

We investigated 132 businesses in the Greater Geelong area
between May 2019 and March 2020.

Sectors employing vulnerable young workers,
including domestic and international students
were targeted:

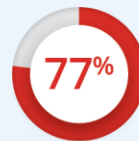


Fast-food, cafés,
restaurants



Retail

77% were non-compliant with workplace laws



29% didn't pay staff
correctly



19% didn't meet pay slip /
record-keeping obligations



52% breached both monetary
and non-monetary obligations

Most common breaches:



32% penalty rates



13% minimum
hourly rate



12% pay slips



12% record
keeping

Recovered



\$431,875 from 67 businesses for 487 employees



Enforcement action taken



7

Contravention
letters



14

Formal
cautions



61

Infringement
notices



\$110,460 in penalties



65

Compliance
notices



\$398,818 back-paid
to 445 employees

⋮ **One** business still being investigated for serious non-compliance and could face court action.

Regional University Towns – Geelong

What we did and why

The Fair Work Ombudsman (FWO) conducted a rolling program of investigations in regional university towns. It focused on businesses in sectors that rely heavily on vulnerable young workers, including domestic and international students (e.g. take-away food outlets, cafes and restaurants, and retail).

Our last activity looked at compliance in the university towns of Ballarat, Wollongong and Albury-Wodonga.¹

This time we investigated 132 hospitality and retail businesses in the Greater Geelong area between May 2019 and March 2020. Geelong has two universities, several smaller independent tertiary education facilities and is home to approximately 15,000 tertiary students.²

Fair Work Inspectors assessed records against the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and applicable modern awards (e.g. *Fast Food Industry Award 2010*, *Restaurant Industry Award 2010* and the *General Retail Industry Award 2010*) and enterprise agreements. Education resources were provided to employers to assist with compliance.

Our findings

More than three-quarters of the businesses investigated (102 businesses or 77%) had breached workplace laws. Of those:

- 30 (29%) were not paying staff correctly.
- 19 (19%) were non-compliant with pay slip and record-keeping requirements.
- 53 (52%) breached both their monetary and non-monetary obligations.³

The most common breaches related to:

- underpayment or non-payment of penalty rates (33%)
- underpayment of the minimum hourly rate (13%)

¹ FWO report: <https://www.fairwork.gov.au/ArticleDocuments/714/compliance-activities-in-regional-education-centres-report.docx.aspx>

² ABS 2016 Census: https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/LGA22750

³ Percentages have been rounded to the nearest whole number

- failure to comply with record-keeping requirements as per the Act and Regulations (12%).
- failure to provide pay slips as per requirements of the Act and Regulations (12%).

The reasons given for non-compliance included:

- lack of awareness of workplace relations obligations (55%)
- misinterpretation of award requirements (15%)
- business decision eg. paying flat hourly rates to save on administration costs without compensating for penalties 11%
- other reasons e.g payroll software issues / limitations (9%)
- missed the July annual wage increase (6%)
- incorrect advice from a third party e.g an accountant (4%).

Action taken and next steps

Employers were required to remedy non-compliance and provide evidence of action taken, for example proof of payment of outstanding employee entitlements.

We recovered \$431,875 from 67 businesses for 487 employees.

Fair Work Inspectors issued:

- 7 contravention letters, putting employers on notice about the consequences of continued non-compliance
- 14 formal cautions
- 65 compliance notices, with back payments of \$398,818 for 445 employees
- 61 infringement notices, totalling \$110,460 in penalties for pay slip and record-keeping breaches.

One business remains under investigation for serious non-compliance and may face legal proceedings.

Non-compliant employers were made aware of FWO's free tools and resources. They were also advised that repeated breaches will see a stronger response, including possible legal action and significantly higher financial penalties.

A lack of awareness is not a valid reason for non-compliance in the workplace. The FWO expects all employers to comply with basic workplace relations obligations and to utilise our free tools and resources, including:

- PACT - calculates employee entitlements, including award pay rates, leave entitlements and termination pay.⁴
- My account - interactive service where employers receive tailored information and updates.⁵
- Online Learning Centre - award-winning videos on key subjects like hiring employees, managing performance and record-keeping and pay slip obligations.⁶
- Templates and guides - tools and resources specifically designed to assist businesses with their payslips and record keeping obligations.⁷

The FWO regards employers who don't take advantage of these free tools and resources as negligent.

A compliance rate of 23% is clearly disappointing. We will continue our education and enforcement activities in sectors employing vulnerable workers in a sustained effort to tackle low compliance.

⁴ <https://calculate.fairwork.gov.au/>

⁵ <https://www.fairwork.gov.au/my-account/registerpage.aspx>

⁶ <https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre>

⁷ <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides>