

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2017 - 2018

Agency - Fair Work Ombudsman

Department of Employment Question No. EMSQ17-004129

Senator Cameron, Doug asked on 30 May 2017 on proof Hansard page 38

Question

FWO - Details of education and investigations

Senator CAMERON: What is the breakdown of allocation of resources within the ombudsman's office on education and advice versus enforcement?

Ms James : We have people who you might put at one or other end of the spectrum, but we would say that many of our officers are doing both. When someone comes to us for help—rings our Fair Work Infoline, for example—they will receive information and advice. If it looks like there may be a dispute going on in the workforce we might refer them at that moment to our early intervention officers, who will work through how they might resolve that dispute in the workplace. Then perhaps you are starting to edge away from education into the compliance space.

So we would say it is a spectrum; I would not be able to give you a dollar amount for each of those functions, because we see them as part of the continuum that many of our officers are doing every day. I could talk to you about the number of officers in different parts of my organisational structure. We do have an education team; they research and produce products that end up on our website and in other places. But a large number of officers of the Fair Work Ombudsman are engaged in education, advice and compliance over the course of any given week.

Senator CAMERON: Well then, could you provide a chart that attempts to give us the details about the delineation between education and investigation?

Ms James: Certainly; we will take that on notice and look at how we can unpack some of that for you.

Answer

The Fair Work Ombudsman (FWO) undertakes a mix of education and enforcement activities to promote compliance with workplace laws.

When we encounter situations where a breach of workplace laws may have occurred, we have a range of tools available to respond. Whether our response is to educate, facilitate, investigate or enforce will depend on the circumstances of each matter, and in many cases we do a combination of these things. We are guided by our Compliance and Enforcement Policy with respect to how and when we use the tools available to us.

Activities Initiated by Individual Contacts

Requests for Information

Requests for Assistance to Resolve a Dispute

FWO Initiated Activities & Compliance

The FWO provides education through:

- access to online resources, which are available in 30 different languages:
 - Pay calculator;
 - Fact sheets; and
 - Best practice guides
- online learning modules;
- access to individualised information through:
 - My account;
 - Fair Work Infoline; and
 - Small Business Hotline.

Staff from the Advice, Support & Assistance (ASA) branch engage with individuals using the tools and products created by the Education Resources team. If it becomes evident in the interaction that a dispute has arisen, the matter may be referred for dispute resolution.

Disputes received are assessed by ASA staff against our *Compliance and Enforcement Policy* to determine what action should be taken. A range of factors are taken into consideration, including the seriousness of the allegations, the size and compliance history of the employer and the vulnerability of the employee.

Dispute resolution is carried out by a range of teams who provide specialised assistance, such as mediation, or we refer more serious matters to a compliance team for investigation. Some individuals are assisted by the FWO through the small claims process.

The FWO initiates education and compliance activities directed towards particular industries that are high risk. Targets are determined through the analysis of a range of information, including:

- requests for assistance (especially repeated requests in relation to a target)
- tip-offs (including Anonymous Reports)
- media reports;
- audits; and
- information from other agencies.

Audits and Investigations are carried out by inspectors. They may involve the deployment of formal statutory powers. They may occur as part of a broader strategic inquiry or a self-initiated compliance activity and produce a range of outcomes, including:

- Letters of Caution;
- Compliance Partnerships;
- Enforceable Undertakings;
- Compliance Notices;
- Infringement Notices; and
- Litigation.

These activities are undertaken by the Proactive Compliance and Education and Dispute Resolution and Compliance branches.

