



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

12 November 2019

Mr Christian Porter  
Attorney General  
Attorney-General's Department  
BARTON ACT 2600

*via email: IRconsultation@ag.gov.au*

*Christian*

Dear Attorney-General

### **Improving protections of employees' wages and entitlements**

It is important that employee wages and entitlements are calculated correctly and paid on time. While the vast majority of small businesses accurately fulfil their obligations to their employees, the overly complicated and fluid award system sometimes means that an employer can get things wrong. Any new penalties for incorrect payments must take this system complexity into account.

Small businesses are a vital contributor to the Australian economy, generating significant economic benefit and employing a significant portion of Australians. Small businesses are often run by a single person who wears different management hats, from being the information technology manager to acting as the human resources manager. This makes difficult to keep abreast of award changes.

The complexity of the award system has been recently highlighted by instances of large Australian corporations (who employ highly skilled and experienced human resources teams) significantly underpaying employees. The vast majority of small businesses try to do the right thing by their employees, although sometimes due to misunderstanding of the award get it wrong.

Small businesses would welcome, and benefit from, simplification of the numerous industry awards that could help reduce payment errors and administration costs. For example, the simplified *Building and Construction General Onsite Award* negotiated by the Housing Industry Association and the Fair Work Ombudsman reduced many allowances into one. The rollout of single touch payroll also provides an opportunity to calculate wages and entitlements linked to an award through an algorithm integrated into accounting software such as Xero, MYOB and Quicken. A systemised award payment algorithm could be owned and updated by the Fair Work Commission's office ensuring that correct wages and entitlements are paid.

Any new proposals should not increase the administrative burden on small business that already struggles with limited resources but acts quickly to resolve errors once known. Small business must be allowed to rectify genuine payment errors and not be automatically penalised. Where penalties are applied, they should be proportionate to the nature of the breach; a fine that a large corporation can absorb as 'the cost of doing business' is likely to trigger the collapse of a small business.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Paul Joshua on [REDACTED] or at [REDACTED].

Yours sincerely

*Kate Carnell*

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Australian Small Business and Family Enterprise Ombudsman

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