

## Enquiry

# 2467068

Enquiry No. 2467068	Status Resolved	Status Reason Advice Provided	Total Time Open (days) 1
------------------------	--------------------	----------------------------------	-----------------------------

### ENQUIRY

No of employees

Channel

Inbound Phone


#### EMPLOYEE DETAILS

Enquiry Type Level 1  Entitlements

State

Vic

Occupation

Enquiry Type Level 2  Coverage

Matter Number (Nexus)

Main Duties

unknown

Matter ID number (Titan)

Employee Status

Awaiting Accept/Decline No

Related Enquiry

Is apprentice or trainee? Neither

Created On 23/09/2021 10:27 AM

Employment start date

#### CUSTOMER/ORGANISATION

Employment end date

Customer 

Legal Name 

Enquirer Type Employer representative

#### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

**ORGANISATION DETAILS**

**NOMINATED TO ACT ON CUSTOMER'S BEHALF**

**Full Name**

**Phone**

**Email**

**ATTEND FWO OFFICE**

**Can attend FWO office (if required)** No

**Interpreter Required**

No

**FWO Office**

**Language**

ATIS Phone number: s.22


Infoline:  
Account  
number  
s.22  
Access  
number  
s.2

Customer Solutions: Account number s.22 Access  
number s.2

**Industry Level 1**

 Professional, Scientific and  
Technical Services


**Industry Level 2**

 Professional, Scientific and  
Technical Services (except Computer  
System Design and Related)

**Industry Level 3**

 Management and Related  
Consulting Services

**Industry Level 4**

 Management Advice and Related  
Consulting Services n.e.c.

**Instrument Type**

 Modern Award

**Employer Association**

**Pre-Post Reform**

**Bound To Award**

**ENQUIRY DETAILS**

**DESCRIPTION**

clerks award

19.3 how does this apply ?

what would they get paid if they worked overtime?  
- base rate ?

**ENQUIRY TREATMENT & SUMMARY**

**Team Treatment**

**ACTIONS & SOLUTIONS**

19.3 Higher duties allowance

The employer must pay an employee required to perform any of the duties of a higher classification for more than one day at least the minimum rate applicable to the higher level under this award.

NOTE: Classification levels are described in Schedule A—Classification Structure and Definitions.

- minimum base rate rate of pay applies

**Recommended Treatment**

**Assessment Summary**

s.22 ASSESSMENT [23/09/2021]  
s.22 irrelevant information

**Mediation Conducted** No

**Forward Reason**

**FWO Outcome** Advice Provided

**DETAILS FOR KNOWLEDGE TEAM**

DETAILS FOR KNOWLEDGE TEAM

**Background Information**

Specific questions/issue to be addressed

Recommending Team Lead

Legislation/ Industrial instruments considered

Quality Coach/TL Opinion

**MONIES RECOVERED**

**Total (all non-confidential payments)**

**Total employees paid relating to enquiry**

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee
No Money Recovered records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

**RELATED OBJECTS**

Customer	Link Type	URL	Knowledge Object Title	Link	
No Link records are available in this view.					
0 - 0 of 0 (0 selected)			Page 1	No Linked Knowledge Object records are available in this view.	
0 - 0 of 0 (0 selected)			Page 1	0 - 0 of 0 (0 selected)	
			Page 1		

**NOTES AND INTERACTIONS**

NOTES AND ACTIVITIES

SPECIAL CATEGORIES

Name	Owner
EMAIL ADDRESSES	
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	
Name	Page 1
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected)	
Page 1	

REQUEST FOR ASSISTANCE

ADDITIONAL EMPLOYEE DETAILS

Employee Received Paid Leave

Employee's Date of Birth

Is Employee an Intern

Working as an Independent Contractor

Contractor or Employee

PERMISSION TO CONTACT THE EMPLOYER

Privacy Consent

Confidential  No

Permission to Contact Employer

Full Name

Phone

Issue discussed with the Employer


Reason for not discussing the issue

Employer's Response

Are Other Employees affected

Pay Rate (Before tax)

Currency

 Australian Dollar

Name	Description	Created
No Supporting Evidence records are available in this view.		
0 - 0 of 0 (0 selected)		
Page 1		

Name	COI Type
No Classification of Issues records are available in this view.	

Documents released by the Fair Work Ombudsman Under the Freedom of Information Act

**Email**

0 - 0 of 0 (0 selected)		Page 1
Category	Topic	
<b>CASE DETAILS</b> No Topic records are available in this view.		
<b>Is Suitable For Case Study</b> No		Page 1
0 - 0 of 0 (0 selected)		

**MESSAGES**

**Case Study Reason**

**Is Suitable For Follow Up** No

**CONSENT TO MEDIATION**

**OFFICE ADDRESS**

**Employer/Employee Contacted**

**Office**

**Consent to Mediation**

Name
No Memorandum Of Understanding records are available in this view.
0 - 0 of 0 (0 selected)
Page 1

Name	Official Name	Alpha...
No Country/Region records are available in this view.		
0 - 0 of 0 (0 selected)		
Page 1		

Name
No Educational Assistance records are available in this view.
0 - 0 of 0 (0 selected)
Page 1

**MEDIATION**

Documents Released by the Fair Work Ombudsman Under the Freedom of Information

**Non-Monetary Outcomes**

**TOS**

**Total Time Spent (minutes)**

120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee I
No Booking Activity records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

Title	Owner	Created On
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.		
0 - 0 (0 selected)		Page 1

**LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

**Referral Contact**

**Legal Advice ID number**

**EMPLOYER ADVISORY SERVICE**

**Eligible for EAS?**

**EAS Source**

**EAS Request Details**

**EAS Assessment**

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Information	Legal Firm	Status
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected)		0 - 0 of 0 (0 selected)		Page 1

### INTRINSICS

Avaya Contact ID

Skillset

Small Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[REDACTED]

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

[View Customer](#) [Search Customer](#) [Edit Customer](#) [Register Customer](#) [Reset Password](#) [View Organisation](#) [Search Organisation](#)  
[Search Employer](#) [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



## Enquiry

# 2510491

Enquiry No. 2510491	Status Resolved	Status Reason Advice Provided	Total Time Open (days) 6
------------------------	--------------------	----------------------------------	-----------------------------

### ENQUIRY

No of employees 1,000

Channel Inbound Phone

Enquiry Type Level 1  Entitlements

State Vic

Enquiry Type Level 2  Hours of Work

Matter Number (Nexus)

Matter ID number (Titan)

Awaiting Accept/Decline No

Related Enquiry

Created On 4/11/2021 8:25 AM

### EMPLOYEE DETAILS

Occupation

Main Duties MA4 and MA2

Employee Status 

Is apprentice or trainee? Neither

Employment start date

Employment end date

### CUSTOMER/ORGANISATION

Customer 

Legal Name 

Enquirer Type Employer

### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S BEHALF

Full Name

Phone

Email

ATTEND FWO OFFICE

Can attend FWO office (if required) No

Interpreter Required

No

FWO Office

Language

ATIS Phone number: s.22

Infoline:  
Account  
number  
s.22  
Access  
number  
s.2

Customer Solutions: Account number s.22 Access  
number s.2

Industry Level 1

Information Media and  
Telecommunications

Industry Level 2

Publishing (except Internet and  
Music Publishing)

Industry Level 3

Software Publishing

Industry Level 4

Software Publishing

Instrument Type

Modern Award

Employer Association

Pre-Post Reform

Bound To Award

ENQUIRY DETAILS

DESCRIPTION

- MA4 - notification of rosters 15.9 (c)(d) - roster can be changed by mutual agreement with 7 days notice or 14 if no agreement  
Says applies to all employees except part time  
Does this apply to casuals?
- MA4 and MA2 - 10.5 - rostering for 3 consecutive hours or paid as such  
Have sought external legal advice which says it's not paid because it leaves off requirement, why does FWO say it is required?
- Cold work 19.9(b)(c) of MA4 - is that for entire day or just for day when they work in the

ACTIONS & SOLUTIONS

- \*Forwarded to vic queue to determine whether cold storage allowance paid for entire shift or just hours worked on that shift. Also to confirm advice provided for questions 1 and 2.\*
- Advised, yes still applies to casuals but does not override casual entitlements generally
  - Advised, yes still paid for three hours even if they work less, no ambiguity in clause requiring three hours per engagement
- s.22  
Contact attempted, no answer. Message left that we would attempt contact again another

cold chamber  
"while so employed is not clear"

**ENQUIRY TREATMENT & SUMMARY**

---

**Team Treatment**

**Recommended Treatment**

Assessment Summary **s.22** ASSESSMENT 04/11/2021

**s.22 irrelevant information**

time.

As per KNO-027535 (confirmed with TLO, see notes):

Pre-condition for the allowance is that the employee is "principally employed on any day to enter cold chambers or to stock or refill refrigerated storages such as dairy cases or freezer cabinets."

Our view is that it would be payable for the day/shift during which they are "principally employed" performing such work (AKA 'while so employed').

Our view is that the relevant cold work allowance is payable for any day/shift when an employee is "principally employed on any day to enter cold chambers or to stock or refill refrigerated storages such as dairy cases or freezer cabinets".

They would be entitled to the allowance for the duration of the day/shift they were employed to principally perform this work as this would be the time they were 'so employed'.

The minimum shift for a part-time employee under the General Retail Industry Award is 3 hours. An employee is not able to agree to receive less than the minimum required by the award.

If an employer directs a part-time employee to attend for less than 3 hours in a shift, they will need to pay the employee for the minimum 3 hours if:

- It was not a stand-down; and
- The employee was ready, willing, and able to work.

A stand-down is one of the few times an employer can direct a full-time or part-time employee not to attend work for the required ordinary hours and not pay them.

Clause 15.9(e) in the General Retail Industry Award does not apply to a casual employee.

---

Mediation Conducted	No
Forward Reason	Callback to Client Required
FWO Outcome	Advice Provided

**DETAILS FOR KNOWLEDGE TEAM**

**DETAILS FOR KNOWLEDGE TEAM**

---

Background Information

Legislation/ Industrial instruments considered

Specific questions/issue to be addressed  
Recommending Team Lead

Quality Coach/TL Opinion

**MONIES RECOVERED**

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employees
No Money Recovered records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

**RELATED OBJECTS**

Customer	Link Type	URL	Record Knowledge Object Title	Link
No Link records are available in this view.			No Linked Knowledge Object records are available in this view.	
0 - 0 of 0 (0 selected)			0 - 0 of 0 (0 selected)	
Page 1			Page 1	

**NOTES AND INTERACTIONS**

**NOTES AND ACTIVITIES**

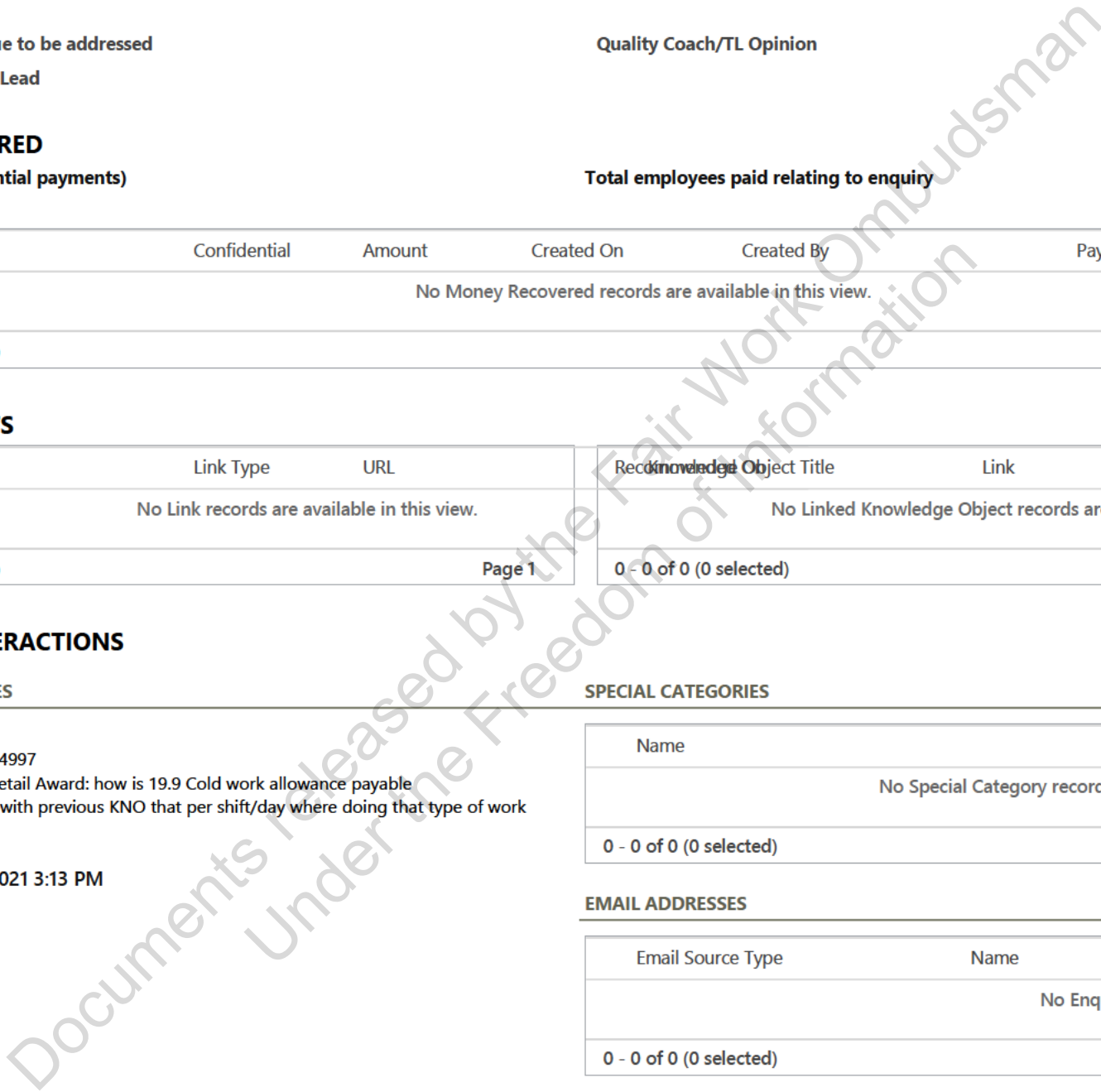
Title: KNO-034997  
 Your reference : KNO-034997  
 Executive Description : Retail Award: how is 19.9 Cold work allowance payable  
 Outcome Details : agree with previous KNO that per shift/day where doing that type of work  
 Knowledge Record  
 Fair Work Ombudsman  
 s.22 [REDACTED] 8/11/2021 3:13 PM

