

BaptistCare signs Enforceable Undertaking

18 August 2020

BaptistCare NSW & ACT is back-paying employees more than \$1 million and has entered into an [Enforceable Undertaking \(DOCX 110.8KB\)](http://www.fairwork.gov.au/ArticleDocuments/545/Baptist-Care-Enforceable-Undertaking-%20Final%20-%20REDACTED.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/545/Baptist-Care-Enforceable-Undertaking-%20Final%20-%20REDACTED.docx.aspx) (PDF 1.2MB) (www.fairwork.gov.au/ArticleDocuments/545/BaptistCare%20EU%20-%20Final%20-%20REDACTED-checked.pdf.aspx) with the Fair Work Ombudsman in order to address its non-compliance.

The registered charity, which runs 17 residential aged care facilities as well as other related community services, self-reported that it underpaid more than 2000 current and former employees working in front line caring roles.

The affected employees were shift workers who were covered by the Baptist Community Services Age Care Enterprise Agreement 2011 and the BaptistCare NSW & ACT Aged Care Enterprise Agreement 2014.

As shift workers, under the Agreements the affected employees were entitled to an extra week of annual leave each year.

The underpayments were identified after the organisation discovered that it had failed to provide all the shift workers with the required additional annual leave, and the corresponding annual leave loading, since the implementation of the 2011 Agreement.

BaptistCare NSW & ACT underpaid 2146 workers a total of \$1.279 million, which includes superannuation, between February 2012 and July 2018. Individual underpayments range from less than \$5 to more than \$4000.

While BaptistCare NSW & ACT has already back-paid the majority of workers, the Enforceable Undertaking requires the organisation to pay any outstanding amounts to former employees within 180 days, as well as a range of other obligations to ensure future compliance.

Fair Work Ombudsman Sandra Parker said that an Enforceable Undertaking was appropriate, as the organisation had cooperated with the investigation and demonstrated a strong commitment to rectifying and remedying all the underpayments owed to its workers.

“The Enforceable Undertaking commits BaptistCare NSW & ACT to stringent measures to protecting its employees, including funding external audits over the next two years and reporting to us on upgrades to its payroll and related systems,” Ms Parker said.

“This matter serves as a warning to all organisations that if you don’t prioritise workplace compliance, you risk underpaying staff on a large scale and face not only a massive administrative and logistical exercise but the cost of a significant back-payment bill. You also risk having to undertake further audits that satisfy the FWO that you are continuing to pay your workers properly. Any employers who need help meeting their lawful workplace obligations should contact us.”

Under the Enforceable Undertaking, BaptistCare NSW & ACT will make a \$40,000 contrition payment into the Commonwealth’s Consolidated Revenue Fund.

The organisation must fund an independent organisation to operate a Hotline for the next four months that employees can use to make enquiries in relation to their entitlements, underpayments or related employment concerns. Employees will have the option of making enquiries on a confidential basis. BaptistCare NSW & ACT is also required to display public, workplace and online notices detailing its workplace law breaches and apologise to workers.

Employers and employees can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94 for free workplace advice.

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Page reference No: 9581

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