

Wage Underpayment - *Managing Risk and Strengthening Practice*

Siobhain Simpson
Partner

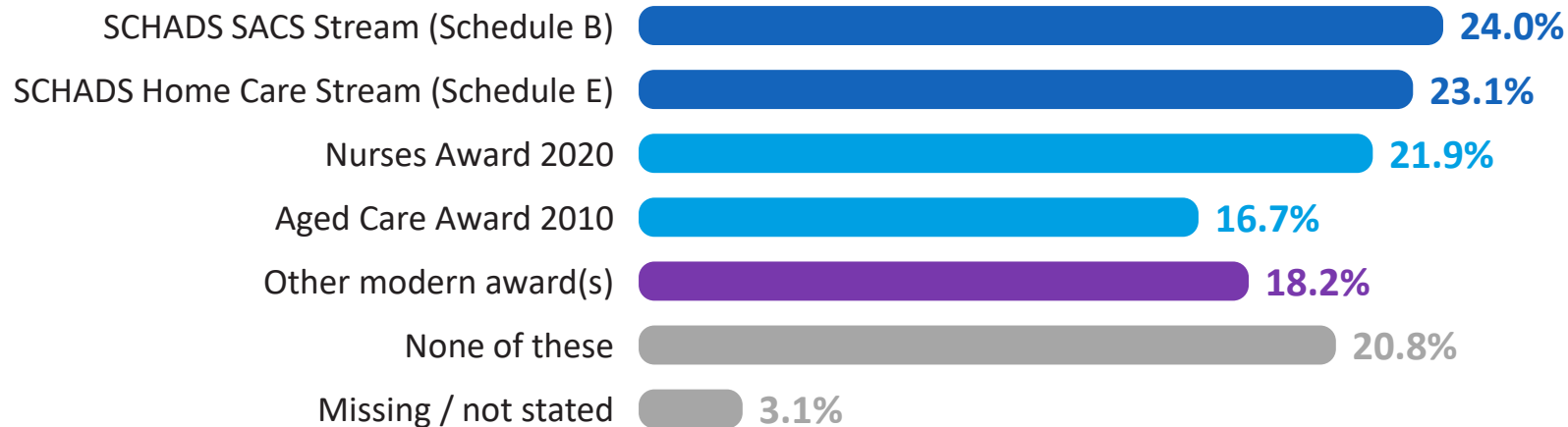


StewartBrown
Integrity + Quality + Clarity

Industrial Instruments in Aged Care

Employment awards underpinning the care sector				
	SCHADS	Aged Care Award	Nurses Award	Other
Aged and Home Care		✓	✓	
Support at Home	✓			
Retirement Living	✓			
NDIS	✓			✓

Awards applied by providers (% of respondents)