**SPECIAL CATEGORIES**

Name	Owner
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	
Page 1	

**EMAIL ADDRESSES**

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected)	
Page 1	



### REQUEST FOR ASSISTANCE

#### ADDITIONAL EMPLOYEE DETAILS

---

Employee Received Paid Leave

Employee's Date of Birth

Is Employee an Intern

Working as an Independent Contractor

Contractor or Employee

Issue discussed with the Employer

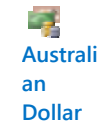
Reason for not discussing the issue

Employer's Response

Are Other Employees affected

Pay Rate (Before tax)

Currency



#### PERMISSION TO CONTACT THE EMPLOYER

---

Privacy Consent

Confidential No

Permission to Contact Employer

Full Name

Phone

Email

#### MESSAGES

---

Name	Description	Created
No Supporting Evidence records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

Name	COI Type
No Classification of Issues records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

Category	Topic
No Topic records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

#### CASE DETAILS

---

Is Suitable For Case Study No

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

**Case Study Reason**

Is Suitable For Follow Up No

**CONSENT TO MEDIATION**

Employer/Employee Contacted

Consent to Mediation

**OFFICE ADDRESS**

**Office**

Name
No Memorandum Of Understanding records are available in this view.
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>

Name	Official Name	Alpha...
No Country/Region records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

Name
No Educational Assistance records are available in this view.
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>

**MEDIATION**

Non-Monetary Outcomes

TOS

Total Time Spent (minutes)

120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee T
No Booking Activity records are available in this view.						

0 - 0 of 0 (0 selected)			Page 1
Title	Owner	Created On	
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.			
0 - 0 (0 selected)			Page 1

### LEGAL ADVICE PROGRAM

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number

### EMPLOYER ADVISORY SERVICE

Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref ID	Legal Firm	Status
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected)		0 - 0 of 0 (0 selected)		
Page 1		Page 1		

### INTRINSICS

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[REDACTED]

- 
- [View Customer](#)
  - [Search Customer](#)
  - [Edit Customer](#)
  - [Register Customer](#)
  - [Reset Password](#)
  - [View Organisation](#)
  - [Search Organisation](#)
  - [Search Employer](#)
  - [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information






### Phone Call

# Contact attempted, no answer. Messag...

Priority	Due	Status	Owner
Normal		Completed	 s.22

### Phone Call

<b>Subject</b>	Contact attempted, no answer. Message left that we would attempt contact again another time. As...	<b>Regarding</b>	 2510491
<b>Call From</b>	 s.22	<b>Duration</b>	
<b>Call To</b>		<b>Callback</b>	No
<b>Skillset</b>		<b>Direction</b>	Outgoing
<b>Phone Number</b>		<b>Created On</b>	8/11/2021 3:22 PM
		<b>Avaya Contact ID</b>	
		<b>Pure Cloud ID</b>	
<b>Communication Type</b>	Phone Call	<b>Communication Source</b>	External

#### Description

Contact attempted, no answer. Message left that we would attempt contact again another time.

As per KNO-027535 (confirmed with TLO, see notes):

Pre-condition for the allowance is that the employee is "principally employed on any day to enter cold chambers or to stock or refill refrigerated storages such as dairy cases or freezer cabinets."

Our view is that it would be payable for the day/shift during which they are "principally employed" performing such work (AKA 'while so employed').

Documents released by the Fair Work Ombudsman Under the Freedom of Information


Paid per hour, so different amounts depending on how long the day/shift is (as opposed to a daily allowance).

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information






### Phone Call

# Contact made. Our view is that the rele...

Priority	Due	Status	Owner
Normal		Completed	 <b>s.22</b>

### Phone Call

<b>Subject</b>	Contact made. Our view is that the relevant cold work allowance is payable for any day/shift...		<b>Regarding</b>	 2510491	
<b>Call From</b>	 <b>s.22</b>		<b>Duration</b>		
<b>Call To</b>			<b>Callback</b>	No	
<b>Skillset</b>		<b>Direction</b>	Outgoing	<b>Created On</b>	9/11/2021 10:36 AM
<b>Phone Number</b>		<b>Avaya Contact ID</b>			
		<b>Pure Cloud ID</b>			
<b>Communication Type</b>	Phone Call	<b>Communication Source</b>	External		

#### Description

Contact made.

Our view is that the relevant cold work allowance is payable for any day/shift when an employee is "principally employed on any day to enter cold chambers or to stock or refill refrigerated storages such as dairy cases or freezer cabinets".

They would be entitled to the allowance for the duration of the day/shift they were employed to principally perform this work as this would be the time they were 'so employed'.

The minimum shift for a part-time employee under the General Retail Industry Award is 3 hours. An employee is not able to agree to receive less than the minimum required by the award.

If an employer directs a part-time employee to attend for less than 3 hours in a shift, they will need to pay the employee for

the minimum 3 hours if:

- It was not a stand-down; and
- The employee was ready, willing, and able to work.

A stand-down is one of the few times an employer can direct a full-time or part-time employee not to attend work for the required ordinary hours and not pay them.

Clause 15.9(e) in the General Retail Industry Award does not apply to a casual employee. This is because the clause is inconsistent with the definition of a casual employee provided by the Fair Work Commission.

A casual employee has no guaranteed hours of work (other than the minimum engagement per day) and no firm advance commitment that the work will continue indefinitely with an agreed pattern of work.

As such, an employer can't make 'permanent roster changes' to a casual employee's roster, because casual employees do not have a permanent roster.

Clause 35 may apply if a casual employee has been working a regular roster and the employer wants to change it, however this is still not a permanent roster.

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

## Email



# Fair Work Ombudsman

Priority  
Normal

Due

Status Reason  
Sent

Owner  
 [REDACTED] s.22

## Email

**From** Fair Work Ombudsman (Do Not Reply email)

**To**

**Cc**

**Bcc**

**Subject** [REDACTED] Fair Work Ombudsman

**Communication Source** External

**Created On** 9/11/2021 10:37 AM

### Attachments

File Name	File Size (Bytes)
No Email Attachment records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1



Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Thankyou for your enquiry regarding the cold work allowance in the [General Retail Industry Award](#) and talking with us today.

Our view is that the relevant cold work allowance is payable for any day/shift when an employee is “principally employed on any day to enter cold chambers or to stock or refill refrigerated storages such as dairy cases or freezer cabinets”.

They would be entitled to the allowance for the duration of the day/shift they were employed to principally perform this work as this would be the time they were ‘so employed’.

The minimum shift for a part-time employee under the General Retail Industry Award is 3 hours. An employee is not able to agree to receive less than the minimum required by the award.

If an employer directs a part-time employee to attend for less than 3 hours in a shift, they will need to pay the employee for the minimum 3 hours if:

It was not a [stand-down](#); and  
The employee was ready, willing, and able to work.

A stand-down is one of the few times an employer can direct a full-time or part-time employee not to attend work for the required ordinary hours and not pay them.

Our view is that clause 15.9(e) in the General Retail Industry Award does not apply to a [casual employee](#). This is because the clause is inconsistent with the definition of a casual employee provided by the Fair Work Commission.

A casual employee has no guaranteed hours of work (other than the minimum engagement per day) and no firm advance commitment that the work will continue indefinitely with an agreed pattern of work.

As such, an employer can't make 'permanent roster changes' to a casual employee's roster, because casual employees do not have a permanent roster.

Clause 35 in the award may apply if a casual employee has been working a regular roster and the employer wants to change it, however this is still not a permanent roster.

Regards

[REDACTED]  
Fair Work Ombudsman

***\*\* Please note this advice is current and up to date as of 10:35 am 9 November 2021, but please continue to check our website for further updates***

Regarding  [2510491](#)

Duration

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

## Enquiry

# 2518146

Enquiry No. 2518146	Status Resolved	Status Reason Advice Provided	Total Time Open (days) 4
------------------------	--------------------	----------------------------------	-----------------------------

### ENQUIRY

No of employees 1,000

Channel Inbound Phone

Enquiry Type Level 1  Entitlements

State Vic

Enquiry Type Level 2  Other

Matter Number (Nexus)

Matter ID number (Titan)

Awaiting Accept/Decline No

Related Enquiry

Created On 11/11/2021 12:40 PM

### EMPLOYEE DETAILS

Occupation

Main Duties retail

Employee Status 

Is apprentice or trainee? Neither

Employment start date

Employment end date

### CUSTOMER/ORGANISATION

Customer 

Legal Name 

Enquirer Type Employer representative

### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S BEHALF

Full Name

Phone

Email

ATTEND FWO OFFICE

Can attend FWO office (if required) No

Interpreter Required No

FWO Office

Language

ATIS Phone number: s.22

Infoline:  
Account  
number  
s.22  
Access  
number  
s.2

Customer Solutions: Account number s.22 Access  
number s.2

Industry Level 1 Information Media and  
Telecommunications

Industry Level 2 Publishing (except Internet and  
Music Publishing)

Industry Level 3 Software Publishing

Industry Level 4 Software Publishing

Instrument Type Modern Award

Employer Association

Pre-Post Reform

Bound To Award

ENQUIRY DETAILS

DESCRIPTION

ERR calling regarding General Retail Industry award:

Wanting information on rostering provisions in the general retail industry award-

- clause 15.6 :
- How do 15.6g) and 15.6h) interact with each other?
- What about 15.6(h)(vi)? and 15.6(m)(i) -

-----

L2 s.22

ACTIONS & SOLUTIONS

L2 s.22 - took over call.

MA000004: General Retail Industry Award 2020

- 15.6 Full-time employees
- (h) The options are:
- (iii) taking 4 hours off per fortnight in addition to the rostered day off;or
- (iv) taking a fixed day off per 4 week cycle;or
- (v) taking a rotating day off per 4 week cycle;or
- (vi) having an accumulating day off per 4 week cycle with a maximum of 5 days being accumulated over 5 such cycles.

[REDACTED]

ER rep adv this includes the ways in which EE's work weeks can be arranged.

ER rep adv [REDACTED] will be used for about 130 ER's.

- ER rep adv she is confused on how 15.6(h)(iii)(iv)(v) would work? as per (iii) the 4 extra hours off per fortnight is this paid or unpaid? is the additional day of paid or unpaid as well?  
ER rep wondering how this may interact with consecutive days off as well?

- Also 15.6(m) how does that interact with 15.6(h)(vi)?

Adv what it appears is EE's working longer shifts over the cycle which is going towards an additional day off being paid. Adv it may be similar to MA20 with RDO cycle.  
Adv will put through to be looked into further.  
Adv someone will be in contact once looked into.

- 15.6 Full-time employees
  - Banking of rostered days off
    - By agreement between the employer and an employee, up to 5 rostered days off may be banked in any one year.
    - A banked rostered day off may be taken at a time that is mutually convenient to the employer and the employee.

Adv if there is agreement between ER and EE they can agree to bank 5 days off over a year instead of a 5 week cycle as per 15.6(h)(vi).

**ENQUIRY TREATMENT & SUMMARY**

**Team Treatment**

**Recommended Treatment**

**Assessment Summary**

s.22  
s.22 irrelevant information

Escalation - clause 15.6(h)(iii)(iv)(v) how are these options to be implemented?  
Is the 4 hours off per fortnight and the additional RDO paid or unpaid?  
Is the fixed day off per 4 week cycle paid as like MA20 RDO cycle?

