



Australian Government

# Fair Work OMBUDSMAN

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## PROACTIVE COMPLIANCE DEED

Between

The Commonwealth of Australia

(as represented by the Office of the Fair Work Ombudsman)

and

Hays Specialist Recruitment (Australia) Pty Ltd.  
(ABN 47 001 407 281)

Schedule 1

Details:

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<b>Parties</b>	<b>Office of the Fair Work Ombudsman and Hays Specialist Recruitment (Australia) Pty Ltd</b>	
<b>FWO</b>	<b>Name</b>	Commonwealth of Australia (as represented by the Office of the Fair Work Ombudsman)
	<b>ABN</b>	43884188232
	<b>Address</b>	The Fair Work Ombudsman GPO Box 9887 Brisbane QLD 4001
	<b>Telephone</b>	(07) 3404 4786
	<b>Fax</b>	(02) 6276 7173
	<b>Attention</b>	Russell Jacob Director – Misclassification and Governance
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<b>Hays Specialist Recruitment</b>	<b>Name</b>	Hays Specialist Recruitment (Australia) Pty Ltd
	<b>ABN</b>	47 001 407 281
	<b>Address</b>	Level 11, Chifley Tower 2 Chifley Square Sydney NSW 2000
	<b>Telephone</b>	(02) 8226 9600
	<b>Fax</b>	(02) 9221 4347
	<b>Attention</b>	Clint Dal Santo, General Counsel, Australia & New Zealand
	<b>Hays Specialist Recruitment Contact Person</b>	Anna Fraser Director of Payroll Operations

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## **OPERATIVE PROVISIONS:**

### **1. Background**

- 1.1 Hays Specialist Recruitment is a global specialist recruiting group and is expert in recruiting qualified, professional and skilled people across a wide range of industries and professions. Hays Specialist Recruitment operates across the private and public sectors, dealing in permanent positions, contract roles and temporary assignments.
- 1.2 Hays Specialist Recruitment operates in 46 locations throughout Australia, New Zealand and South East Asia finding permanent jobs for over 17,000 people a year and, contracts and temporary assignments for over 33,000 people a year. Hays Specialist Recruitment employs approximately 13,000 full time, part time and casual staff in Australia.
- 1.3 In November 2013, Hays Specialist Recruitment approached the Fair Work Ombudsman with a view to proactively engaging with the regulator. The approach by Hays Specialist Recruitment is consistent with their intent to be an employer who is compliant with Commonwealth workplace laws and an employer of choice.
- 1.4 The parties agree as follows.

### **2. Acknowledgments**

- 2.1 Hays Specialist Recruitment acknowledges that:
- (a) as for all companies, there are opportunities for continuous improvement in relation to its workplace practices to ensure ongoing compliance with Commonwealth workplace laws;
  - (b) the promises it has given in this Deed are reasonable in the circumstances;
  - (c) the FWO may:
    - i. make this Deed available for public inspection, including by posting it on the FWO internet site at [www.fairwork.gov.au](http://www.fairwork.gov.au);
    - ii. release a copy of this Deed pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
    - iii. issue a media release in relation to this Deed; and
    - iv. from time to time, publicly refer to this Deed;
  - (d) if Hays Specialist Recruitment contravenes any of the terms of this Deed the FWO may take any enforcement action the FWO considers appropriate.

### **3. Promise to take proactive compliance activity**

- 3.1 Hays Specialist Recruitment must do or cause to be done all those activities and things set out in Attachment A to this Deed.

### **4. Commencement of Proactive Compliance Deed**

- 4.1 This Deed comes into effect when both Hays Specialist Recruitment and the FWO have executed this Deed.

4.2 This Deed will expire at the end of two years after the commencement of this Deed, unless terminated earlier in accordance with its terms.

#### **5. Publicity**

5.1 The FWO agrees to provide Hays Specialist Recruitment with 24 hours to view all FWO media releases (Releases) arising from this Deed prior to publication by the FWO.

5.2 Notwithstanding 5.1, Hays Specialist Recruitment agrees and acknowledges that, if Hays Specialist Recruitment makes any suggested edits or amendments to the Releases, the FWO is under no obligation to accept any of them.

5.3 The Releases will reflect the positive cooperation of Hays Specialist Recruitment.

#### **6. No Inconsistent Statements**

6.1 Hays Specialist Recruitment:

(a) must not; and

(b) must use reasonable endeavours to ensure that each of its officers, employees or agents do not;

make any statement, orally, in writing, or otherwise which conveys or implies or reasonably conveys or implies anything inconsistent with the acknowledgements made in the Deed.

#### **7. Termination by the FWO**

7.1 Without prejudice to any right or remedy the FWO may have, at any time, the FWO may, by notice in writing, terminate this Deed (that is, immediately and without notice) if Hays Specialist Recruitment commits, in the opinion of the FWO, a serious or persistent breach or non-observance of a term or terms of this Deed.