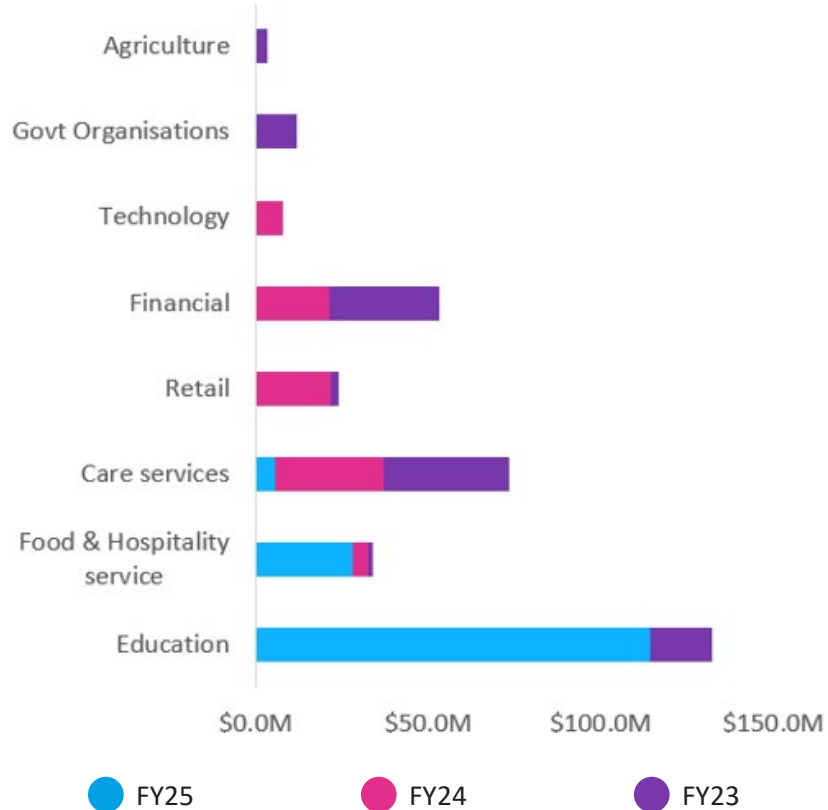


Why it matters

No single award covers the sector. Most providers operate across multiple instruments which can have different treatments for the same components.

Reported Underpayments

Reported underpayments by industry (FY23-FY25)



Total reported underpayments by financial year

FY	Total
2022	\$46,927,075
2023	\$105,007,525
2024	\$86,877,148
2025	\$148,060,720
Grand total	\$385,972,468

FY18 - FY25 recovered

Care services specific	\$146m
Aged care specific (ILU, RAC & HC)	\$47m
Overall	\$494m

Aged Care Specific FW Reported Underpayments

FY 2023 **\$33,154,995**

Operator 1 **\$7,367,819**

Allowances	Penalty rates
Meal break	Superannuation
Minimum engagement	<i>Shift worker annual leave</i>

Operator 2 **\$3,588,868**

Allowances	<i>Overtime</i>
<i>Broken shift</i>	Progression
Higher duties	Public holiday loading
Nurse handover	Shift allowance

Operator 3 **\$5,182,603**

<i>Overtime</i>	Weekend loading
Sleepover	<i>Shift worker annual leave</i>

Operator 4 **\$17,015,705**

<i>Gaps between shifts</i>	
Meal break	

FY 2024 **\$12,733,731**

Operator 1 **\$5,773,731**

<i>Broken shift</i>	<i>Overtime</i>
Call back	Shift allowance
Hours of work	Sleepover
Meal break	

Operator 2 **\$4,860,000**

Shift worker annual leave

Operator 3 **\$2,100,000**

AL loading	
Sunday Penalty	
Parental Leave	



Focus on Wages - Risk of Non-Compliance

“It is disappointing that large, well-resourced employers are continuing to fail in their fundamental duty to meet the legal entitlements of their workers, and Boards must set the culture for compliance.”

“Every Director needs to ensure that the company they are responsible for has systems in place that prioritise compliance. By doing this, they also reduce risks and costs for the business associated with non-compliance.”

Anna Booth - Fair Work Ombudsman



StewartBrown - Our Work in This Space



49,000

Employees



\$4.9 billion

Total payroll expenses



58.2%

Compliance error rate



220

Audit clients



3

Fair work assignments



40+

Payroll compliance



Underpayment Risk - StewartBrown Findings



Overtime
(daily, period, meal break)



Min contracted hrs
(part-time)