Mediation Conducted	No
Forward Reason	Callback to Client Required
FWO Outcome	Advice Provided

**DETAILS FOR KNOWLEDGE TEAM**

**DETAILS FOR KNOWLEDGE TEAM**

Background Information  
Specific questions/issue to be addressed  
Recommending Team Lead

Legislation/ Industrial instruments considered  
Quality Coach/TL Opinion

**MONIES RECOVERED**

[REDACTED]

**Total (all non-confidential payments)**

**Total employees paid relating to enquiry**

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employees
--------------	--------------	--------	------------	------------	--------------	------------------

**RELATED OBJECTS**

No Money Recovered records are available in this view.

Customer (0 - 0 of 0 (0 selected))	Link Type	URL	Record Knowledge Object Title	Link	Page 1
No Link records are available in this view.			No Linked Knowledge Object records are available in this view.		
0 - 0 of 0 (0 selected) Page 1			0 - 0 of 0 (0 selected) Page 1		

**NOTES AND INTERACTIONS**

NOTES AND ACTIVITIES

SPECIAL CATEGORIES

Name	Owner
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected) Page 1	

EMAIL ADDRESSES

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected) Page 1	

**REQUEST FOR ASSISTANCE**

ADDITIONAL EMPLOYEE DETAILS

Employee Received Paid Leave

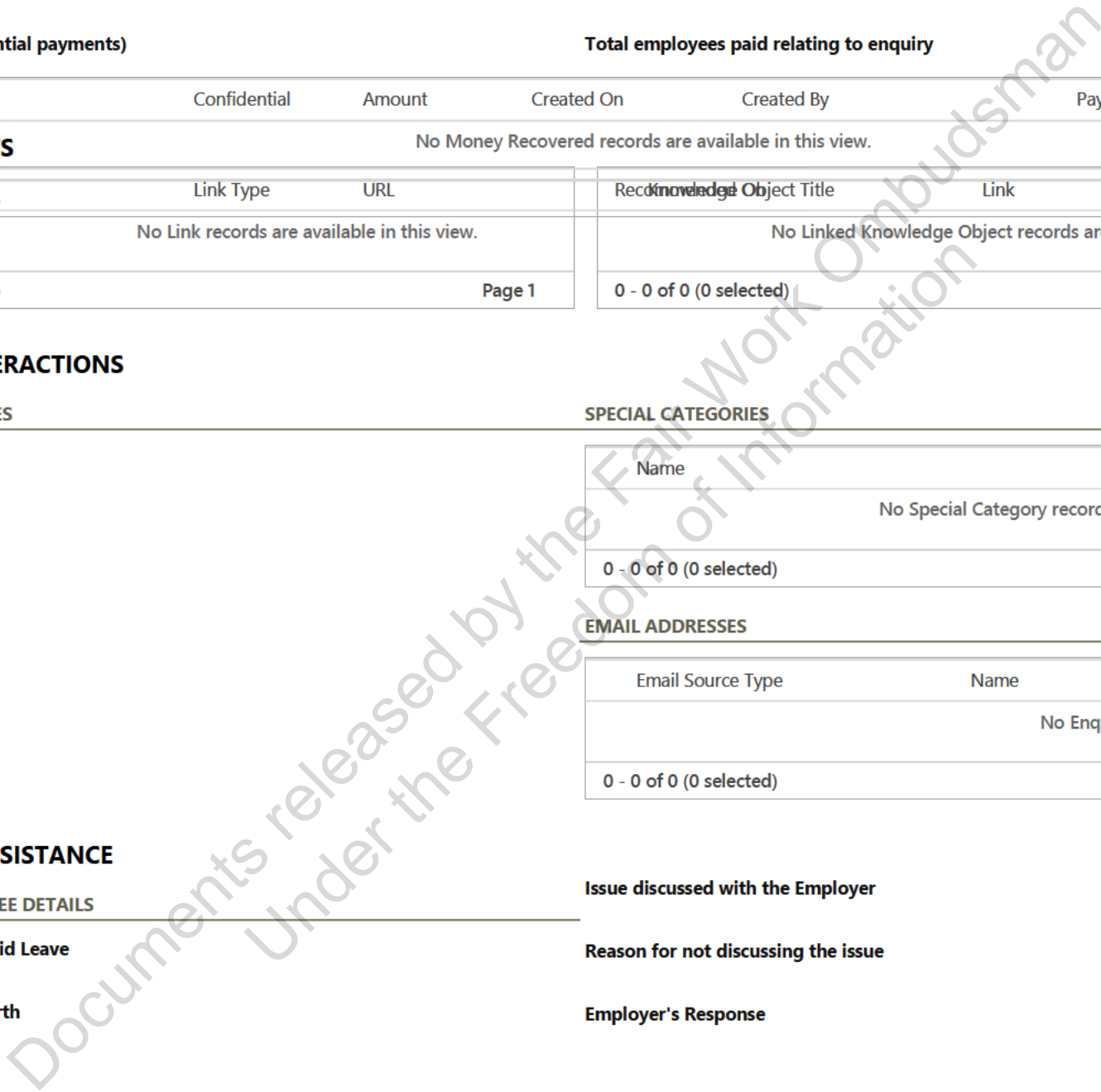
Employee's Date of Birth

Is Employee an Intern

Issue discussed with the Employer

Reason for not discussing the issue

Employer's Response



**Working as an Independent Contractor**

**Contractor or Employee**

**PERMISSION TO CONTACT THE EMPLOYER**

**Privacy Consent**

**Confidential** No

**Permission to Contact Employer**

**Full Name**

**Phone**

**Email**

**MESSAGES**

**OFFICE ADDRESS**

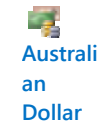
**Office**

Name

**Are Other Employees affected**

**Pay Rate (Before tax)**

**Currency**



Name	Description	Created
No Supporting Evidence records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

Name	COI Type
No Classification of Issues records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

Category	Topic
No Topic records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

**CASE DETAILS**

**Is Suitable For Case Study** No

**Case Study Reason**

**Is Suitable For Follow Up** No

**CONSENT TO MEDIATION**

**Employer/Employee Contacted**

Documents released by the Fair Work Ombudsman Under the Freedom of Information

No Memorandum Of Understanding records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

**Consent to Mediation**

Name	Official Name	Alpha...
------	---------------	----------

Name	No Country/Region records are available in this view.	
------	---	--

No Educational Assistance records are available in this view.		
0 - 0 of 0 (0 selected)	Page 1	

<b>Non-Monetary Outcomes</b>	<b>TOS</b>	Page 1
0 - 0 of 0 (0 selected)		

**Total Time Spent (minutes)** 120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee I
No Booking Activity records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

Title	Owner	Created On
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.		
0 - 0 (0 selected)		Page 1

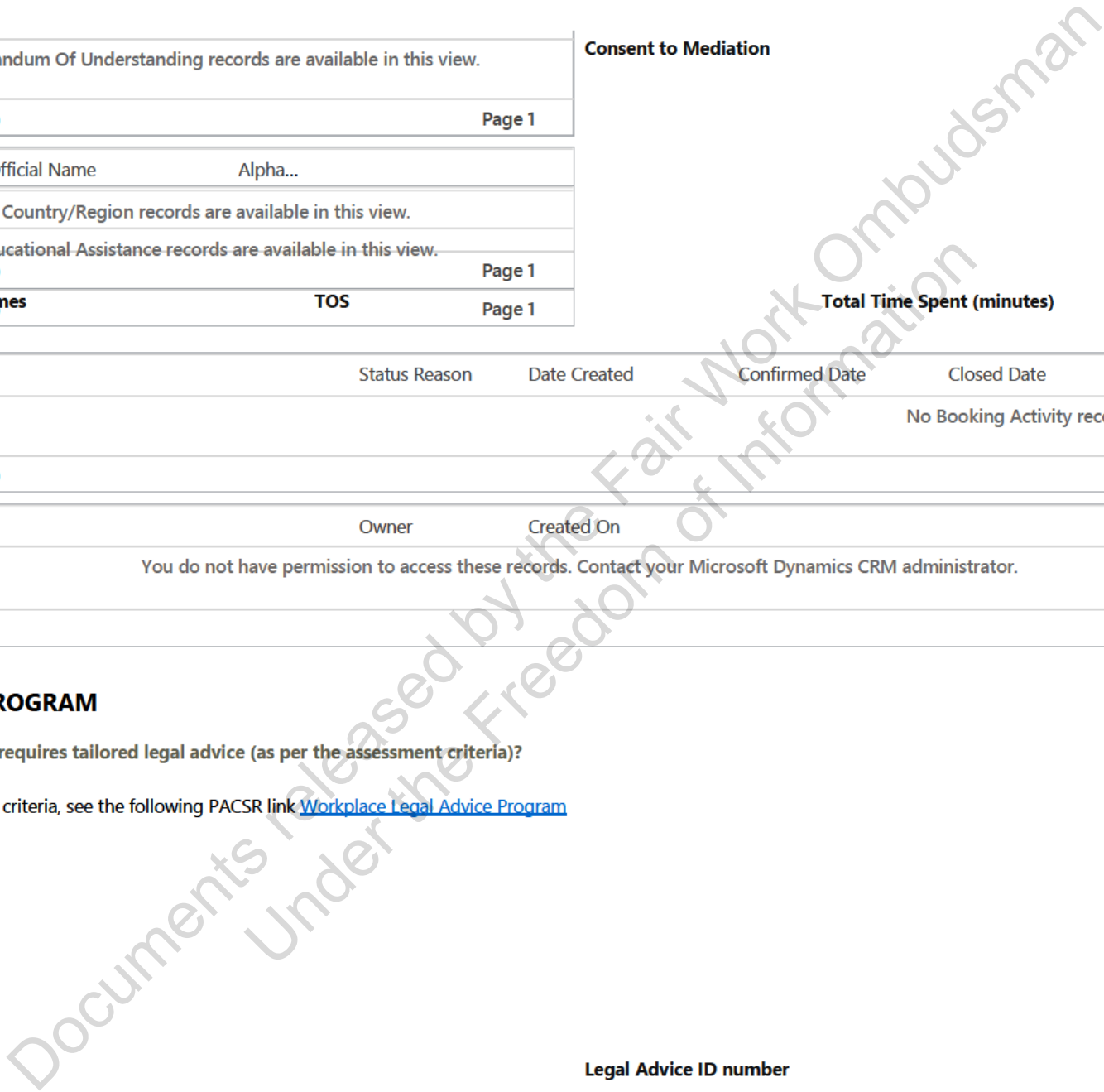
**LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number



### EMPLOYER ADVISORY SERVICE

Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref No	Legal Firm	Status I
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected) Page 1		0 - 0 of 0 (0 selected) Page 1		

### INTRINSICS

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[REDACTED]

- 
- [View Customer](#)
  - [Search Customer](#)
  - [Edit Customer](#)
  - [Register Customer](#)
  - [Reset Password](#)
  - [View Organisation](#)
  - [Search Organisation](#)
  - [Search Employer](#)
  - [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



### Phone Call

# 2:46 called er rep to discuss enquiry, a...

Priority: Normal      Due:      Status: Completed      Owner: [Redacted] s.22

### Phone Call

**Subject** 2:46 called er rep to discuss enquiry, advised er rep that time off under 15.6h of MA04 needs to... **Regarding** [2518146](#)

**Call From** [Redacted] s.22 **Duration**

**Call To** [Redacted] **Callback** No

**Skillsset** **Direction** Outgoing **Created On** 15/11/2021 3:19 PM

**Phone Number** **Avaya Contact ID**

**Pure Cloud ID**

**Communication Type** Phone Call **Communication Source** External

**Description**

2:46 called er rep to discuss enquiry, advised er rep that time off under 15.6h of MA04 needs to be paid inorder to make the averaging work

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



## Enquiry

# 2520373

Enquiry No.  
2520373

Status  
Resolved

Status Reason  
Advice Provided

Total Time Open (days)  
99

### ENQUIRY

No of employees 1,000

Channel Inbound Phone

Enquiry Type Level 1  Entitlements

State NSW

Enquiry Type Level 2  Other

Matter Number (Nexus)

Matter ID number (Titan)

Related Enquiry

Awaiting Accept/Decline No

Created On 15/11/2021 8:49 AM

### EMPLOYEE DETAILS

Occupation

Main Duties retail establishments

Employee Status

Is apprentice or trainee? Neither

Employment start date

Employment end date

### CUSTOMER/ORGANISATION

Customer

Legal Name

Enquirer Type

Employer representative

### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S BEHALF

Full Name

Phone

Email

ATTEND FWO OFFICE

Can attend FWO office (if required) No

Interpreter Required

No

FWO Office

Language

ATIS Phone number: s.22

Infoline:  
Account  
number  
s.22  
Access  
number  
s.2

Customer Solutions: Account number s.22 Access  
number s.2

Industry Level 1

Information Media and  
Telecommunications

Industry Level 2

Publishing (except Internet and  
Music Publishing)

Industry Level 3

Software Publishing

Industry Level 4

Software Publishing

Instrument Type

Not Applicable

Employer Association

Pre-Post Reform

Bound To Award

ENQUIRY DETAILS

DESCRIPTION

General Retail  
award compliance s.22

ACTIONS & SOLUTIONS

s.22 Currently with TLO

1. 15.9(g) - what is an event and what happens if there is an agreement? does overtime need to be paid?