#### **8. Independent Legal Advice**

8.1 Hays Specialist Recruitment acknowledges that:

(a) before executing this Deed, Hays Specialist Recruitment was given the opportunity to seek independent legal and other advice of its choice;

(b) in light of any advice provided, Hays Specialist Recruitment considered its position; and

(c) Hays Specialist Recruitment fully understands the effect of this Deed.

#### **9. Continuing obligations**

The following clauses survive termination of this Deed for whatever reason (including termination by the FWO):

(a) clause 2 (Acknowledgements); and

(b) clause 6 (No inconsistent statements).

#### **10. Legally binding**

10.1 The terms of this document are intended to have immediate effect on all parties upon commencement of this Deed.



**11. Entire agreement**

11.1 This Deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter. No oral explanation or information provided by either party to the other:

- (a) affects the meaning or interpretation of this Deed; or
- (b) constitutes any collateral agreement, warranty or understanding between the FWO and Hays Specialist Recruitment .

**12. Construction**

12.1 No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this Deed or any part of it.

12.2 Unless expressed to the contrary in this document:

- (c) words in the singular include the plural and vice versa; and
- (d) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced.

**13. Severance**

13.1 If the whole or any part of a provision of this Deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this Deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this Deed or is contrary to public policy.

**14. Governing law**

14.1 This Deed shall be construed in accordance with the laws for the time being of the State of Queensland and the parties hereby submit to the jurisdiction of the Courts of that State and the Courts empowered to hear appeals from the Courts of that State.

**15. Counterparts**

15.1 This Deed may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one instrument.

**16. Costs in respect of this Deed**

16.1 The parties must pay their own legal and other costs and expenses in connection with the preparation, execution and completion of this Deed and other related documentation.

**17. Notices**

17.1 Any notice, request or other communication to be given or served pursuant to this Deed must be in writing and dealt with as follows:

- (a) if given by the Hays Specialist Recruitment to the FWO at the address indicated in Schedule 1 or as otherwise notified by the FWO; or
- (b) if given by the FWO to the Hays Specialist Recruitment, marked for the attention of the Hays Specialist Recruitment Contact Person with the address indicated in

Schedule 1 or as otherwise notified by the Hays Specialist Recruitment .

17.2 Any notice, request or other communication is to be delivered by hand, sent by pre-paid post or transmitted electronically.

17.3 Any notice, request or other communication will be deemed to be received:

- (a) if delivered by hand, upon delivery;
- (b) if sent by pre-paid ordinary post within Australia, upon the expiration of 2 Business Days after the date on which it was sent; and
- (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

18. **Date of this Deed**

18.1 The date the parties execute the Deed, or, if it is executed on different dates, the date of last execution.

19. **Definitions**

In this Deed:

**Deed** means this Proactive Compliance Deed, including any Schedules and Attachments;

**Commonwealth workplace laws** means:

- the *Fair Work Act 2009*;
- the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*
- the *Fair Work Regulations 2009*;
- the *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009*

**Hays Specialist Recruitment Contact Person** means the person nominated by the Hays Specialist Recruitment in Schedule 1 to this Deed, or any other person specified by the Hays Specialist Recruitment in writing and notified to the FWO.

Signing page

EXECUTED BY Hays Specialist  
Recruitment (Australia) Pty Ltd. ABN 47  
001 407 281 in accordance with section  
127(1) of the Corporations Act 2001 (Cth)

A Fraser

(Signature of Director/Secretary)

Anna Fraser

(Name of Director/Secretary in Full)

BM

(Signature of Director)

Philip John Allen

(Name of Director in Full)

Date:

SIGNED for and on behalf of the  
COMMONWEALTH OF AUSTRALIA as  
represented by the Office of the Fair Work  
Ombudsman::

Michael Campbell

(Printed Name)

[Signature]

(Signature)

Group Manager - Operations

(Title)

31/1/14

(Date)

In the presence of:

Louise Catto

(Name of Witness in Full)

[Signature]

(Signature)

## Attachment “A” (Proactive Compliance Activities)

### Internal Communication – The Deed

1. Within 14 days of the execution of the Deed, Hays Specialist Recruitment will communicate the existence of the Deed to all current employees via an internal communication method such as email, internal memo or the intranet, and make a copy of the Deed available to all staff.
2. That communication is to be in the following form:

*“Hays Specialist Recruitment (Australia) Pty Ltd. has taken the proactive step of entering into a Proactive Compliance Deed (Deed) with the Office of the Fair Work Ombudsman (FWO).*

*By entering into the Deed, Hays Specialist Recruitment (Australia) Pty Ltd. demonstrates that it is committed to working with the FWO to ensure its continued compliance with Australian workplace laws and promote a harmonious, productive and cooperative workplace.*

