

Article from the Australian Real Estate Review. Written by Kathryn Edwards

Fair Work Ombudsman targets agents in audit campaign

The Fair Work Ombudsman will investigate 350 real estate agents across metropolitan and rural New South Wales during a two-month 'education and compliance' campaign.

The audit has come about in response to concerns raised by key industry stakeholders that some employers are not complying with pay obligations to salespeople who receive commissions, according to Fair Work Ombudsman Nicholas Wilson.

"A key focus of the campaign is making employers aware of the free resources available to assist them to understand and comply with workplace laws," he said in a statement.

"The campaign will also benefit employers who are complying with workplace laws because our auditing of compliance with minimum pay rates will help to ensure businesses are competing on a level playing field."

Greg Paterson, Executive Director of Real Estate Employers' Federation (REEF) NSW, told The Australian Real Estate Review that although most employers don't deliberately breach their obligations to staff, those who are not aware of their obligations may face some difficulty.

"Generally I don't think employers deliberately breach their obligations to staff. Usually, but not always, any breach is unintentional and is based primarily out of ignorance of the law and the rules," he said.

"One of the differences in real estate, compared to other industries, is the requirement for there to be written agreements in relation to bonuses or incentive payments as an award prescription. So one of the things the Ombudsman is checking is that people firstly have got those agreements and that they have been properly registered. That's a distinguishing feature of things that our industry has to confront compared to other industries."

Paterson's advice to those employers who aren't sure of their obligations is to join their local REEF.

"We have a telephone advisory service which helps members, and indeed we've been helping a lot of members in relation to this audit so that they fully understand what is being asked of them by the Ombudsman. If there are any deficiencies or weaknesses in their systems we can help them get them right."

Inspectors will check that agencies are paying employees correctly, with a particular focus on ensuring salespeople paid on a commission-only or part-commission basis are receiving their full entitlements, as well as checking that administrative staff are being paid their full entitlements, including minimum pay rates and penalty rates.