Superannuation
leave loading



Overtime meal allowance



Shift worker
additional leave



OT instead of DT –
over & under



Broken shift span of 12
hours double time



Minimum engagement



Progression



IFA's

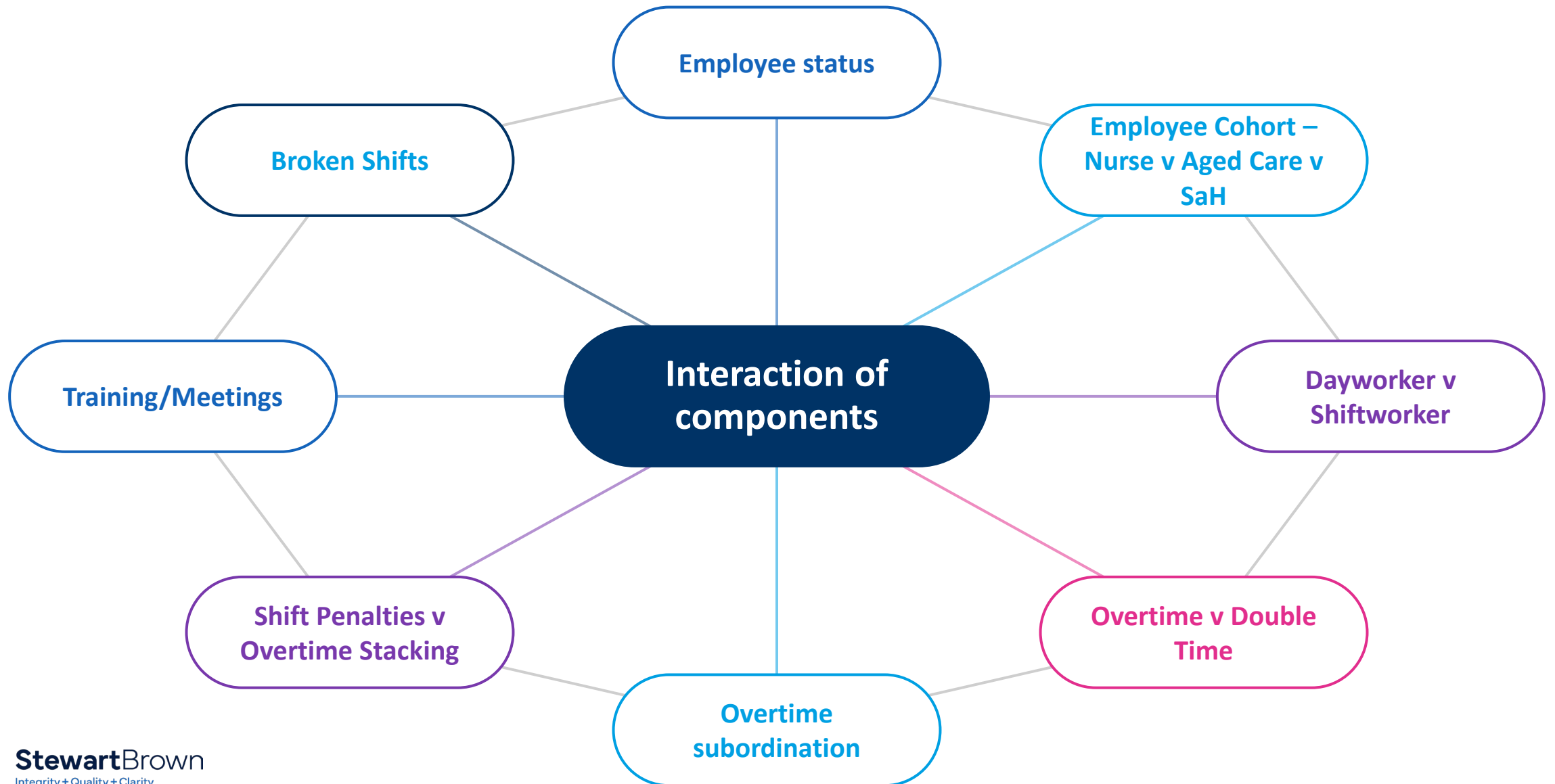


Insufficient break

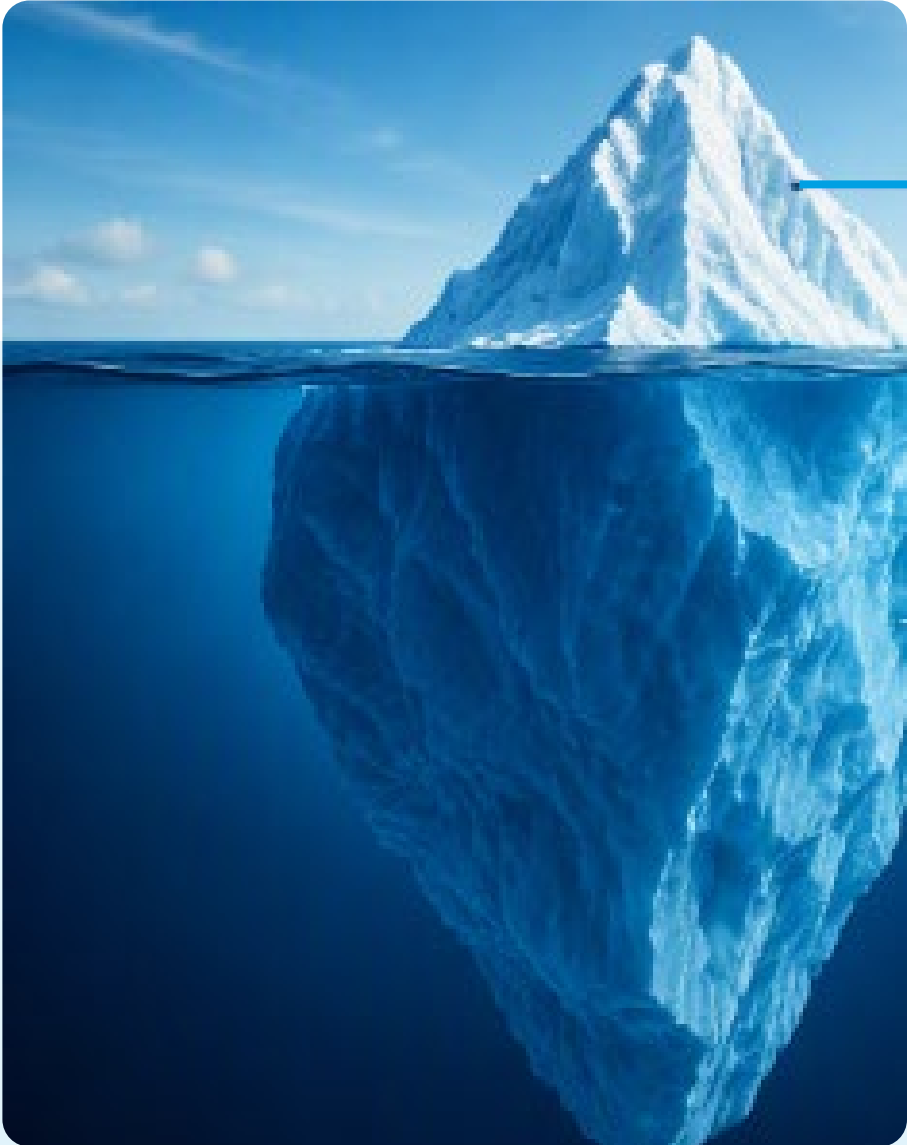


Casuals

Underpayment Risk - The Connected Picture



Underpayment Risk – What You See vs What Lies Beneath



WHAT YOU SEE

Enterprise Agreement/Modern Award Clauses

WHAT LIES BENEATH

Reliance on NES/underpinning modern award for areas in the EA that are silent

Pay components presentation in the system – how to interpret the outputs

How do components interact together, which clauses are dominant

If you find something - What not to do

Assume its limited to what you've found

Disclose to Union/FWO/Emps without Legal Advice

Correct the configuration and move on

Ignore => if you're aware and you don't act its Wage Theft

Assume *"employees know their pay"* is an internal control

Limit remediation to less than the full exposure period



Underpayment: Next Steps Overview



PHC Report

Step 1

Establish based on sampling techniques, the likely issues of non-compliance



Extend Sample

Step 2

Extend the sample across a standard 6 year period to establish a pattern/error rate



Legal

Step 3