*Hays Specialist Recruitment (Australia) Pty Ltd. has made the Deed available to all staff through the intranet. You are also able to access information about entitlements and rights at work by contacting Anna Fraser, Director Payroll Operations, who has been appointed by Hays Specialist Recruitment (Australia) Pty Ltd. as an Employee Liaison Officer, or by visiting the Fair Work Ombudsman website at [www.fairwork.gov.au](http://www.fairwork.gov.au) or speaking to a Fair Work Advisor on 13 13 94.”*

### Implement Systems and Processes

3. Hays Specialist Recruitment must ensure that it complies at all times and in all respects with relevant Commonwealth workplace laws by developing systems and processes to ensure ongoing compliance.
4. Hays Specialist Recruitment will provide the FWO, within 28 days of the date of the execution of this Deed, details of the systems and processes already in place or to be implemented to ensure ongoing compliance with relevant Commonwealth workplace laws. This information will be kept confidential by the FWO and will not be publicised or used by the FWO in any way other than to ensure compliance with this deed.



## Self-Resolution of Complaints

5. Within seven days of receiving a workplace complaint, the FWO will notify Hays Specialist Recruitment of the complaint and provide details supplied by the complainant.
6. Hays Specialist Recruitment will resolve the workplace complaint and make rectification of identified underpayments, and other issues identified by the FWO, within 28 days of notification by the FWO, unless a longer period has been agreed between the parties and with the FWO.
7. Within seven days of resolving the complaint, Hays Specialist Recruitment will provide the FWO with evidence that the workplace complaint has been resolved and identified underpayments, and other issues identified by the FWO, have been rectified.
8. The FWO reserves its rights to investigate any complaint that it considers serious or in the public interest to investigate or unable to be resolved within 28 days or within any longer period agreed between the parties and with the FWO.
9. Further details regarding public interest considerations may be found on the FWO website.

## Resources

10. Hays Specialist Recruitment must commit all resources as are reasonably practicable, financial or otherwise, and meet all necessary expenses associated with the Deed.
11. Hays Specialist Recruitment must make available a specified person or persons to act as Employee Liaison Officer/s for all queries from Hays Specialist Recruitment employees which concern any complaints referred by the FWO.
12. Hays Specialist Recruitment must notify the FWO in writing of the name or names of the Hays Employee Liaison Officer/s within 7 days of the commencement of this Deed, and must notify the FWO in writing within 7 days of any change to the Hays Specialist Recruitment's Employee Liaison Officer/s.
13. Hays Specialist Recruitment has identified in Schedule 1 to the Deed a single national contact person to whom all queries from the FWO which concern the

implementation of the program, or any complaints referred by the FWO, can be directed. Hays must notify the FWO in writing within 7 days of any change to the Hays Specialist Recruitment Employee Liaison Officer/s.

14. The FWO will identify a single national contact person (the FWO Liaison Officer) whom all queries from Hays Specialist Recruitment can be directed. This officer may change from time to time.

## Workplace Relations Training

15. Within 28 days of the commencement of this Deed, Hays Specialist Recruitment will provide the FWO with details of the workplace relations training they provide to all persons who hold management positions with regard to Commonwealth Workplace Laws. This information will be kept confidential by the FWO and will not be publicised or used by the FWO in any way, other than to ensure compliance with this deed.

## Reporting

16. One year after the commencement of the Deed, Hays Specialist Recruitment will provide the FWO with a report addressing the following matters:
  - (a) the actions that have been taken by Hays Specialist Recruitment to address the requirements of the Deed;
  - (b) the number of complaints referred to Hays Specialist Recruitment;
  - (c) the number of complaints resolved by Hays Specialist Recruitment;
  - (d) the average time taken to resolve; and
  - (e) the average amount of underpayments.
17. The report must be provided to the FWO no later than 28 days after the completion of the reporting period.
18. At the expiry of the Deed, Hays Specialist Recruitment must provide the FWO with a report addressing the following matters:
  - (f) the actions by Hays Specialist Recruitment to address the requirements of the Deed;
  - (g) the number of complaints referred to Hays Specialist Recruitment;
  - (h) the number of complaints resolved by Hays Specialist Recruitment;
  - (i) the average time taken to resolve; and
  - (j) the average amount of underpayments.

19. The final report is to be provided to the FWO no later than 28 days after the end date of the Deed.
20. The FWO may publish the reports provided by Hays Specialist Recruitment and will reflect the positive cooperation of Hays Specialist Recruitment during the life of the Deed.
21. The FWO may publish its own report regarding the Deed and will provide Hays Specialist Recruitment with an opportunity to comment on the report.
22. The FWO's report will reflect the positive cooperation of Hays Specialist Recruitment.