2. Do FT EE's need to have an agreement on days and hours of work

3. 15.2 (c) can the trading hours change? does it need to be the whole week that they trade until 6pm? - Can there be an agreement for late night trading that the hours change?

4. 15.2(c) what are the ordinary hours on the weekend?

5. 18.2 if a business is doing averaging - if the EE gets paid weekly and works 30 hours in one week and than 46 the week after - do they just get paid 38 hours each week?

Mediation Conducted No

Forward Reason Referred to Knowledge Team

FWO Outcome Advice Provided

6. 19.4(a) what if its more than 3 weeks, is that a breach of the award?
7. does the business need to pay for Uber if the EE does not have transport?
8. 19.2 liquor licence - is this anyone that has a liquor licence or is it just where a liquor licence is needed for the role?
9. 25.2 what happens when a shift start between
  - normal shift is 2am - overtime before the shift (what's the payment for that)
  - baking production EE that starts at 2am? normal shift at 10pm?

#### ENQUIRY TREATMENT & SUMMARY

---

##### Team Treatment

##### Recommended Treatment

##### Assessment Summary

## DETAILS FOR KNOWLEDGE TEAM

### DETAILS FOR KNOWLEDGE TEAM

---

#### Background Information

24.2 For a baking production employee shiftwork means a shift starting at or after midnight and before 6.00 am.

25.2 Baking production employees—early morning shift rates

(a) A baking production employee who begins a shift at or after 2.00 am and before 6.00 am is entitled to an early morning shift rate of 112.5% of the minimum hourly rate for full-time and part-time employees and 137.5% of the minimum hourly rate for casual employees, inclusive of the casual loading.

(b) A baking production employee who begins a shift at or after midnight and before 2.00 am is entitled to a night shift rate of 130% of the minimum hourly rate for full-time and part-time employees and 155% of the minimum hourly rate for casual employees, inclusive of the casual loading.

#### Specific questions/issue to be addressed

How is a baking production employee paid if works outside the shift conditions?

#### Legislation/ Industrial instruments considered

MA000004: General Retail Industry Award 2020

#### Quality Coach/TL Opinion

KNO-035185 - Escalate

### MONIES RECOVERED

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee
No Money Recovered records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

### RELATED OBJECTS

Customer	Link Type	URL	Record Knowledge Object Title	Link
No Link records are available in this view.			No Linked Knowledge Object records are available in this view.	
0 - 0 of 0 (0 selected)		Page 1	0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>	

### NOTES AND INTERACTIONS

#### NOTES AND ACTIVITIES

**Title: TLO response**

email sent to customer about question on part time employees working outside the span. 3 other outstanding questions are still in research, including working outside span for baking production employees, see 2546407/ KNO-035654.

**s.2** 21/02/2022 3:19 PM

Title:

Your reference : KNO-035185

With Q.9 span of hours for baking production employees, we are currently reviewing this question. please escalate.

**s.22** 22/11/2021 11:44 AM

#### SPECIAL CATEGORIES

Name	Owner
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>	

#### EMAIL ADDRESSES

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>	

### REQUEST FOR ASSISTANCE

**ADDITIONAL EMPLOYEE DETAILS**

**Employee Received Paid Leave**

**Employee's Date of Birth**

**Is Employee an Intern**

**Working as an Independent Contractor**

**Contractor or Employee**

**PERMISSION TO CONTACT THE EMPLOYER**

**Privacy Consent**

**Confidential** No

**Permission to Contact Employer**

**Full Name**

**Phone**

**Email**

**MESSAGES**

**Issue discussed with the Employer**

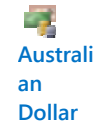
**Reason for not discussing the issue**

**Employer's Response**

**Are Other Employees affected**

**Pay Rate (Before tax)**

**Currency**



Name	Description	Created
No Supporting Evidence records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

Name	COI Type
No Classification of Issues records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

Category	Topic
No Topic records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

**CASE DETAILS**

**Is Suitable For Case Study** No

**Case Study Reason**

**Is Suitable For Follow Up** No

Documents released by the Fair Work Ombudsman Under the Freedom of Information Act

CONSENT TO MEDIATION

Employer/Employee Contacted

Consent to Mediation

OFFICE ADDRESS

Office

Name
No Memorandum Of Understanding records are available in this view.
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>

Name	Official Name	Alpha...
No Country/Region records are available in this view.		
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>		

Name
No Educational Assistance records are available in this view.
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>

MEDIATION

Non-Monetary Outcomes

TOS

Total Time Spent (minutes)

120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee T
No Booking Activity records are available in this view.						

0 - 0 of 0 (0 selected)			Page 1
Title	Owner	Created On	
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.			
0 - 0 (0 selected)			Page 1

### LEGAL ADVICE PROGRAM

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number

### EMPLOYER ADVISORY SERVICE

Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref ID	Legal Firm	Status I
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected)		0 - 0 of 0 (0 selected)		Page 1

### INTRINSICS

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[REDACTED]

- 
- [View Customer](#)
  - [Search Customer](#)
  - [Edit Customer](#)
  - [Register Customer](#)
  - [Reset Password](#)
  - [View Organisation](#)
  - [Search Organisation](#)
  - [Search Employer](#)
  - [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information





## Enquiry

# 2526329

Enquiry No. 2526329	Status Resolved	Status Reason Advice Provided	Total Time Open (days) 1
------------------------	--------------------	----------------------------------	-----------------------------

### ENQUIRY

No of employees 1,000


Channel Inbound Phone

#### EMPLOYEE DETAILS

Enquiry Type Level 1  Entitlements

State Vic

Occupation

Enquiry Type Level 2  Coverage

Matter Number (Nexus)

Main Duties N/A

Matter ID number (Titan)

Awaiting Accept/Decline No

Related Enquiry

Employee Status Unsure

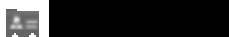
Created On 19/11/2021 9:38 AM

Is apprentice or trainee? Unsure

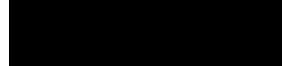
Employment start date

#### CUSTOMER/ORGANISATION

Customer

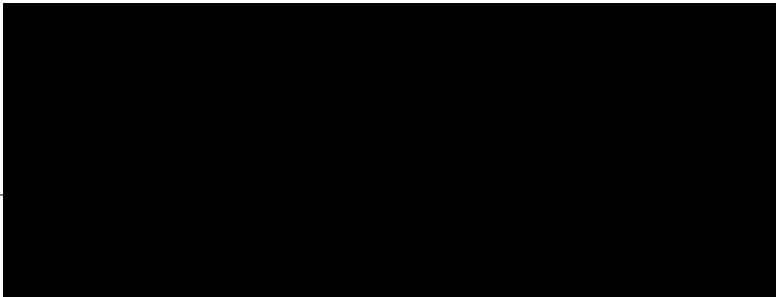


Legal Name



Employment end date

Enquirer Type Existing employee



#### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S BEHALF

Full Name

Phone

Email

ATTEND FWO OFFICE

Can attend FWO office (if required) No

Interpreter Required

No

FWO Office

Language

ATIS Phone number: s.22

Infoline:  
Account  
number  
s.22  
Access  
number  
s.2

Customer Solutions: Account number s.22 Access  
number s.2

Industry Level 1

Information Media and  
Telecommunications

Industry Level 2

Publishing (except Internet and  
Music Publishing)

Industry Level 3

Software Publishing

Industry Level 4

Software Publishing

Instrument Type

Modern Award

Employer Association

Pre-Post Reform

Bound To Award

ENQUIRY DETAILS

DESCRIPTION

Related for payment for shift workers if they are away from the business because of a public holiday.

Specifically retail.

Not working that day - What rate do they go

Constant shift workers - is shift worker rate their normal rate of pay?

Rounding of weekly rates

- When there is a national wage increase, wants to know how its calculated when we increase minimum rates under the award.

ACTIONS & SOLUTIONS

Escalating to VIC queue

Explained we would need to check the specific awards

Q) Payment for shift workers if they are away from the business because of a public holiday, mainly wants to know retail award, but mentioned they want to know the answer to this question for every single award.

- Might change based on the award

- Managed expectations that its unlikely we will go through every single modern award, advised they would likely need to conduct their own research

- Different provisions for different awards

ENQUIRY TREATMENT & SUMMARY

**Team Treatment**

**Recommended Treatment**

**Assessment Summary**

s.22  
s.22 irrelevant information  
[Redacted]

Q) Rounding of weekly rates  
- When there is a national wage increase, wants to know how its calculated when we increase minimum rates under the award.

---

**Mediation Conducted** No

**Forward Reason** Callback to Client Required

**FWO Outcome** Advice Provided

**DETAILS FOR KNOWLEDGE TEAM**

DETAILS FOR KNOWLEDGE TEAM

**Background Information**

Specific questions/issue to be addressed

Recommending Team Lead

Legislation/ Industrial instruments considered

Quality Coach/TL Opinion

**MONIES RECOVERED**

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employees
No Money Recovered records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

**RELATED OBJECTS**

Customer	Link Type	URL	Record Knowledge Object Title	Link
No Link records are available in this view.				
No Linked Knowledge Object records are available in this view.				
0 - 0 of 0 (0 selected)		Page 1	0 - 0 of 0 (0 selected)	
			Page 1	

## NOTES AND INTERACTIONS

### NOTES AND ACTIVITIES

### SPECIAL CATEGORIES

Name	Owner
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

### EMAIL ADDRESSES

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

## REQUEST FOR ASSISTANCE

### ADDITIONAL EMPLOYEE DETAILS

Employee Received Paid Leave

Employee's Date of Birth

Is Employee an Intern

Working as an Independent Contractor

Contractor or Employee

### PERMISSION TO CONTACT THE EMPLOYER

Privacy Consent

Issue discussed with the Employer

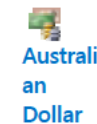
Reason for not discussing the issue

Employer's Response

Are Other Employees affected

Pay Rate (Before tax)

Currency



Name	Description	Created
------	-------------	---------

**Confidential** No

**Permission to Contact Employer**

**Full Name**

**Phone**

**Email**

**MESSAGES**

No Supporting Evidence records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

Name	COI Type
No Classification of Issues records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

Category	Topic
No Topic records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

**CASE DETAILS**

**Is Suitable For Case Study** No

**Case Study Reason**

**Is Suitable For Follow Up** No

**OFFICE ADDRESS**

**Office**

Name
No Memorandum Of Understanding records are available in this view.
0 - 0 of 0 (0 selected) Page 1

Name	Official Name	Alpha...
No Country/Region records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

**CONSENT TO MEDIATION**

**Employer/Employee Contacted**

**Consent to Mediation**

### MEDIATION

#### Non-Monetary Outcomes

#### TOS

#### Total Time Spent (minutes)

120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee I
No Booking Activity records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

Title	Owner	Created On
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.		
0 - 0 (0 selected)		Page 1

### LEGAL ADVICE PROGRAM

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number

### EMPLOYER ADVISORY SERVICE

Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref No	Legal Firm	Status
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1		
0 - 0 of 0 (0 selected)		Page 1		

**INTRINSICS**

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

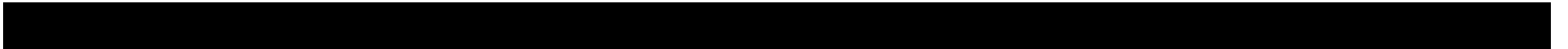
Intrinsic Phone

[Redacted]

Documents released by the Fair Work Ombudsman Under the Freedom of Information

[View Customer](#)   [Search Customer](#)   [Edit Customer](#)   [Register Customer](#)   [Reset Password](#)   [View Organisation](#)   [Search Organisation](#)  
[Search Employer](#)   [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information





### Email

# Fair Work Ombudsman: [REDACTED]

Priority  
Normal

Due

Status Reason  
Sent

Owner

 [REDACTED] s.2

### Email

**From**  Fair Work Ombudsman (Do Not Reply email)

**To**  [REDACTED]

**Cc**

**Bcc**

**Subject** Fair Work Ombudsman: [REDACTED]

**Communication Source** External

**Created On** 22/11/2021 11:41 AM

### Attachments

File Name	File Size (Bytes)
No Email Attachment records are available in this view.	
0 - 0 of 0 (0 selected)	

Page 1

Hi [REDACTED]

Thank you for speaking with me today.

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

We discussed multiple clauses under the General Retail Industry Award which you can find here: <https://awardviewer.fwo.gov.au/award/show/MA000004>

**1. 15.9(g) - What is an event?**

- As discussed, there is no definition in the award for "event", so we can consider the ordinary meaning of the word. An event is likely to be a one-off occasion, intended to prevent changing rosters too often. This means

**2. Do full-time employees need to have an agreement on days and hours of work?**

- Yes: clause 9 says that a full-time employee is engaged to work an average of 38 hours, "in accordance with an agreed hours of work arrangement". This arrangement is agreed between both the employer and employee.

