

## Perth company penalised

21 August 2020

The Fair Work Ombudsman has secured \$18,300 in penalties in the Federal Court against the operators of a Perth gourmet food distribution business.

Austrend International Pty Ltd, which trades as Austrend Foods, breached the Fair Work Act when it took adverse action against an employee because of her sex and pregnancy by refusing to allow her to return to work after a period of unpaid leave to have and care for her first child.

Austrend has been penalised \$15,500 and company director and general manager Denzil Godfrey Rao has been penalised an additional \$2,800 for his involvement in the breach.

The Court also ordered Austrend to pay \$2,000 compensation to the affected employee for hurt and distress she suffered. After the birth of her first child in 2015, the affected employee was due to return to work in April 2016.

The employee subsequently fell pregnant for a second time and advised Austrend of her pregnancy in March 2016. She informed the company she would still return to work the following month.

However, Austrend told her it was extending her unpaid leave until after the birth of her second child. The employee subsequently alerted Austrend to the fact she had not requested an extension of unpaid leave and informed the company that she had received advice that she was within her rights to return to work in April 2016 as originally agreed.

The company admitted in Court that it took adverse action against the employee by refusing to allow her to return to work on 4 April 2016 because of her sex and pregnancy. The employee's employment at Austrend ultimately concluded when she resigned on 19 July 2016 and she never returned to work at Austrend.

In addition to orders for penalties and compensation, the Court ordered Austrend to commission workplace relations training for its managers.

In its proceedings, the FWO initially made a number additional allegations against Austrend and Mr Rao, which were withdrawn or dismissed during the course of proceedings. These additional allegations were detailed in a media release issued at the commencement of the proceedings.

In her judgment, Justice Banks-Smith said: "In my view the conduct of the Ombudsman in maintaining the original media release on its website qualified only by the notes operated unfairly to perpetuate adverse publicity".

The Fair Work Ombudsman acknowledges and accepts Justice Bank-Smith's comments and has removed the media release to address these concerns. The [FWO Media Policy \(www.fairwork.gov.au/ArticleDocuments/725/fwo-media-policy.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/725/fwo-media-policy.pdf.aspx) is available on the website.

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

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Media inquiries:

Meg Macfarlan

Media Director

Mobile: 0466 137 041

[meg.macfarlan@fwo.gov.au](mailto:meg.macfarlan@fwo.gov.au) (<mailto:meg.macfarlan@fwo.gov.au>)

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