Seek Legal Advice

- Clarify position
- Next steps
- Ensure privilege



Configuration

Step 4

Correct configuration with software provider



Backpay

Step 5

Establish the population to receive a backpay.

Recalculate agreed upon areas

Key Takeaways



Aged care is one of the areas of focus for Fair Work



The risk environment is driven by factors which will not change => 24/7 work patterns, complexity and system limitations



Investment required to ensure your compliance and mitigate reputational risk and significant expense of underpayments

Contact Us

Siobhain Simpson

Partner

siobhain.simpson@stewartbrown.com.au

Stuart Hutcheon

Managing Partner

stuart.hutcheon@stewsrtdbrown.com.au



StewartBrown Aged Care Capability



Audit and Assurance



**Financial Modelling and
Forecasting**



Strategic Planning



Tax Related Services



Governance Reviews



CFO Services



Payroll Compliance Reviews



**Mergers, Acquisitions
and Due Diligence Services**



Costing and Pricing Reviews



**Finance Systems and
Processes Reviews**



**Aged Care & Retirement
Performance Surveys**



**Aged Care Software Support
and Project Management**



StewartBrown

ABN: 63 271 338 023

Level 2, Tower 1

495 Victoria Avenue
Chatswood NSW 2067

Tel: (02) 9412 3033

info@stewartbrown.com.au



StewartBrown
Integrity + Quality + Clarity