

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2011-2012**

Agency - Fair Work Ombudsman

DEEWR Question No. EW1089_12

Senator Abetz asked on 15 February 2012 , Hansard page 49

Question

FWO - Informing businesses of overpayments

Senator ABETZ: When an audit is one, the business is then told, 'Look, over here you might be underpaying.' But in another one, you might actually would inform them that they are overpaying. It is not something that they would have to ask for. Is it something that you volunteer to them, because in may anecdotal evidence, that is all I have to rely on, it stands to reason that if somebody is told by the Fair Work Ombudsman that they are underpaying, they might be a bit more upset than if they are told that they are overpaying, but no small business has ever told me that as a result of a Fair Work Ombudsman audit, they have been advised that they are actually overpaying their workers. Mr Ronson: I think it is fairer to say that for every audit there would be an audit findings letter that would be sent to the employer and within that letter there would be a reference to whether they have complied with the law or not. There would be a reference to information. Senator ABETZ: If you are overpaying, you are clearly complying with the law. But I am just wondering whether it is specifically drawn to their attention. Take it on notice, if not, that just might be worthwhile to let employers know whether or not that is the case.

Answer

The Fair Work Ombudsman has provided the following response

The purpose of an audit is to monitor and enforce compliance with Commonwealth workplace relations laws. Once an audit is completed, the employer receives a findings letter informing the employer as to its level of compliance with the legislated standards assessed under the audit.

The letter also provides information about Fairwork Online (www.fairwork.gov.au) where employers can find tools and resources to determine the appropriate award entitlements for their employment relationships.

This letter does not advise to what extent minimum wage entitlements may be exceeded. Any above-award payment is considered part of a contractual relationship between the employee and employer.