

Federal Court penalises AWU

7 February 2020

The Fair Work Ombudsman has today secured an \$18,000 penalty in the Federal Court against the Australian Workers' Union (AWU) for taking adverse action against two of its members who refused to participate in industrial action.

The two affected workers were employed by Orica Australia Pty Ltd at its manufacturing plant at Deer Park, in Melbourne.

On 3 March 2015, employees at Orica took protected industrial action. The action was arranged by the AWU, which was negotiating with Orica Australia in relation to a new Enterprise Agreement covering Deer Park workers.

The Court found that an AWU officer took steps to charge the two members under the AWU's Rules. The charges were that the members had, by their conduct, engaged in "gross misbehaviour" and had failed to comply with a "resolution or direction lawfully passed or given" because they had not participated in the industrial action.

The AWU withdrew the charges against the two workers on 2 September 2015 after the FWO's investigation had commenced.

The Court found that the AWU contravened the Fair Work Act by taking adverse action against two members because they exercised a workplace right and did not engage in industrial activity.

Fair Work Ombudsman Sandra Parker said that enforcing compliance with workplace laws is fundamental to maintaining the integrity of Australia's system.

"All workers, including union members, have the lawful right to choose whether they will or will not participate in protected industrial action," Ms Parker said.

"It is unlawful for unions and employers to take adverse action against any worker for exercising that right and we are prepared to take enforcement action to protect these integral workplace rights," Ms Parker said.

Further information on protections at work is available on our [Protections at work page \(www.fairwork.gov.au/employee-entitlements/protections-at-work\)](http://www.fairwork.gov.au/employee-entitlements/protections-at-work).

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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