**3. 15.2 (c) Can the trading hours change? Does it need to be the whole week that they trade until 6pm? 15.2.c says: Businesses trading after 9pm Monday to Friday or after 6pm on weekends (for those late night trading days only)**

- There are no exclusions here requiring a business to late night trade every night – only that the business has late night trading.

**4. 15.2(c) what are the ordinary hours on the weekend?**

- Sat 7am - 6pm Sun 9am - 6pm

Late trade businesses:

- Sat 7am - 11pm Sun 9am - 11pm

**5. 18.2 How does an averaging system interact with the pay cycles in clause 18? Eg; an employee works a 2 week averaging system but is paid weekly.**

These employees can be paid under an averaging system to avoid getting different payments on each pay day. This means the pay would stay the same each week even when an employee's hours differ from week to week.

Example: Averaging a full-time employee's pay

Tim is a full-time employee who works:

32 hours in 1 week and

44 hours in the following week.

He is paid 38 hours per week under the averaging system, even though his hours change from week to week.

6. 19.4(a) discusses an allowance for an employee who is required to work at a place other than their usual place of work for a period of up to 3 weeks. What if it goes beyond 3 weeks, is that a breach of the award?

- Clause 19.4.a provides no options beyond the 3 weeks. This means if an employer engages the employee past 3 weeks, this will be outside award conditions and may be subject to legal advice. It could be considered in breach of the award.

7. Does the business need to pay for Uber if the employee does not have transport?

Clause 19.8.(b) says: The employer must reimburse the employee the cost they reasonably incurred in taking a commercial passenger vehicle between the place of employment and the employee's usual place of residence.

If Uber is the only means of transport, then the employer would need to pay for this.

8. 19.12 liquor licence - Is this applicable to anyone that has a liquor licence or is it just where a liquor licence is needed for the role?

- It applies to employees required by the employer to hold a liquor licence for work.

9. Baking production employees; how are they paid if they work outside the rostering conditions in 25.2?

- We are looking into this and will get back to you when we have further information.

Your customer reference number (CRN) is in the subject line of this email. If you need to call again in future, please provide this number.

Kind Regards,

[REDACTED]  
Fair Work Ombudsman

This message has been sent from an unmonitored account. Please do not reply.

Regarding

 [2520373](#)

Duration

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

### Phone Call

# Called [REDACTED] @ 11.25am - Confirme...

Priority: Normal      Due:      Status: Completed      Owner: [REDACTED] s.2

### Phone Call

<b>Subject</b>	Called [REDACTED] @ 11.25am - Confirmed calling re: GRIA 1. 15.9(g) - What is an event? - As...	<b>Regarding</b>	<a href="#">2520373</a>
<b>Call From</b>	[REDACTED] s.2	<b>Duration</b>	
<b>Call To</b>	[REDACTED]	<b>Callback</b>	No
<b>Skillsset</b>	<b>Direction</b> Outgoing	<b>Created On</b>	22/11/2021 12:39 PM
<b>Phone Number</b>	<b>Avaya Contact ID</b>		
	<b>Pure Cloud ID</b>		
<b>Communication Type</b>	Phone Call	<b>Communication Source</b>	External

### Description

Called [REDACTED] @ 11.25am  
 - Confirmed calling re: GRIA 1. 15.9(g) - What is an event?

1. 15.9(g) - What is an event?  
 - As discussed, there is no definition in the award for "event", so we can consider the ordinary meaning of the word. An event is likely to be a one-off occasion, intended to prevent changing rosters too often. This means
2. Do full-time employees need to have an agreement on days and hours of work?  
 - Yes: clause 9 says that a full-time employee is engaged to work an average of 38 hours, "in accordance with an agreed hours of work arrangement". This arrangement is agreed between both the employer and employee.
3. 15.2 (c) Can the trading hours change? Does it need to be the whole week that they trade until 6pm? 15.2.c says:



Businesses trading after 9pm Monday to Friday or after 6pm on weekends (for those late night trading days only)

- There are no exclusions here requiring a business to late night trade every night – only that the business has late night trading.

4. 15.2(c) what are the ordinary hours on the weekend?

- Sat 7am - 6pm Sun 9am - 6pm

Late trade businesses:

- Sat 7am - 11pm Sun 9am - 11pm

5. 18.2 How does an averaging system interact with the pay cycles in clause 18? Eg; an employee works a 2 week averaging system but is paid weekly.

These employees can be paid under an averaging system to avoid getting different payments on each pay day. This means the pay would stay the same each week even when an employee's hours differ from week to week.

Example: Averaging a full-time employee's pay

Tim is a full-time employee who works:

32 hours in 1 week and

44 hours in the following week.

He is paid 38 hours per week under the averaging system, even though his hours change from week to week.

6. 19.4(a) discusses an allowance for an employee who is required to work at a place other than their usual place of work for a period of up to 3 weeks. What if it goes beyond 3 weeks, is that a breach of the award?

- Clause 19.4.a provides no options beyond the 3 weeks. This means if an employer engages the employee past 3 weeks, this will be outside award conditions and may be subject to legal advice. It could be considered in breach of the award.

7. Does the business need to pay for Uber if the employee does not have transport?

Clause 19.8.(b) says: The employer must reimburse the employee the cost they reasonably incurred in taking a commercial passenger vehicle between the place of employment and the employee's usual place of residence.

If Uber is the only means of transport, then the employer would need to pay for this.

8. 19.12 liquor licence - Is this applicable to anyone that has a liquor licence or is it just where a liquor licence is needed for the role?

- It applies to employees required by the employer to hold a liquor licence for work.

9. Baking production employees; how are they paid if they work outside the rostering conditions in 25.2?

- We are looking into this and will get back to you when we have further information.

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act

## Enquiry

# 2532236

Enquiry No.  
2532236


Status  
Resolved


Status Reason  
Advice Provided

Total Time Open (days)  
1

### ENQUIRY

No of employees 1,000

Enquiry Type Level 1  Entitlements

Enquiry Type Level 2  Hours of Work

Awaiting Accept/Decline No

Created On 25/11/2021 10:44 AM

Channel Inbound Phone

State NSW

Matter Number (Nexus)


Matter ID number (Titan)

Related Enquiry

#### EMPLOYEE DETAILS

Occupation

Main Duties Retail Award

Employee Status 

Is apprentice or trainee? Neither

Employment start date

Employment end date

#### CUSTOMER/ORGANISATION

Customer  Legal Name 

Enquirer Type Employer representative

#### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

**ORGANISATION DETAILS**

**NOMINATED TO ACT ON CUSTOMER'S BEHALF**

**Full Name**

**Phone**

**Email**

**ATTEND FWO OFFICE**

**Can attend FWO office (if required)** No

**Interpreter Required**

No

**FWO Office**

**Language**

ATIS Phone number: s.22

Infoline:  
Account  
number  
s.22  
Access  
number  
s.2

Customer Solutions: Account number s.22 Access  
number s.2

**Industry Level 1**

Information Media and Telecommunications

**Industry Level 2**

Publishing (except Internet and Music Publishing)

**Industry Level 3**

Software Publishing

**Industry Level 4**

Software Publishing

**Instrument Type**

Modern Award

**Employer Association**

**Pre-Post Reform**

**Bound To Award**

**ENQUIRY DETAILS**

**DESCRIPTION**

Under retail award

Does clause 15.7 apply to just FT EE's or all EE's.

**ENQUIRY TREATMENT & SUMMARY**

**Team Treatment**

**Recommended Treatment**

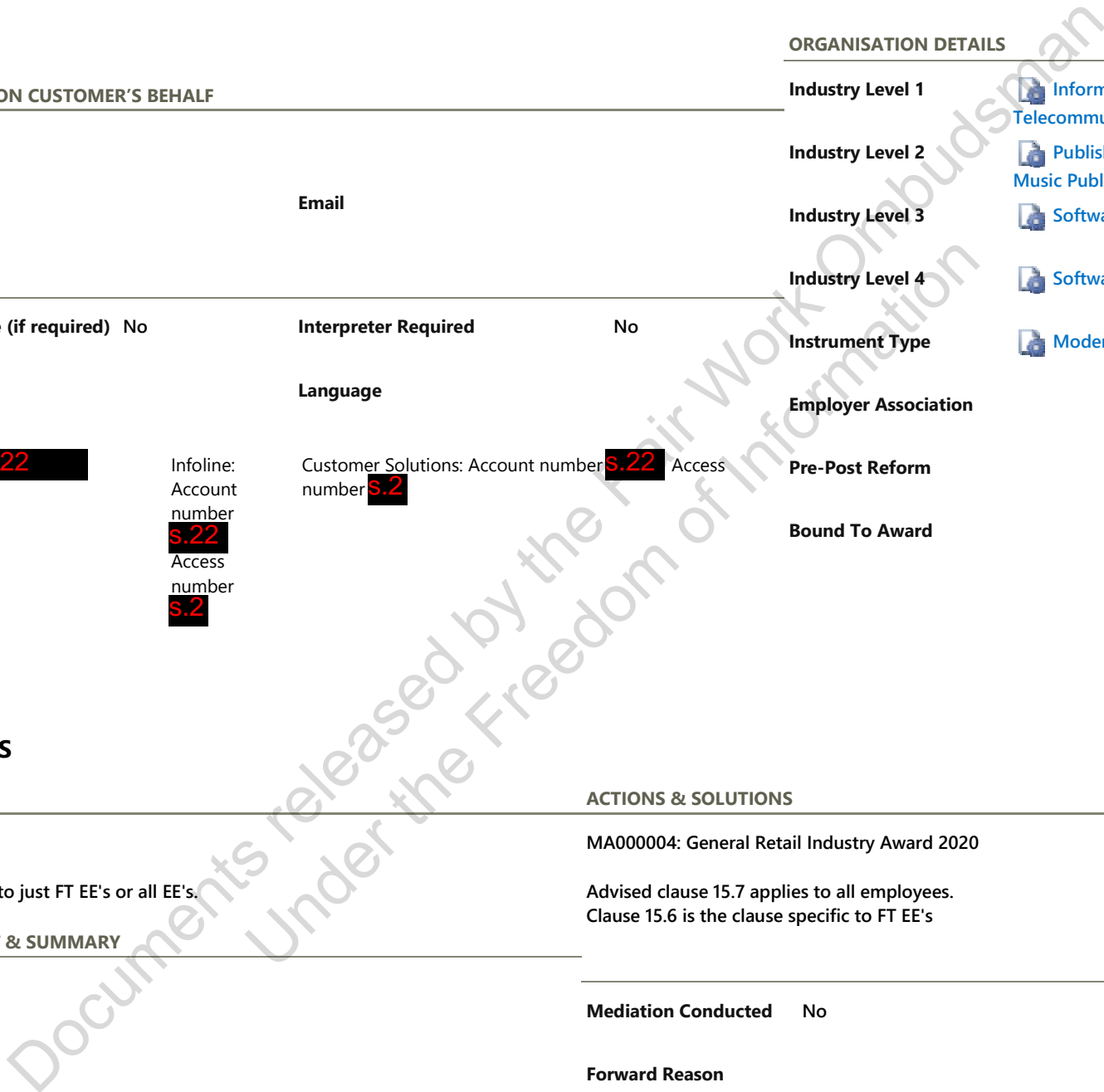
**ACTIONS & SOLUTIONS**

MA000004: General Retail Industry Award 2020

Advised clause 15.7 applies to all employees.  
Clause 15.6 is the clause specific to FT EE's

**Mediation Conducted** No

**Forward Reason**



Assessment Summary

s.22  
irrelev  
ant

FWO Outcome

Advice Provided

## DETAILS FOR KNOWLEDGE TEAM

### DETAILS FOR KNOWLEDGE TEAM

Background Information

Specific questions/issue to be addressed

Recommending Team Lead

Legislation/ Industrial instruments considered

Quality Coach/TL Opinion

## MONIES RECOVERED

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employees
No Money Recovered records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

## RELATED OBJECTS

Customer	Link Type	URL	Record Knowledge Object Title	Link
No Link records are available in this view.				
0 - 0 of 0 (0 selected)				Page 1
No Linked Knowledge Object records are available in this view.				
0 - 0 of 0 (0 selected)				Page 1

## NOTES AND INTERACTIONS

NOTES AND ACTIVITIES

SPECIAL CATEGORIES

Name	Owner



No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

**EMAIL ADDRESSES**

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

**REQUEST FOR ASSISTANCE**

**ADDITIONAL EMPLOYEE DETAILS**

Employee Received Paid Leave

Employee's Date of Birth

Is Employee an Intern

Working as an Independent Contractor

Contractor or Employee

**PERMISSION TO CONTACT THE EMPLOYER**

Privacy Consent

Confidential  No

Permission to Contact Employer

Full Name

Issue discussed with the Employer

Reason for not discussing the issue

Employer's Response

Are Other Employees affected

Pay Rate (Before tax)

Currency



Name	Description	Created
No Supporting Evidence records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

Name	COI Type
No Classification of Issues records are available in this view.	

