

Fair Work Ombudsman out to smash myths relating to young workers

13 February 2017

The Fair Work Ombudsman is seeking to educate employees and business on the myths that are contributing to a concerning number of young workers being underpaid around Australia.

Fair Work Ombudsman Natalie James says too many people mistakenly believe that a range of workplace practices relating to young workers are OK when they are in fact unlawful.

“It’s time to address the myths that have achieved widespread levels of acceptance and are resulting in employers short-changing young workers around the country,” Ms James said.

“Young workers make up about 16 per cent of the Australian workforce but account for a disproportionately high 25 per cent of requests for assistance to the agency. Last year 44% of the litigations we filed in court involved young workers.”

“It is critical to raise awareness among employees and employers that they may be involved in serious contraventions of workplace laws by unwittingly continuing with practices that they believe are acceptable.

“Young workers can be vulnerable in the workplace as they are often not fully aware of their rights or reluctant to complain if they think something is wrong.

“We also come across too many employers who are short-changing young workers and when we contact them they say, ‘I just assumed what I was doing was OK’,” Ms James said.

Ten common young worker myths the Fair Work Ombudsman encounters are:

MYTH 1: Paying low, flat rates of pay for all hours worked is OK if the worker agrees.

FACT: Minimum lawful pay rates are mandatory. In many jobs, penalty rates must be paid for evening, weekend, public holiday and overtime work.

MYTH 2: Lengthy unpaid work trials and unpaid work placements and internships are OK for all inexperienced young workers looking to get a foot in the door

FACT: Unpaid work trials are only OK for as long as needed to demonstrate the skills required for the job. Depending on the nature of the work, this could range from an hour to one shift. Internships or unpaid work placements can be lawfully unpaid when they are part of an approved job training or work experience program or vocational placement and the work is done in accordance with the relevant program or placement.

MYTH 3: Employees don’t need to be paid for time spent opening and closing a store.

FACT: Employees must be paid for all hours they dedicate to work and this includes time spent opening or closing a store. For example, if an employee is required to be at work at 7.45am to prepare for an 8am store opening, they need to be paid from 7.45am.

MYTH 4: Employees don’t need to be paid for time spent at meetings or training outside their paid work hours.

FACT: If it is compulsory, then it is work. Employees are entitled to be paid for the time they are required to spend at any meeting or training.

MYTH 5: Employers can make deductions from an employee’s wages to cover losses arising from cash register discrepancies, breakages and customers who don’t pay.

FACT: Unauthorised deductions from an employee’s pay are unlawful. Deductions can be made only in very limited circumstances.

MYTH 6: Employees are obliged to buy store produce such as clothing or food.

FACT: Employers cannot require staff to purchase store produce. This includes any items for which the worker may receive a staff discount. For example, an employer cannot require workers to purchase the particular clothing stocked in a retail outlet.

MYTH 7: Employers can pay young workers as 'trainees' or 'apprentices' without lodging any formal paperwork.

FACT: Employers must negotiate and lodge a registered training contract for an employee in order to lawfully be able to pay trainee or apprentice rates. An employer cannot pay an employee trainee rates just because they are young or new to the job.

MYTH 8: Paying employees with goods such as food or drink is OK.

FACT: Payment-in-kind is unlawful. Employees must be paid wages for all work performed.

MYTH 9: If a worker has an Australian Business Number (ABN) they are an independent contractor and minimum pay rates don't apply.

FACT: Having an ABN does not automatically make a worker an independent contractor. Fair Work inspectors apply tests of fact and law to determine whether a worker's correct classification is as an independent contractor or an employee. Whether an employer has labelled a worker as a contractor and required them to obtain an ABN is not conclusive.

MYTH 10: Pay slips aren't mandatory – employers only need to give employees pay slips if they ask for them.

FACT: Employers must give all employees a pay slip within one working day of pay-day. Employers can give employees paper or electronic pay slips, such as a link sent via email.

Ms James says that in 2017 her Agency will have a particular focus on proactively checking that employers of young workers are doing the right thing.

"Young workers can be vulnerable, so we place high importance on checking and treat cases of their rights being contravened more seriously, which means we are more likely to pursue enforcement action," Ms James said.

Between July 2011 and June 2016, the Fair Work Ombudsman received more than 27,000 requests for assistance from young workers and recovered over \$18 million for young workers who had been short-changed.

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. An interpreter service is available by calling 13 14 50 and information on the website is translated into 27 different languages.

Resources available on the website include the [Pay and Conditions Tool \(PACT\) \(https://calculate.fairwork.gov.au/\)](https://calculate.fairwork.gov.au/), which provides advice about pay, shift, leave and redundancy entitlements and an [employer's guide to employing young workers \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides).

Online resources available for young workers (www.fairwork.gov.au/find-help-for/young-workers-and-students) include a guide for young workers, the 'starting a new job' online learning course and a range of helpful tips.

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Contact us

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Fair Work Infoline: 13 13 94

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Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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