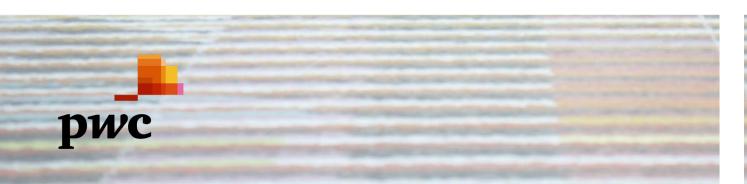
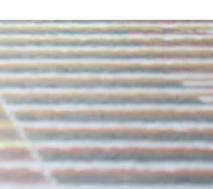




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Managing wage non-compliance



What's the issue?

Employers are currently experiencing intense scrutiny in relation to their compliance with minimum wage obligations.

Public attitudes to non-compliance have changed.

Incorrect or incomplete configuration of their payroll systems.

Payroll has long been an area required to cope with a lack of investment in resources, training and technology.



Grappling with underpayment of wages





Dealing with non-compliance

Underpayment issues go to questions of compliance with legal obligations, and should be considered from a legal perspective. Non-compliance often arises due to issues including:

- Lack of knowledge regarding applicable industrial instruments
- Incorrect classification of instrument-covered employees
- Reliance on annualised salaries
- Failure to accurately record hours of work, including breaks
- Incorrect payroll configuration
- Personal/carer's leave accruing incorrectly



What proactive steps can employers take to review their payroll?

- Seek legal advice
- Run a hire to retire process walk through
- Review of payroll code configuration
- Governance controls review
- Review of annualised salary practices



Lifecycle of remediating a problem





Employers assessing wage compliance issues must grapple with:

- Reviewing high volumes of historic and incomplete data;
- Managing multiple stakeholders including the Fair Work Ombudsman, the Fair Work Commission, the Australian Tax Office, unions, employees and the media;
- Disclosure obligations, including where they operate in a listed context;
- The tax and accounting implications of identified liabilities; and
- Potential regulatory and employee legal action.

whilst trying to maintain employee, customer and shareholder trust and confidence.



Ten themes for Boards:

- 1. Legal advice
- 2. External review
- 3. Annualised salary
- 4. Entitlement calculations based on instrument
- 5. Electronic time and attendance systems
- 6. Manual interventions
- 7. Monitor compliance with workplace obligations
- 8. Key person risk
- 9. Professional development?
- 10. Employee complaints and back pay adjustments



Organisation specific & broader challenges

Organisation Specific Challenges

- Master Data changes are manual and lack adequate controls
- Instances of non-compliance with employee working rights are not always addressed in a timely manner
- No proactive monitoring of rostering compliance
- Payrun reviews are inconsistent and mistakes are not always detected
- Reliance on third party for Master Data and Payroll processing with limited oversight



Analytics, Accounting & Reporting Payroll Payments 5 **Super Contributions** (regular and one-offs) Manual Allowance Applications Time & attendance capture and approval 3 Rostering 2 Working rights checks Accurate Employee Master Data (Recruitment, Changes, Terminations) **Automated Allowance** Wage Code Configurations Configuration **EA** Interpretation

Broader challenges:

- Designation of employees between part time or casual
- Accurate classification of employees and documentation of historical changes to classifications
- Single wage codes used for entitlements relating to multiple industrial instruments
- Accurate capturing and recording of hours worked and breaks taken
- Accurate system configuration to support calculation of superannuation and PAYG withholding in respect of employee entitlements
- Demonstrated compliance with working rights

Case Study Example



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Mondelez v AMWU decision -"What is a day?"



On 13 August 2020, the High Court overturned the *Mondelez vs AMWU* decision and provided relief to payroll functions across the country.



Mondelez v AMWU - the High Court decision



The High Court dismissed the "working day" decision, finding that it would lead to inequalities between employees with different work patterns, and would be unfair.

The Fair Work Ombudsman website provides examples that confirm the calculation of leave entitlement under various scenarios



Workpac v Rossato - ASIC Guidance



ASIC released guidance in August stating that the *Workpac vs Rossato* decision (which may still be appealed) must be considered by companies when preparing their financial statements to determine if there is a potential liability to be provided.

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Long term casuals



Payroll functions should raise the following:

If you employ long term casuals as part of your workforce, have you sought legal advice as to whether they should be viewed as permanent employees. Factors that may indicate a casual employee should be viewed as a permanent employee include:

- a. regular work patterns
- b. rostering that covers months in advance
- c. continuous employment over several years or
- d. little evident distinction between casual and permanent employees.



In summary: covering payroll risks – is traditional IA enough?

A detailed understanding of entitlements from the relevant industrial instruments and the configuration of these entitlements in wage codes is needed in addition to data driven process and controls audits to provide comfort over an organisation's compliance with workplace entitlements.

Payroll Analytics in IA

'Traditional' IA Scope

Essential components to evaluate an organisation's compliance with workplace entitlements

Examine relevant industrial instruments

Examine the relevant Awards and Enterprise Agreements (EAs) to identify staff entitlements and areas of complexity.

This will include identification of entitlements to:

- Base rates of pay and annualised salaries
- Additional loadings and allowances
- Superannuation

Review wage code mapping

Review wage codes to:

- Compare entitlements identified to wage code configurations for completeness and accuracy
- Identify whether codes have been configured for PAYG, superannuation, Payroll Tax and Workers Compensation.

Analyse & Benchmark payroll data

Payroll Analyser/Financial Process Analyser

Predefined data analytics examining specific payroll controls. These do not include examination of industrial agreements, PAYG, Payroll tax, superannuation or workers compensation.

Bespoke payroll analytics

Based on client specific situation and needs - analytics that look at

- Time and attendance analytics
- Casual vs Part-Time
- Pay Rate and Allowance Consistency
- Superannuation
- Long Service Leave

Assess payroll processes and controls

Through walkthroughs and interviews and review of documents to understand payroll processes and controls.

Through controls testing assess the effectiveness to meet a risk based selection of workplace entitlement requirements, such as:

- Employee master data creation/maintenance
- Working rights checks
- Rostering
- Time and attendance
- Manual allowances
- Payroll processing
- Superannuation payment

Thank you

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