Documents released by the Fair Work Ombudsman Under the Freedom of Information Act

**Phone**

0 - 0 of 0 (0 selected)	Page 1
-------------------------	--------

**Email**

Category	Topic
----------	-------

**CASE DETAILS** No Topic records are available in this view.

**MESSAGES**

<b>Is Suitable For Case Study</b> No	Page 1
--------------------------------------	--------

**Case Study Reason**

**Is Suitable For Follow Up** No

**CONSENT TO MEDIATION**

**OFFICE ADDRESS**

**Employer/Employee Contacted**

**Office**

**Consent to Mediation**

Name
No Memorandum Of Understanding records are available in this view.
0 - 0 of 0 (0 selected)
Page 1

Name	Official Name	Alpha...
No Country/Region records are available in this view.		
0 - 0 of 0 (0 selected)		
Page 1		

Name
No Educational Assistance records are available in this view.
0 - 0 of 0 (0 selected)
Page 1

### MEDIATION

Non-Monetary Outcomes

TOS

Total Time Spent (minutes)

120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee I
No Booking Activity records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

Title	Owner	Created On
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.		
0 - 0 (0 selected)		Page 1

### LEGAL ADVICE PROGRAM

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number

### EMPLOYER ADVISORY SERVICE

Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref No	Legal Firm	Status I
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1		0 - 0 of 0 (0 selected)
				Page 1

### INTRINSICS

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[Redacted]

[View Customer](#)   [Search Customer](#)   [Edit Customer](#)   [Register Customer](#)   [Reset Password](#)   [View Organisation](#)   [Search Organisation](#)  
[Search Employer](#)   [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



### Enquiry

# 2546407

Enquiry No.  
2546407

Status  
Resolved

Status Reason  
Advice Provided

Total Time Open (days)  
105


#### ENQUIRY

No of employees 1,000

Channel Inbound Phone

Enquiry Type Level 1  Entitlements

State Vic

Enquiry Type Level 2  Other

Matter Number (Nexus)

Matter ID number (Titan)

Awaiting Accept/Decline No

Related Enquiry

Created On 9/12/2021 9:34 AM

#### EMPLOYEE DETAILS

Occupation

Main Duties Retail

Employee Status

Is apprentice or trainee? Neither

Employment start date

Employment end date

#### CUSTOMER/ORGANISATION

Customer

Legal Name

Enquirer Type

Employer representative

#### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman Under the Freedom of Information Act

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S BEHALF

Full Name

Phone

Email

ATTEND FWO OFFICE

Can attend FWO office (if required) No

Interpreter Required

No

FWO Office

Language

ATIS Phone number: s.22

Infoline:  
Account  
number  
s.22  
Access  
number  
s.2

Customer Solutions: Account number s.22 Access  
number s.2

Industry Level 1

Information Media and  
Telecommunications

Industry Level 2

Publishing (except Internet and  
Music Publishing)

Industry Level 3

Software Publishing

Industry Level 4

Software Publishing

Instrument Type

Modern Award

Employer Association

Pre-Post Reform

Bound To Award

ENQUIRY DETAILS

DESCRIPTION

ER Rep calling to follow up on previous calls made. ER Rep advised that has made several enquiries for which they are waiting on a response. Questions relate to the following:  
1. Rounding of weekly rates - When there is a national wage increase, ER Rep wants to know how FWO does the calculation to end with the rounded weekly rates that we do?  
2. When a shiftworker does not work a public holiday under the retail award, does the payment they receive include shift loading, or just the base rate of pay? - Clause 25.3 (c)  
3. How is a baking production employee paid if works outside the shift conditions?  
4. ER Rep notice that in PACT, there is inconsistent information with the award regarding overtime for part time employees in the Retail award under "Does this apply?"

ER Rep also querying – when do shiftworkers receive overtime in the retail award?

ACTIONS & SOLUTIONS

Advised that question 3 is currently with a team for further research - someone will be in contact to discuss further (see enquiry 2523073). Point/question 4 was also raised on this enquiry, advised as this relates to information contained in PACT - has likely been raised via a different internal channel for PACT to be reviewed

Questions 1 & 2 appear on enquiry 2526329 which appears to have been closed in error rather than raised to state queue - re-escalating on this enquiry for further research

Advised ER Rep that shiftworkers under Retail award receive overtime when they work more than 38 hours in a week, 9 hours in a day or outside the roster conditions, including shiftworkers not being allowed to be rostered to work shiftwork and non shiftwork hours in

ENQUIRY TREATMENT & SUMMARY

---

Team Treatment

Recommended Treatment

Assessment Summary User ID: s.22

s.22 irrelevant information

the same week.

-----  
Taken over by s.22

---

Mediation Conducted No

Forward Reason Referred to Knowledge Team

FWO Outcome Advice Provided

DETAILS FOR KNOWLEDGE TEAM

DETAILS FOR KNOWLEDGE TEAM

---

Background Information

Customer has a number of escalations currently open with TLO. Some of the questions they have asked have been escalated. From our records it appears that others were meant to be escalated, but never were. Open TLO escalations addressing 2 questions raised, KNO-035222 and KNO-035305

Specific questions/issue to be addressed

2 questions that were not escalated:

1. Rounding of weekly rates - When there is a national wage increase, ER Rep wants to know how FWO does the calculation to end with the rounded weekly rates that we do? - This appears answerable as per K265405, when rounding is required in our pay tool, rounding is to 2 decimal places. Weekly rates are normally 'as published by FWC in the award or in their decision re: NMW and not rounded.

2. When a shiftworker does not work a public holiday under the retail award, does the payment they receive include shift loading, or just the base rate of pay? - Clause 25.3 (c) Unclear as 25.3(c) states: "An employee who elects not to work on a public holiday shift is entitled to be absent without loss of pay."

Recommending Team Lead

s.22 irrelevant

Legislation/ Industrial instruments considered

KNO-035222, KNO-035305, MA000004, enquiry 2526329, K265405

Quality Coach/TL Opinion

1. As per K265405, when rounding is required in our pay tool, rounding is to 2 decimal places. Weekly rates are normally 'as published by FWC in the award or in their decision re: NMW and not rounded.

2. Unclear whether shift loading is still payable, as 25.3(c) states: "An employee who elects not to work on a public holiday shift is entitled to be absent without loss of pay." a loss of shift loading may be considered a loss of pay.

MONIES RECOVERED



**Total (all non-confidential payments)**

**Total employees paid relating to enquiry**

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employees
<b>RELATED OBJECTS</b>						
No Money Recovered records are available in this view.						
Customer	Link Type	URL	Record Knowledge Object Title	Link	Page 1	
0 - 0 of 0 (0 selected)	No Linked Knowledge Object records are available in this view.					Page 1
Loading Link records...						
0 - 0 of 0 (0 selected)						Page 1

**NOTES AND INTERACTIONS**

**NOTES AND ACTIVITIES**

**Title: Email sent to TLO support on request.**  
Hi,

**s.2** has asked for this information regarding enquiry 2546407.

The customer has contacted us following up on some previous enquiries. It appears some questions were raised previously and were meant to be escalated, but was closed instead (from enquiry 2526329).

1. Rounding of weekly rates - When there is a national wage increase, ER Rep wants to know how FWO does the calculation to end with the rounded weekly rates that we do? – as per K265405, when rounding is required in our pay tool, rounding is to 2 decimal places. Weekly rates are normally ‘as published by FWC in the award or in their decision re: NMW and not rounded.
2. When a shiftworker does not work a public holiday under the retail award, does the payment they receive include shift loading, or just the base rate of pay? - Clause 25.3 (c). Unclear as 25.3(c) states: “An employee who elects not to work on a public holiday shift is entitled to be absent without loss of pay.”

They also have 2 questions which have been raised and are currently open with TLO:

3. How is a baking production employee (under the retail award) paid if works outside the shift conditions? – See KNO-035222
4. ER Rep notice that in PACT, there is inconsistent information with the award regarding overtime for part time employees in the Retail award under “Does this apply?” (this appears to be regarding the “Note: We are currently reviewing the ordinary hours for part-time employees prior to 1 July 2021.” portion) – See KNO-035305

**SPECIAL CATEGORIES**

Name	Owner
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

**EMAIL ADDRESSES**

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

Enquiry 2546407 is being escalated.

Regards

s.22  
irrelevant

Senior Customer Experience Officer – Customer Service Delivery Operations  
16/12/2021 9:56 AM

## REQUEST FOR ASSISTANCE

### ADDITIONAL EMPLOYEE DETAILS

Employee Received Paid Leave

Employee's Date of Birth

Is Employee an Intern

Working as an Independent Contractor

Contractor or Employee

### PERMISSION TO CONTACT THE EMPLOYER

Privacy Consent

Confidential No

Permission to Contact Employer

Full Name

Phone

Email

MESSAGES

Issue discussed with the Employer


Reason for not discussing the issue

Employer's Response

Are Other Employees affected

Pay Rate (Before tax)

Currency

  
Australian Dollar

Name	Description	Created
No Supporting Evidence records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

Name	COI Type
No Classification of Issues records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

Category	Topic
No Topic records are available in this view.	

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

CASE DETAILS

Is Suitable For Case Study No

OFFICE ADDRESS

Case Study Reason

Office

Name
No Memorandum Of Understanding records are available in this view.
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>

Is Suitable For Follow Up No

CONSENT TO MEDIATION

Name	Official Name	Alpha...
No Country/Region records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

Employer/Employee Contacted

Consent to Mediation

Name
No Educational Assistance records are available in this view.
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>

MEDIATION

Non-Monetary Outcomes

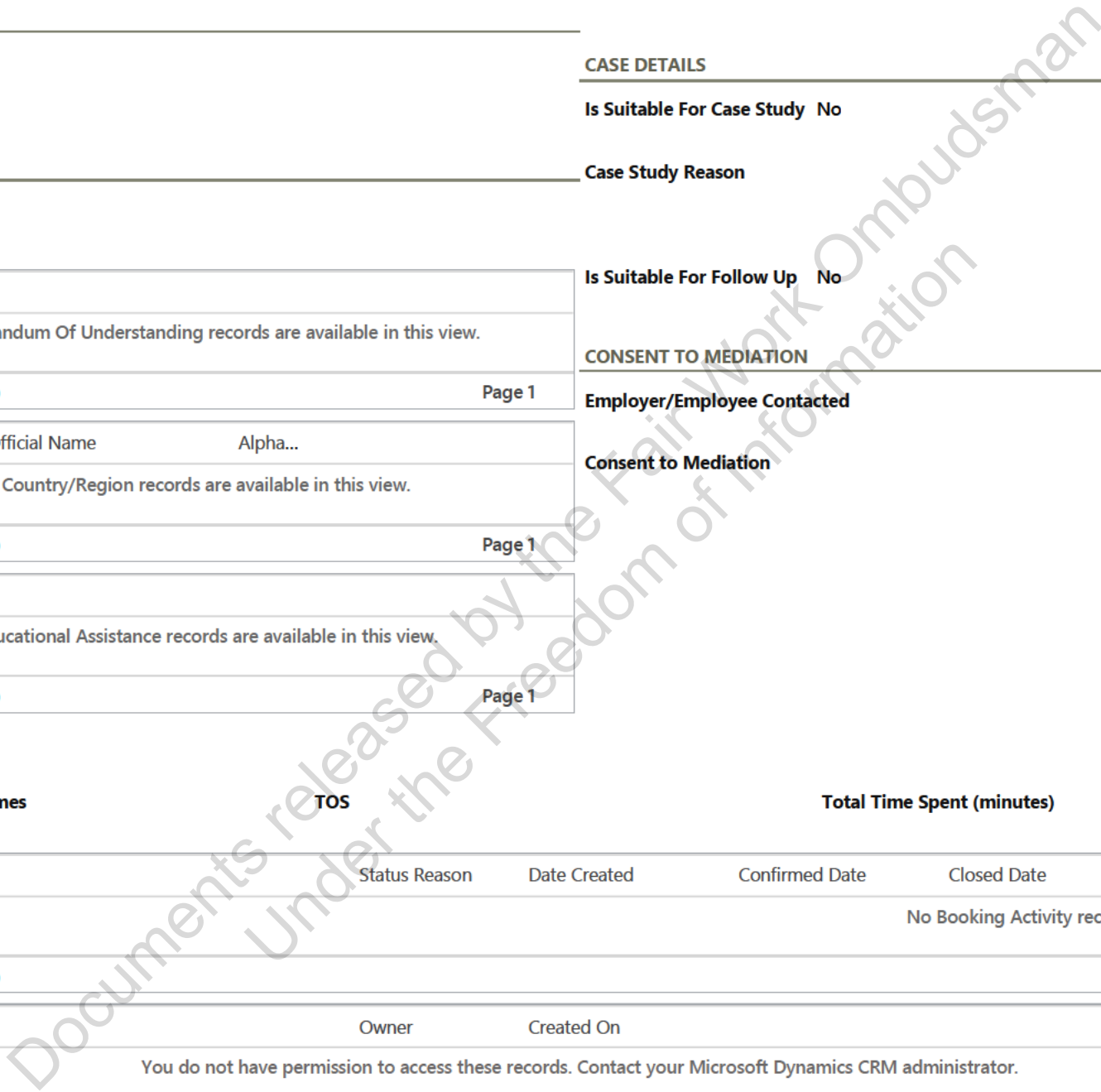
TOS

Total Time Spent (minutes)

120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee
No Booking Activity records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

Title	Owner	Created On
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.		



