

Woolworths compliance partnership: final report

In 2014, the Fair Work Ombudsman (FWO) commenced an inquiry into Woolworths' procurement of trolley collection services. This followed our investigations into several non-compliant businesses providing Woolworths with contract trolley collection services. Our findings were detailed in an inquiry report.¹ The report noted that Woolworths' procurement and governance processes contributed to a culture of non-compliance in its supply chain network.

To address these findings, Woolworths Group Limited entered a three-year compliance partnership with the FWO on 22 September 2017. The terms of the partnership were contained in a Proactive Compliance Deed (PCD).² An interim report was published in August 2019.³

This final report summarises actions and outcomes against each of the commitments in the PCD.

Woolworths conducted various compliance-related activities during the term of the PCD, including investigations and internal and external audits of its trolley collection service supply chain. These activities identified that a total of \$914,661 was underpaid to 125 trolley collectors (including \$895,488 identified through internal investigations and audits, and \$19,173 identified by external auditors).

Woolworths worked with contracted service providers to ensure workers were back paid. A number of primary and secondary labour hire contractors have also been suspended or terminated.

Woolworths fulfilled its commitment to the compliance partnership and made substantial investments in governance and monitoring of its trolley collection services supply chain.

The FWO will continue to work with Woolworths to improve compliance in its supply chains.

PCD actions & outcomes

Communication

Woolworths published information about the partnership on woolworths.com.au and in national newspapers, *The Australian* and *The Australian Financial Review* in October 2017 (as per clause 4.2 of the PCD).

¹ FWO inquiry report: <https://www.fairwork.gov.au/ArticleDocuments/763/inquiry-into-trolley-collection-services-procurement-by-woolworths-limited.docx.aspx>

² <https://www.fairwork.gov.au/ArticleDocuments/762/woolworths-proactive-compliance-deed.docx.aspx>

³ <https://www.fairwork.gov.au/ArticleDocuments/762/woolworths-proactive-compliance-partnership-interim-report.pdf.aspx>

Trolley collection service providers were made aware of the PCD and its terms through service agreements, training, and other communications.

Woolworths established its 'Speak-Up' service in September 2017 (clause 8). This enables contractors, employees and members of the public to raise concerns or inquire about workplace issues via a hotline or web portal. The hotline covers 150 languages and the web portal is available in English, Hindi, Arabic, Korean, Bangla, Malay, Mandarin or Thai.

Enhancing systems & processes

Woolworths implemented several measures aimed at improving compliance with workplace laws by service providers in its trolley collection supply chain. These included:

- A dedicated **internal compliance team** set up in December 2017 to monitor legislative and procedural compliance within the trolley collection and cleaning supply chains.
- **Enhancements to payroll and workforce management system**, Pegasus in August 2019 to provide better visibility and management of data through the use of photo ID and linking of worker and sub-contractor profiles to primary contractor profiles.
- A **national procurement tender** for trolley collection services at over 1000 sites (including supermarkets, Metro, Dan Murphy's and Big W), led to a 48% reduction in the number of primary contractors from 29 to 15. Tender submissions were evaluated to ensure compliant and sustainable contract pricing.
- **Revisions to service providers agreements** to require compliance controls, including:
 - payments to workers by electronic fund transfer
 - maintaining accurate records of key management personnel
 - signing a Compliance Commitment document
 - registration with FWO's My account portal
 - notifying Woolworths of any complaints or requests regarding underpayments
 - obtaining prior written consent before engaging or changing sub-contractors.
- Introduction of **geo-fenced time keeping**, enabling trolley collectors within a set radius of a Woolworths site to log start and finish times using a unique identifier.
- Requirement for **service providers to engage a third-party payroll provider** as of September 2020.
- Improvement of the **visitor sign-in process** by increasing the visitor book retention period from 6 months to 7 years and implementation of an electronic sign-in system.

Workplace relations training

Woolworths engaged a human resources specialist to design workplace relations training for trolley collectors, contractors and Woolworths staff (clause 11), covering:

- the Woolworths' 'Speak-Up' hotline and email service
- FWO assistance and information

- minimum entitlements and employer obligations under the *Fair Work Act 2009*, *Fair Work Regulations 2009* and awards
- record-keeping and pay slip obligations
- general protections⁴
- contractor obligations under the *Migration Act 1958* to check collectors' right to work in Australia.

A total of 8,924 individuals completed the training between July 2018 and June 2020, including trolley collectors, cleaners, service providers and Woolworths employees.

Resolution of workplace disputes

Woolworths established an internal compliance team to monitor, audit and investigate compliance with workplace laws within its trolley collection service network. As at 30 September 2020, they dealt with 109 complaints through various channels, including:

- Speak-Up service (59)
- other internal sources including internal audits, investigations, direct contacts (26)
- FWO referrals as per clause 9 of the PCD (22)
- other external sources (2).

99 matters (91%) were closed. 10 (9%) remained open as at 30 September 2020.

\$895,488 in underpayments and superannuation was back paid by contractors and Woolworths⁵ to 73 trolley collectors (working across 51 sites and 6 states/territories). The highest reimbursement to a single worker was \$89,096, and the lowest was \$4.

38 matters were found to involve serious non-compliance by contractors, including underpayment of entitlements, falsification of records and multiple levels of sub-contracting.

35 sub-contractors and their key management personnel were debarred, meaning they were prohibited from providing services at all Woolworths sites. 3 primary contractors were temporarily put on-hold and excluded from tendering until issues were rectified.

FWO referrals

We referred 22 requests for assistance from current or former trolley collectors to Woolworths' new internal compliance team for investigation. This included some reports made to the FWO on an anonymous basis. While Woolworths were not able to resolve all referrals, they undertook to add the sites referred for future audits.

⁴ <https://www.fairwork.gov.au/employee-entitlements/protections-at-work>

⁵ \$2500 was reimbursed by Woolworths

A total of \$326,685.85 was paid to employees because of FWO referrals during the PCD term. Two matters were resolved outside of the PCD, resulting in a further \$31,620.02 reimbursed.

Self-audits

Woolworths implemented an external and internal annual audit program as required under clause 7 of the PCD.

External audits

Contractors at a sample of sites including urban and regional locations in each state and territory were audited by BSI Group Australia,⁶ Intertek⁷ or SAI Global.⁸

Auditors visited 169 sites to interview contractor administrative staff and trolley collectors, and reviewed employee wage records covering a six-week period.

They identified pay slip errors, underpayment of wages, and incorrect rosters and timesheets.

They found \$19,173 in underpayments to 52 workers, which was fully reimbursed by the contractors.

Internal audits

Woolworths' internal compliance team audited an additional 137 sites during the term of the PCD using a mix of site visits and desk-based audits.

Investigations arising from these audits led to \$235,204 being repaid by contractors to 6 workers at 4 sites (this is included in the \$895,488 reported above, under 'resolution of workplace disputes'). One matter involved a \$43,500 back-payment to an employee and the termination of a sub-contractor for multiple breaches, including payment of a daily flat rate and falsification of records.

Reporting to the FWO

As part of the partnership Woolworths reported to us on a quarterly, half-yearly and annual basis on matters including:

- complaints received through the 'Speak up' service
- results of its internal and external audits
- investigations of FWO referrals.

⁶ <https://www.bsigroup.com/en-AU/>

⁷ <https://www.intertek.com/>

⁸ <https://www.saiglobal.com/>