regional inspectors and employees

Asked by: Senator Raff Ciccone (Page 53 of Hansard)

Senator Ciccone: Yes. There's one other question I want to ask you. I note that the ombudsman has offices in the major capital cities around the country. Do you have inspectors in any regional parts of Australia?

Mr Scully: We do. We have between 22 and 23 offices. That includes all capital cities as well as regional locations.

Senator Ciccone: How many are in regional locations?

Mr Scully: I can't tell you off the top of my head the number of people, but I can tell you that we have 46 Fair Work inspectors in regional offices. But, if you're asking about the total number of staff, I'd need to take that on notice.

Senator Ciccone: How many—and you can take it on notice if you haven't got this figure available—inspectors total do you have?

Mr Scully: It was 176 as at 31 December 2021.

Senator Ciccone: And then we believe there's around 40-odd that are in regional—

Mr Scully: Included in that number there are about 46 in regional offices.

Senator Ciccone: If you can also take on notice the specific figure that would be great.

Answer:

The FWO has a national presence with a network of offices across Australia in all capital cities and in numerous regional centres. As at 31 December 2021, the FWO employed 73 employees in 14 regional offices, including 46 Fair Work Inspectors.

Our regional Inspectors are supported by Inspectors from our capital city offices, who travel to assist with regional compliance activities where necessary. Regional Inspectors are also supported by a range of other FWO staff across the country, including, for example, the FWO's Legal Group and staff in data and intelligence, customer service, engagement and communications.