

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2017 - 2018

Agency - Fair Work Ombudsman

Department of Employment Question No. EMSQ17-004161

Senator Cameron asked on 30 May 2017 on proof Hansard page 60

Question

FWO - Apprentices and trainees - legal action for breaches of employer obligations

Senator CAMERON: Let me go to some of the individual areas that I have been advised on. A plumber underpaid adult apprentices \$40,000 in May 2017. A plumbing business in regional Victoria underpaid an adult apprentice more than 40 grand after paying rates as low as \$7.37 an hour. It simply committed to overhaul its workplace practices. Given such an egregious underpayment, why was there no action taken against that plumber in regional Victoria?

Ms McAlary-Smith: I would have to take that on notice. I am not sure if that—it is unlikely to be part of a campaign.

Answer

The Fair Work Ombudsman (FWO) assesses the most appropriate action to take in response to non-compliance with workplace laws based on the circumstances of each individual matter and in line with the Agency's *Compliance and Enforcement Policy*.

In the case of Bendigo Smartplumb Pty Ltd, there were a number of factors that led to the conclusion that initiating legal proceedings against the company was not the most appropriate course of action, including:

- the employers operated a small business, employing around three employees at any one time;
- the FWO did not identify that the company had a history of non-compliance;
- throughout the investigation, the employers cooperated with the FWO and had commenced actions to ensure they were complying with their obligations; and
- the employer was willing to commit to an Enforceable Undertaking (EU) with the FWO.

Under the EU, the employer agreed to rectify the underpayments via a payment plan and make a \$2,000 donation to a community legal centre. The EU also requires that the company commission a professional audit of its compliance with workplace laws and to rectify any other breaches identified in the audit.