

FWO discontinues legal action against Foodora

21 June 2019

The Fair Work Ombudsman has discontinued its legal action against food delivery company Foodora Australia Pty Ltd (Foodora) after the company ceased operations in Australia in August 2018.

In late 2018, Foodora's administrators sold the company's assets as part of the administration process, which resulted in more than 1,000 Foodora delivery workers receiving only 31 per cent of the entitlements owing to them, including the three workers subject to the FWO's legal action.

Fair Work Ombudsman Sandra Parker said it is highly unlikely that the FWO's court action against Foodora would result in any additional payments being made to workers, or any financial penalty being imposed or recovered from Court proceedings.

"It is very disappointing for the Fair Work Ombudsman to discontinue this matter because the question of whether Foodora delivery workers were employees or independent contractors was an important matter for a Court to consider," Ms Parker said.

"Foodora's administrators issued a report to creditors stating that it was more likely than not that the majority of Foodora's delivery workers should have been engaged as casual employees rather than independent contractors, and that the Fast Food Industry Award applied to them."

"Foodora's decision to exit the Australian market should serve as a warning to businesses that any company that does not comply with our workplace laws does not have a sustainable future operating in this country," Ms Parker said.

"It is a priority for the Fair Work Ombudsman to crack down on sham contracting and we urge any workers with concerns about their employment arrangements to contact us."

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their workplace rights and obligations. A free interpreter service is available on 13 14 50.

Information on the difference between employees and contractors, and the factors to consider when determining the correct category for a worker, is available [here \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/independent-contractors-and-employees\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/independent-contractors-and-employees) .

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Background

The Fair Work Ombudsman commenced proceedings against Foodora (www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/june-2018/20180612-foodora-litigation) in June 2018, alleging it engaged in sham contracting activity that resulted in three delivery workers being underpaid \$1,620, plus superannuation, over a four-week period.

In August 2018, Foodora publicly announced its decision to exit the Australian market and went into voluntary administration.

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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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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