

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Fair Work Building and Construction

Department of Employment Question No. EMSQ15-000297

Senator Cameron asked on 22 October 2015 on proof Hansard page 98

Question

FWBC - Referrals relating to subcontractors

Senator CAMERON: In table 2.4 on page 33 of your report, you said you made 46 informal referrals relating to subcontractors' payments and licensing. That is up from 23 in 2013-14. In relation to the subcontractors' payments, are these cases where a subcontractor has made a complaint about not being paid by a head contractor?

Mr Hadgkiss: I would have to take that on notice.

Senator CAMERON: Do you keep details of these issues?

Mr Hadgkiss: I would imagine so. I will take that on notice.

Senator CAMERON: When you say you imagine so, does that mean you are not sure?

Mr Hadgkiss: I am saying I will take it on notice.

Senator CAMERON: To which agency is the referral made?

Mr Hadgkiss: If it is a wages and entitlement referral, it would go to the Fair Work Ombudsman.

Senator CAMERON: Does the doubling of the referrals indicate a growing problem in relation to subcontractors not being paid?

Mr Hadgkiss: I do not know.

Senator CAMERON: You do not know?

Mr Hadgkiss: It may be that because we are more active on building sites, we are deemed to be an agency—

Senator CAMERON: You said you do not know. So now you are speculating. Either you are going to speculate or you do not know.

Senator JOHNSTON: You criticise him when he does not give you a definitive answer. He cannot win, can he.

Mr Hadgkiss: It is best I take it on notice.

Senator CAMERON: It is best you take it on notice.

Answer

Of the 46 informal referrals relating to subcontractors' payment, FWBC records the category of complainant.

Source of contractual dispute complaints	Number of Complainant type
Sub-contractor	27
Individual	9
Independent Contractor	7
Other	2
Head-contractor	1
Total	46

FWBC does not automatically record the type of business the complaint is about. To provide this information would be an unreasonable diversion of agency resources.

In all instances the referral was made to the state agency that governs the Security of Payments Act in that state, these state agencies are:

- Institute of Arbitrators and Administrators NSW
- Victorian Building Authority
- NSW Office of Fair Trading
- Queensland Building and Construction Commission
- Small Business Development Corporation
- Western Australian Building Commission
- Small Claims Tribunal NSW
- NSW Civil and Administrative Tribunal
- QLD Civil and Administrative Tribunal
- Tasmania Consumer Affairs

Questions regarding trends in underpayments of subcontractors are best directed to the agencies listed above.