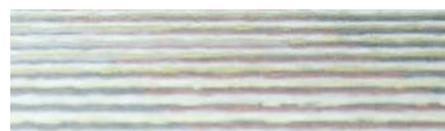
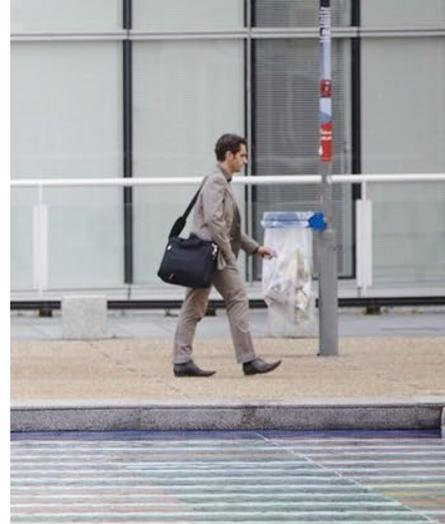




Remuneration and Wages Risk

Prepared for The Institute of Internal Auditors by **Stephanie Males, Managing Partner, PwC**
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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

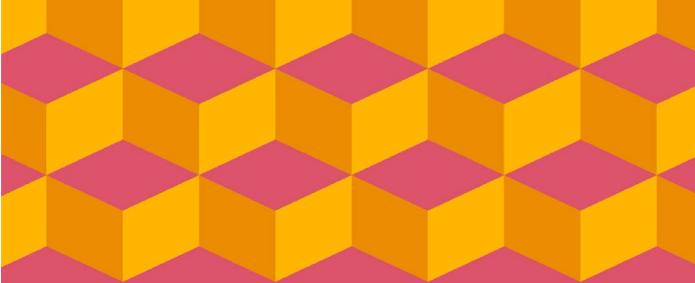
Challenges in managing non-compliance



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

- 1 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

Payroll Objectives



Workplace Law
Compliance

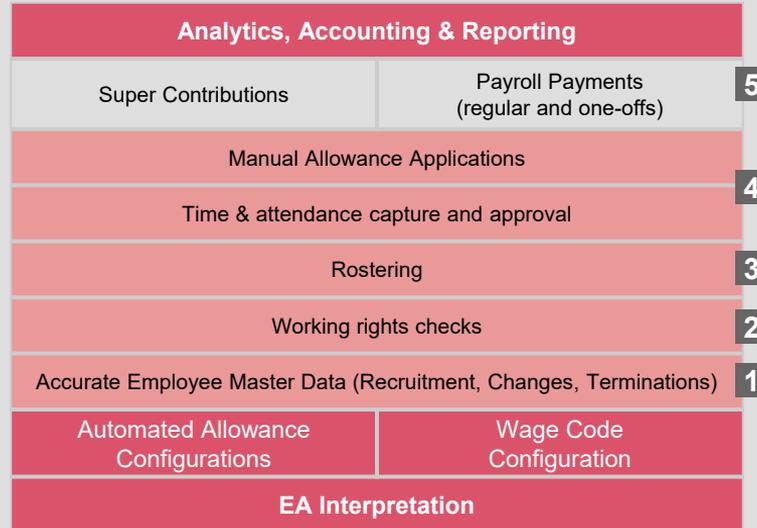


Effective
Control



Efficient
Operations

Delivered through:



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



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:

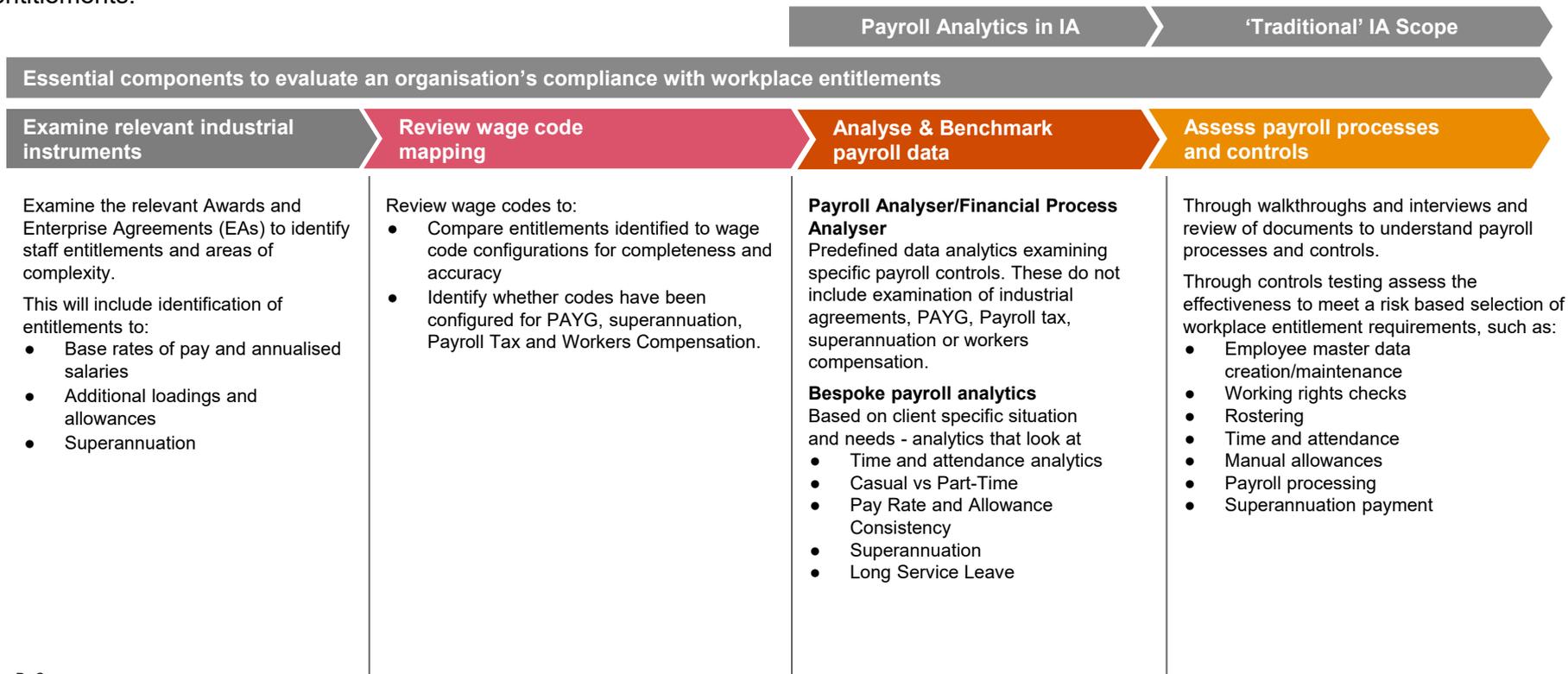
If you employ long term casuals as part of your workforce, have you sought legal advice as to whether they should be viewed as permanent employees. Factors that may indicate a casual employee should be viewed as a permanent employee include:

- 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.



Thank you

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