### LEGAL ADVICE PROGRAM

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number

### EMPLOYER ADVISORY SERVICE

Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref No	Legal Firm	Status I
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected) Page 1		0 - 0 of 0 (0 selected) Page 1		

### INTRINSICS

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[REDACTED]

- 
- [View Customer](#)
  - [Search Customer](#)
  - [Edit Customer](#)
  - [Register Customer](#)
  - [Reset Password](#)
  - [View Organisation](#)
  - [Search Organisation](#)
  - [Search Employer](#)
  - [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

## Enquiry

# 2577751

Enquiry No.  
2577751

Status  
Resolved

Status Reason  
Advice Provided

Total Time Open (days)  
1

### ENQUIRY

No of employees 1,000

Channel Inbound Phone

Enquiry Type Level 1  Entitlements

State NSW

Enquiry Type Level 2  Other

Matter Number (Nexus)

Matter ID number (Titan)

Awaiting Accept/Decline No

Related Enquiry

Created On 17/01/2022 10:10 AM

### EMPLOYEE DETAILS

Occupation

Main Duties ER rep

Employee Status

Is apprentice or trainee? Neither

Employment start date

Employment end date

### CUSTOMER/ORGANISATION

Customer 

Legal Name 

Enquirer Type Employer representative

### EMPLOYEE LOCATION

Suburb

Postcode

State

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S BEHALF

Full Name

Phone

Email

ATTEND FWO OFFICE

Can attend FWO office (if required) No

Interpreter Required

No

FWO Office

Language

ATIS Phone number: s.22 irrelevant

Infoline:  
Account number s.22  
Access number s.2

Customer Solutions: Account number s.22 Access number s.2

Industry Level 1

Information Media and Telecommunications

Industry Level 2

Publishing (except Internet and Music Publishing)

Industry Level 3

Software Publishing

Industry Level 4

Software Publishing

Instrument Type

Fair Work Act

Employer Association

Pre-Post Reform

Bound To Award

ENQUIRY DETAILS

DESCRIPTION

Building system for award compliance  
- rounding system to be used that rounding to 6 decimal places  
- resulting in an underpayment by .5 of a cent for penalty and overtime hours

how significant issue

impact 35 awards  
- most touched awards  
- clerks, retail, schads, hospo, health

ENQUIRY TREATMENT & SUMMARY

ACTIONS & SOLUTIONS

Explained, underpayment is an underpayment  
- non-compliance is non-compliance  
- FWO, educations, compliance and enforcement  
-- decided in accordance with each enquiry in accordance with compliance and enforcement policy



Team Treatment



Recommended Treatment

Assessment Summary

s.22  
irrelevant  
inform

Mediation Conducted No

Forward Reason

FWO Outcome Advice Provided

### DETAILS FOR KNOWLEDGE TEAM

#### DETAILS FOR KNOWLEDGE TEAM

Background Information

Specific questions/issue to be addressed

Recommending Team Lead

Legislation/ Industrial instruments considered

Quality Coach/TL Opinion

### MONIES RECOVERED

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employees
No Money Recovered records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

### RELATED OBJECTS

Customer	Link Type	URL
Loading Link records...		
0 - 0 of 0 (0 selected)		Page 1

Record Knowledge Object Title	Link
No Linked Knowledge Object records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1



### NOTES AND INTERACTIONS

#### NOTES AND ACTIVITIES

#### SPECIAL CATEGORIES

Name	Owner
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

#### EMAIL ADDRESSES

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1

### REQUEST FOR ASSISTANCE

#### ADDITIONAL EMPLOYEE DETAILS

Employee Received Paid Leave

Employee's Date of Birth

Is Employee an Intern

Working as an Independent Contractor

Contractor or Employee

Issue discussed with the Employer

Reason for not discussing the issue

Employer's Response

Are Other Employees affected

Pay Rate (Before tax)

Currency



#### PERMISSION TO CONTACT THE EMPLOYER

Privacy Consent

Name	Description	Created
No Supporting Evidence records are available in this view.		

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information Act

**Confidential** No

**Permission to Contact Employer**

**Full Name**

**Phone**

**Email**

**MESSAGES**

0 - 0 of 0 (0 selected)

Page 1

Name

COI Type

No Classification of Issues records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Category

Topic

No Topic records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

**CASE DETAILS**

**Is Suitable For Case Study** No

**Case Study Reason**

**Is Suitable For Follow Up** No

**OFFICE ADDRESS**

**Office**

Name

No Memorandum Of Understanding records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Name

Official Name

Alpha...

No Country/Region records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Name

**CONSENT TO MEDIATION**

**Employer/Employee Contacted**

**Consent to Mediation**

### MEDIATION

Non-Monetary Outcomes

TOS

Total Time Spent (minutes)

120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee I
No Booking Activity records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

Title	Owner	Created On
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.		
0 - 0 (0 selected)		Page 1

### LEGAL ADVICE PROGRAM

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number

### EMPLOYER ADVISORY SERVICE

Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref No	Legal Firm	Status
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1		
0 - 0 of 0 (0 selected)		Page 1		

### INTRINSICS

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[REDACTED]

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

[View Customer](#)   [Search Customer](#)   [Edit Customer](#)   [Register Customer](#)   [Reset Password](#)   [View Organisation](#)   [Search Organisation](#)  
[Search Employer](#)   [View Employer](#)

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



## Email



Priority  
Normal

Due

Status Reason  
Sent

Owner  
[REDACTED] s.22

## Email

**From**  Fair Work Ombudsman (Do Not Reply email)

**To** [REDACTED]

**Cc**

**Bcc**

**Subject** [REDACTED]

**Communication Source** External

**Created On** 23/03/2022 11:48 AM

### Attachments

File Name	File Size (Bytes)
No Email Attachment records are available in this view.	
0 - 0 of 0 (0 selected)	

**Dear** [REDACTED]

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information



Thank you for your patience with your enquiries regarding the Retail Award relating to the following:

**1. Rounding of weekly rates**

**2. When a shiftworker does not work a public holiday under the retail award, does the payment they receive include shift loading, or just the base rate of pay? - Clause 25.3 (c)**

**3. How is a baking production employee (under the retail award) paid if works outside the shift conditions? – See KNO-035222**

**4. Inconsistent information in our Pay And Conditions Tool (PACT) with the award regarding overtime for part time employees in the Retail award under “Does this apply?”**

**Response**

**1. As a general rule we will take the existing weekly rate, apply the increase and round to the nearest 10 cents. Our approach and rates are consistent with those of the Fair Work Commission.**

**2. We are looking into this issue and will advise when we have a response. Please see:**

**<https://www.fairwork.gov.au/employment-conditions/public-holidays/not-working-on-public-holidays> [http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol\\_act/fwa2009114/s116.html](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/fwa2009114/s116.html)**

**3. From the first pay period commencing after 1 October 2020 in order for an employee to be entitled to the early morning shift night rate in cl.25.2 (b) of the Retail Award they must:**

**\* be specifically employed as a shift worker (cl23.1), not someone who’s not employed as a shift worker but does additional hours and overtime (cl.23.2) and,**

**\* be a baking production employee who does shift work that starts at or after midnight and before 6am (cl.24.2) and,**

**\* begin a shift at or after midnight and before 2 am (cl.25.2(b))**

**Prior to 1 October 2020 in order for an employee to be entitled to the early morning shift night rate in cl.30.4 (b) of the Retail Award they must:**

**\* be specifically employed as a shift worker (cl30.1(a)), not someone who’s not employed as a shift worker but does additional hours and overtime (cl30.1(b)) and,**

**\* begin a shift before 2 am (cl.30.4(b))**

**If the hours worked don’t fall within the scope of the BPE shift worker provisions then the relevant penalties and overtime provisions under the award will apply**

**4. There is no entitlement to overtime for part time employees working outside the span under the Retail Award. Our Pay And Conditions Tool (PACT) has recently been updated to reflect this.**

Kind regards,

[REDACTED]  
Fair Work Ombudsman

Regarding  2546407

Duration

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information









### Phone Call

# I called the Er rep but she was not avail...

Priority	Due	Status	Owner
Normal		Completed	  s.22

### Phone Call

<b>Subject</b>	I called the Er rep but she was not available. I left voice mail advising the reason for my call...		<b>Regarding</b>	 2697015	
<b>Call From</b>	  s.22		<b>Duration</b>		
<b>Call To</b>	 		<b>Callback</b>	No	
<b>Skillset</b>		<b>Direction</b>	Outgoing	<b>Created On</b>	25/05/2022 4:43 PM
<b>Phone Number</b>		<b>Avaya Contact ID</b>			
		<b>Pure Cloud ID</b>			
<b>Communication Type</b>	Phone Call	<b>Communication Source</b>	External		
<b>Description</b>	I called the Er rep but she was not available. I left voice mail advising the reason for my call and advised I will send her an email to answer her enquiry. 				

Documents released by the Fair Work Ombudsman Under the Freedom of Information

### Enquiry

# 2697015

Enquiry No.  
2697015

Status  
Resolved

Status Reason  
Advice Provided

Total Time Open (days)  
2

#### ENQUIRY

No of employees 1,000

Channel Inbound Phone

Enquiry Type Level 1 Entitlements

State Vic

Enquiry Type Level 2 Overtime

Matter Number (Nexus)

Matter ID number (Titan)

Awaiting Accept/Decline No

Related Enquiry

Created On 23/05/2022 1:04 PM

#### EMPLOYEE DETAILS

Occupation

Main Duties

Employee Status

Is apprentice or trainee? Neither

Employment start date

Employment end date

#### CUSTOMER/ORGANISATION

Customer

Legal Name

Enquirer Type Employer representative

#### EMPLOYEE LOCATION

Suburb Postcode

State

Documents released by the Fair Work Ombudsman Under the Freedom of Information Act

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S BEHALF

Full Name

Phone

Email

ATTEND FWO OFFICE

Can attend FWO office (if required) No

Interpreter Required No

FWO Office

Language

ATIS Phone number s.22

Infoline: Account number s.22 Access number s.2

Customer Solutions: Account number s.22 Access number s.2

- Industry Level 1 Information Media and Telecommunications
- Industry Level 2 Publishing (except Internet and Music Publishing)
- Industry Level 3 Software Publishing
- Industry Level 4 Software Publishing
- Instrument Type Modern Award

Employer Association

Pre-Post Reform

Bound To Award

ENQUIRY DETAILS

DESCRIPTION

Overtime in all award can be interpreted differently some award

For Example MA3 CI 26.1(a) says "The rate of overtime for full time and part-time employees shall be 150% of the ordinary hourly rate for the first two hours on any one day and at the rate "

- Does "any one day means the same as MA23.3 " In calculating overtime payments, overtime worked on any day stands alone from overtime worked on any other day." for the purpose of calculating overtime

-----

ACTIONS & SOLUTIONS

Adv each award need to look at overtime separate as how it apply

Adv FWO cannot interpret award or discuss intent FWC had when writing up award- Can only adv what the award says + info on website

Adv SL is paid as Base ROP is EE in one - not inl- -incentive-based payments -bonuses -loadings -allowances -overtime -penalty rates.

No L2 available

Adv need to look into

-----

State Q questions

1. What does it mean if the award does not have the specific provision that says each day

Higher duties in all award

When Engaged or Perform higher - If an EE takes a period of SL - What ROP should an EE be paid?

