

FECCA's response to the Productivity Commission's draft report on Australia's Workplace Relations Framework

The Productivity Commission have released their draft report today on Australia's Workplace Relations Framework. FECCA made a submission to the inquiry, highlighting a number of issues involving employment conditions and the workplace relations framework as it relates to culturally and linguistically diverse (CALD) Australians and migrant workers. We are pleased that the draft report includes our commentary on the vulnerability of CALD workers.

The Commission have made two recommendations in relation to migrant workers:

1. The Fair Work Ombudsman should be given additional resources for investigation and audits of employers suspected of underpaying migrant workers (including those in breach of the Migration Act 1958 (Cth))
2. The Migration Act should be amended so that employers can be fined by at least the value of any unpaid wages and conditions to migrants working in breach of the Migration Act, in addition to the existing penalties under the Act.

While it is reasonable for employers who exploit migrant workers to be penalised for doing so, more needs to be done to support workers who find themselves in this position. Migrant workers are vulnerable to exploitation as they may have an absence of support networks and a lack of understanding about the protections that exist in the Australian workplace relations system. Migrant workers may be forced into breaching their visa obligations by an unscrupulous employer and may not do this willingly or knowingly.

The Commission's recommendations discourage reporting by workers of breaches of their employment and visa conditions. With compliance being the key focus, little is proposed to support vulnerable migrant workers in situations of exploitation. The recommendations adopt a punitive approach towards already exploited workers, whereby the unpaid wages are paid by the employer to the government. The draft report provides no mechanism for the collected money to be directed toward supporting vulnerable migrant workers, either by restoring the payment that they are owed or implementing programs to empower them.

The draft report also examines other issues relevant to FECCA's constituency, including the minimum wage, penalty rates and apprenticeships and traineeships. FECCA will look closely at the draft report and make a further submission to the Commission by 18 September.

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