

## Senate Standing Committee on Education and Employment

### QUESTIONS ON NOTICE Budget Estimates 2015 - 2016

**Agency - Fair Work Ombudsman**

**Department of Employment Question No. EMSQ15-000169**

**Senator Cameron asked on 02 June 2015 on proof Hansard page 28**

#### **Question**

#### **FWO - Engagement with DIPB**

Senator CAMERON: What was the process that you then undertook with Immigration?

Mr Campbell: Other than offering that we kept in contact with DIBP during this investigation and no doubt referred issues that we found to them, I cannot give you specifics. I am happy to take something on notice here and try to give you a discourse on how we engaged with DIBP.

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Mr Campbell: Yes, but they are incidental to it, in effect. We focused on the underpayment and the underpayment triggered two contraventions—the Fair Work Act and migration law. Under the MOU we saw and identified a breach of the Migration Act, so we refer it to Immigration. I will check if we referred it. I would be confident that we did. We have then focused on the workplace relations—

Senator CAMERON: I formally ask that you table all correspondence between the Fair Work Ombudsman and Immigration in relation to this issue. I may have asked that before, but I repeat that again.

Senator Payne: On notice, Senator?

Senator CAMERON: On notice, yes. I am still trying to work this through. If you go back—and I know it is a bit painstaking—

Mr Campbell: No, please continue.

Senator CAMERON: I just really need to get to the bottom of this. I want to do it so that I can understand how this works. You have another obligation—that is, prior to estimates, to exchange—the agencies will exchange information regarding the operation of the MOUs on a regular basis, including prior to Senate estimates hearings in February, May and October, and an annual report will be prepared at the end of each financial year prior to the release of each agency's annual report. Did you exchange information on this issue prior to the estimates with the department of immigration?

Mr Campbell: I am going to take that on notice if you do not mind. I cannot answer you fully off the top of my head.

Senator CAMERON: It is a pretty simple thing.

CHAIR: The officer is taking it on notice.

Mr Campbell: I am just—I know that we met with senior officials from the immigration department before our appearance today. It is pretty standard practice. I just do not know about the other aspects right now.

Senator CAMERON: This exchange of information—is that simply a discussion?

Mr Campbell: It will be a meeting of senior officers to talk about relevant issues associated with the MOU.

Senator CAMERON: Are there file notes to these?

Mr Campbell: I will take this on notice, if you do not mind.

Senator CAMERON: Can I ask for all file notes, all correspondence, all details of telephone

calls and times between the Fair Work Ombudsman and the department of immigration in relation to compliance with the MOU?

Ms James: We will take that on notice. I will say, though, that on any given day there are probably several conversations going on between people at the Fair Work Ombudsman and people at the department of immigration—particularly, I might suggest, in the last two or three weeks. We will see what we can give you formally on that on notice. But be rest assured that we talk with them every day.

Senator CAMERON: Again, that was not my question. Mr Campbell, the nature—you can laugh all you like, Ms James. This is a serious issue.

Ms James: I do not think I was laughing, but I—

Senator CAMERON: This is a serious issue. You should not laugh when you are asked a question. It is just outrageous.

Ms James: I was not. I was simply saying that we will take that on notice, but I was also explaining the context of what we may or may not be providing. I think that is appropriate.

## **Answer**

The Fair Work Ombudsman and the Department of Immigration and Border Protection have an ongoing dialogue between a range of officers on a range of matters of mutual interest to our Agencies. Some interactions are in relation to, and in accordance with, the Memorandum of Understanding between the Agencies. Other interactions may relate to other operational, policy or media issues. It is not necessary for officers to record most of these interactions.

The Fair Work Ombudsman can confirm that, from January to early March 2015, the Agency had ongoing dialogue with the Department of Immigration and Border Protection to source records and documents from the Department of Immigration and Border Protection to assist with its investigation in to Chia Tung. The following is an overview of our interactions with Department of Immigration and Border Protection regarding operational matters in relation to Chia Tung.

On 14 January 2015, the Department of Immigration and Border Protection informed the Fair Work Ombudsman via email that it had received information from the office of Mr Mark Coulton MP, Federal Member for Parkes, NSW in regard to Chia Tung.

Chia Tung is an overseas business sponsor and allegations included 457 visa workers being underpaid wages, unpaid superannuation and poor living conditions. The purpose of their email was to ascertain whether the Fair Work Ombudsman had also received these allegations.

On 14 January 2015, the Fair Work Ombudsman responded to the Department of Immigration and Border Protection to advise the Fair Work Ombudsman had not yet received any allegations. The Department of Immigration and Border Protection was invited to provide further particulars for the Fair Work Ombudsman to action accordingly. The Fair Work Ombudsman confirmed there was no compliance history with the Company. The Department of Immigration and Border Protection advised they had initiated monitoring and would provide the Fair Work Ombudsman with relevant information when it became available.

On 23 January 2015, the Fair Work Ombudsman advised the Department of Immigration and Border Protection by email that it was undertaking an investigation into Chia Tung with regard to all allegations of contraventions of the Fair Work Act 2009. The Fair Work Ombudsman requested details of all workers sponsored by Chia Tung and associated entities.

On 28 January 2015, three Fair Work Ombudsman inspectors along with Department of Immigration and Border Protection inspectors conducted a joint site visit to Bomaderry (the Nowra site). Fair Work Building and Construction inspectors were also present. Fair Work

Ombudsman inspectors undertook an investigation into allegations of contraventions of the Fair Work Act 2009, conducted interviews with Chia Tung employees and visited the employees' accommodation. The Department of Immigration and Border Protection attended the site at this time to investigate matters within its jurisdiction.

On 20 March 2015, the Fair Work Ombudsman referred the findings of the Fair Work Ombudsman investigation to the Department of Immigration and Border Protection, in accordance with the Memorandum of Understanding.

On 26 March 2015, the Fair Work Ombudsman advised the Department of Immigration and Border Protection that the Agency had secured an Enforceable Undertaking with Chia Tung. Details of the terms of the Enforceable Undertaking were also provided.