IS there a difference with being "engaged" or " performing" higher duties

stand alone

2. What is the difference with being "engaged" in higher duties and performing Higher duties?

3. What should an EE be paid as when taking SL while on higher duties?

\*\*\*\*\*  
\*\*\*\*\*

**ENQUIRY TREATMENT & SUMMARY**

**Team Treatment**

**Recommended Treatment**

**Assessment Summary**

s.22  
irrelevant  
information

**Escalation**

The Er rep was not available when called. She was advised by email the meaning overtime standing alone. A practical example was used to demonstrate the explanation. She was also advised about PL when performing at a higher level and the meaning of engaged and performing. s.22

**Mediation Conducted** No

**Forward Reason** Callback to Client Required

**FWO Outcome** Advice Provided

**DETAILS FOR KNOWLEDGE TEAM**

**DETAILS FOR KNOWLEDGE TEAM**

**Background Information**

Specific questions/issue to be addressed

Recommending Team Lead

**Legislation/ Industrial instruments considered**

**Quality Coach/TL Opinion**

**MONIES RECOVERED**

**Total (all non-confidential payments)**

**Total employees paid relating to enquiry**

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employees
No Money Recovered records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

**RELATED OBJECTS**

Customer	Link Type	URL	Record Knowledge Object Title	Link
No Link records are available in this view.			No Linked Knowledge Object records are available in this view.	
0 - 0 of 0 (0 selected)		Page 1	0 - 0 of 0 (0 selected) Page 1	

**NOTES AND INTERACTIONS**

**NOTES AND ACTIVITIES**

**SPECIAL CATEGORIES**

Name	Owner
No Special Category records are available in this view.	
0 - 0 of 0 (0 selected) Page 1	

**EMAIL ADDRESSES**

Email Source Type	Name
No Enquiry Email Link records are available in this view.	
0 - 0 of 0 (0 selected) Page 1	

**REQUEST FOR ASSISTANCE**

**ADDITIONAL EMPLOYEE DETAILS**

Employee Received Paid Leave

Employee's Date of Birth

Is Employee an Intern

Working as an Independent Contractor

Issue discussed with the Employer

Reason for not discussing the issue

Employer's Response

Are Other Employees affected

Pay Rate (Before tax)

Currency



Documents released by the Fair Work Ombudsman Under the Freedom of Information Act

**Contractor or Employee**

an  
Dollar

**PERMISSION TO CONTACT THE EMPLOYER**

**Privacy Consent**

**Confidential**                      **No**

**Permission to Contact Employer**

**Full Name**

**Phone**

**Email**

**MESSAGES**

Name	Description	Created
No Supporting Evidence records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1
Name	COI Type	
No Classification of Issues records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1
Category	Topic	
No Topic records are available in this view.		
0 - 0 of 0 (0 selected)		Page 1

**CASE DETAILS**

**Is Suitable For Case Study**   **No**

**Case Study Reason**

**Is Suitable For Follow Up**   **No**

**OFFICE ADDRESS**

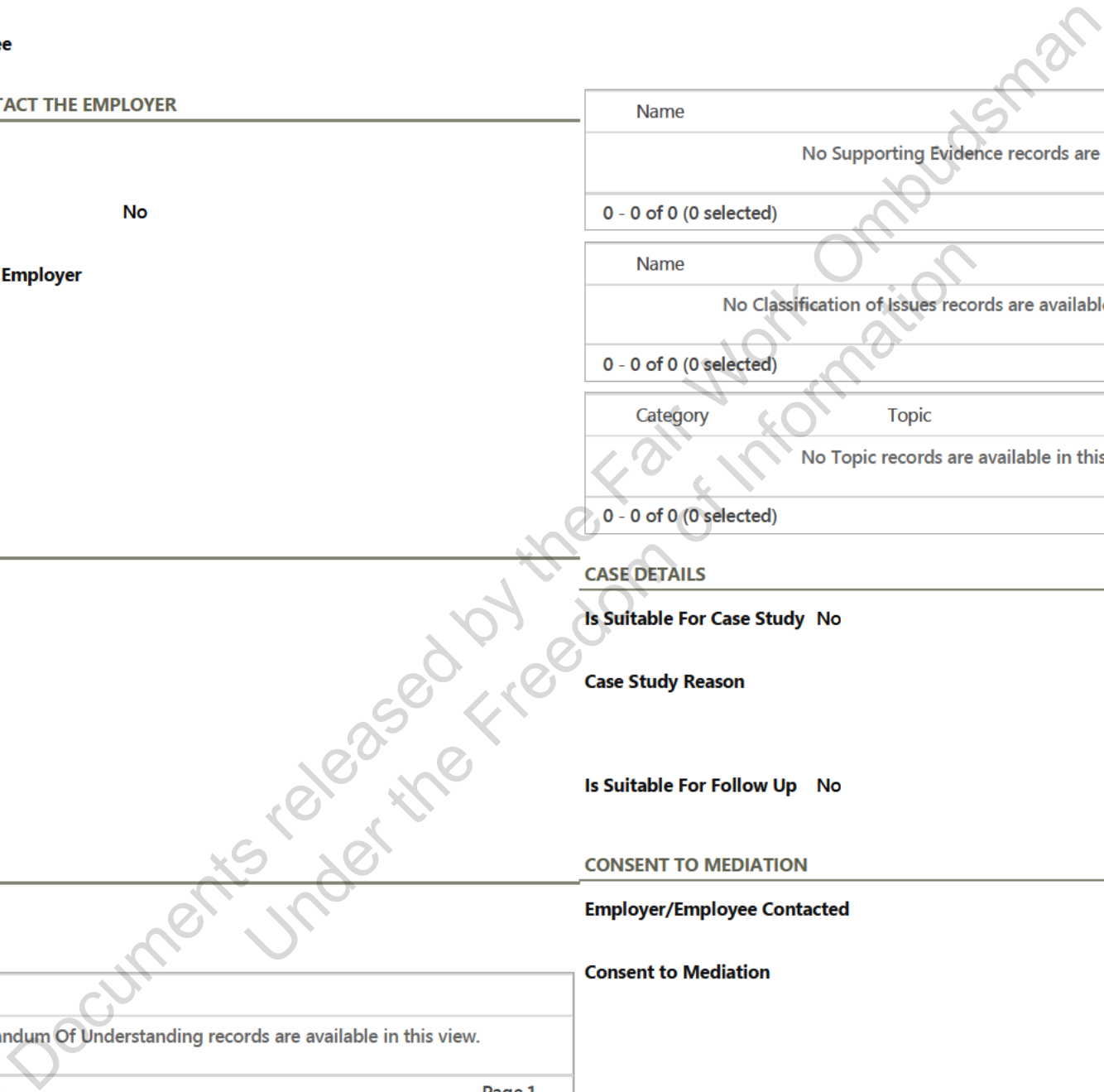
**Office**

**CONSENT TO MEDIATION**

**Employer/Employee Contacted**

**Consent to Mediation**

Name
No Memorandum Of Understanding records are available in this view.
0 - 0 of 0 (0 selected) <span style="float: right;">Page 1</span>



Name	Official Name	Alpha..
Name	No Country/Region records are available in this view.	
No Educational Assistance records are available in this view.		
MEDICATION (0 selected)		Page 1
Non-Monetary Outcomes (0 selected)		TOS Page 1

Total Time Spent (minutes) 120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee I
No Booking Activity records are available in this view.						
0 - 0 of 0 (0 selected)						Page 1

Title	Owner	Created On
You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.		
0 - 0 (0 selected)		Page 1

**LEGAL ADVICE PROGRAM**

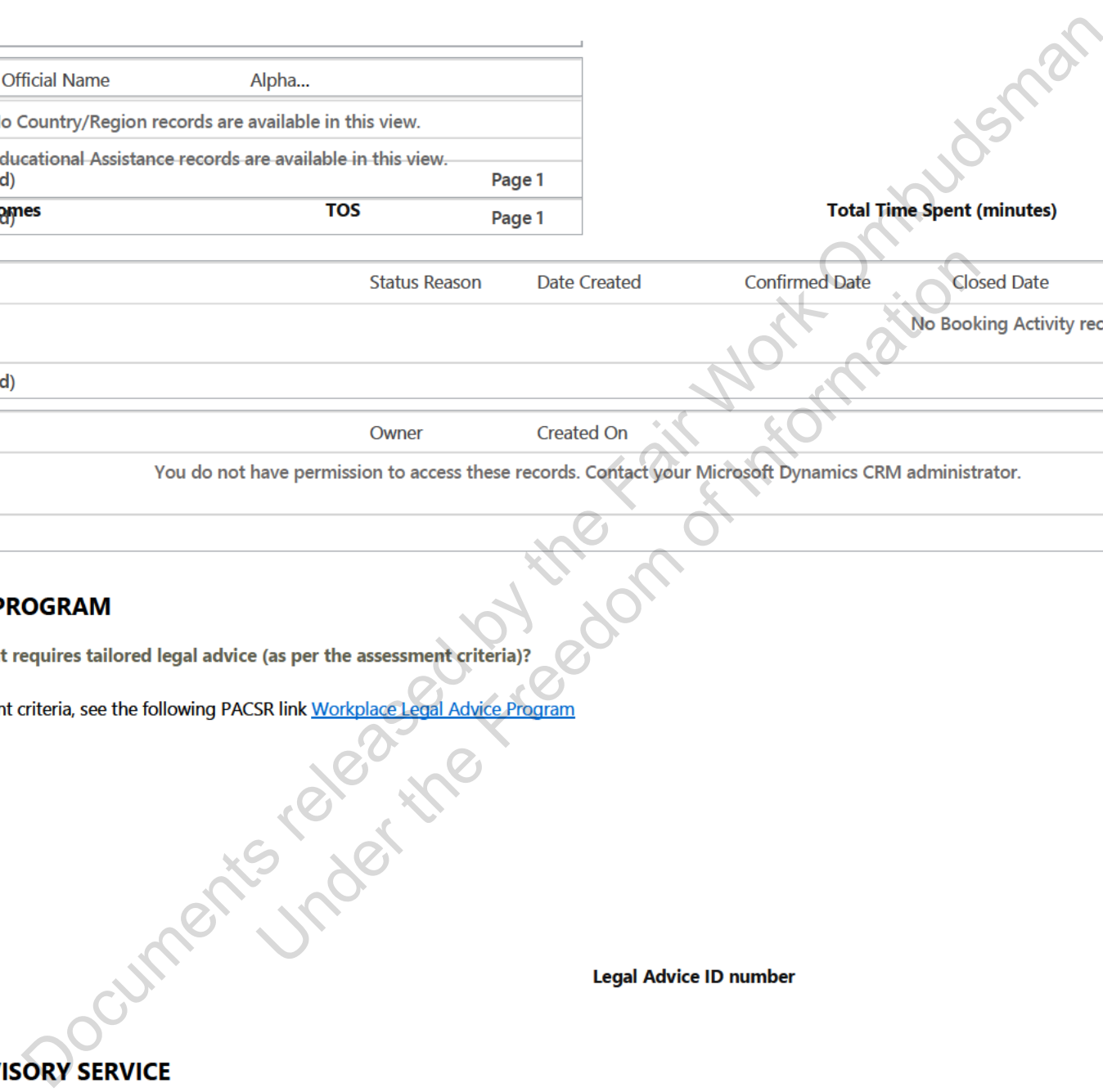
What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link [Workplace Legal Advice Program](#)

Referral Contact

Legal Advice ID number

**EMPLOYER ADVISORY SERVICE**



Eligible for EAS?

EAS Source

EAS Request Details

EAS Assessment

Suitable for EAS Case Study No

TLO Advice

EAS Case Study Reason

FWO Legal Advice

Document Name	Document ID	Document Ref No	Legal Firm	Status I
No Document Link records are available in this view.		No ELP Request records are available in this view.		
0 - 0 of 0 (0 selected) Page 1		0 - 0 of 0 (0 selected) Page 1		

### INTRINSICS

Avaya Contact ID

Skillset

Medium to Large Business

Enquirer ABN

PureCloud ID

s.22 irrelevant information

Intrinsic Phone

[Redacted]

- 
- [View Customer](#)
  - [Search Customer](#)
  - [Edit Customer](#)
  - [Register Customer](#)
  - [Reset Password](#)
  - [View Organisation](#)
  - [Search Organisation](#)
  - [Search Employer](#)
  - [View Employer](#)

Documents released by the Fair Work Ombudsman Under the Freedom of Information



### Email



Priority  
Normal

Due

Status Reason  
Sent

Owner  
 s.22

### Email

**From** Fair Work Ombudsman (Do Not Reply email)

**To** [Redacted]

**Cc**

**Bcc**

**Subject** [Redacted]

**Communication Source** External

**Created On** 25/05/2022 4:56 PM

### Attachments

File Name	File Size (Bytes)
No Email Attachment records are available in this view.	
0 - 0 of 0 (0 selected)	

Hi [Redacted]

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information

Unfortunately when I called to discuss your enquiry you were not available. Please see below an answer to your enquiry based upon the information you provided to the Fair Work Ombudsman.

Overtime stands alone e.g. if an employee works 2 hours overtime each weekday it means they have worked 10 hrs overtime in the week of say Monday to Friday. Depending on the award, overtime is paid at 150% for say 2 hours and thereafter 200%.

As overtime is calculated daily – stands alone – and the employee works 2 hours of overtime the overtime rate for the employee is 150% for those 2 hours on that day. BUT if the employer does not follow the stand alone rule the and the employee is paid overtime at the end of the week, the employee will be paid 150% for 2 hours then the remaining 8 hours will be paid at 200%. This is an over payment. Of course some awards say 150% for the first 3 hours. You need to check each award.

When an employee is performing at a higher level and they take some sick leave they need to be paid at the rate of that higher level.

Generally “engaged” and “performing” mean the same thing except to say engaged means the employee has a written agreement that he/she is performing work for which he/she is engaged.

Regards



The Office of the Fair Work Ombudsman

Regarding

 [2697015](#)

Duration

Documents released by the Fair Work Ombudsman  
Under the Freedom of Information