

Refugees allegedly underpaid

28 January 2021

The Fair Work Ombudsman has commenced legal action in the Federal Court against a major waste management company, alleging almost \$200,000 in underpayments of vulnerable migrant workers.

The FWO has commenced legal action against:

- Polytrade Pty Ltd, which holds waste management contracts with a number of local government bodies;
- Polytrade Employment Services Pty Ltd, which supplied labour to Polytrade; and
- Polytrade's owners, husband-and-wife Mr Man Sang Chen and Ms Pui Shan Ho.

FWO alleges Polytrade Employment Services underpaid five employees a total of \$194,249 for work performed at Polytrade's waste management facilities in Dandenong and Hallam. FWO also alleges that Polytrade, Mr Chen (who is a director of Polytrade) and Ms Ho (who is a director of Polytrade Employment Services) were involved in the underpayments.

Fair Work Ombudsman Sandra Parker said the alleged underpayment of visa holders in Australia is a serious matter.

"The Fair Work Ombudsman treats cases involving allegations of underpayment of migrant workers particularly seriously. These workers can be vulnerable if they are unaware of their entitlements or reluctant to complain due to their visa status," Ms Parker said.

"Migrant workers in Australia must be paid their full lawful entitlements like any other employee in Australia. Anyone with concerns about their pay or entitlements should contact us for free advice and assistance."

FWO investigated after receiving a referral from the Australian Workers Union.

It is alleged that Fair Work Inspectors discovered that the five affected employees had generally been paid a flat rate of \$22 per hour, resulting in underpayment of the relevant minimum wage rate (which includes an industry allowance); loadings for casual, night and shift work; and penalty rates for weekend and public holiday work they were entitled to under the Waste Management Award 2010.

At the time, the workers were on protection or bridging visas pending approval of applications for protection visas, after arriving in Australia as refugees from southern Asia. They spoke limited English.

It is alleged that the underpayments occurred between February 2018 and October 2019 when they were employed at the Hallam and Dandenong sites as waste sorters.

The regulator also alleges breaches of workplace laws relating to minimum engagement periods, advising employees of their terms of engagement, payment of superannuation entitlements, record-keeping and issuing pay slips in the required form. The alleged underpayments have now been fully rectified.

Polytrade and Polytrade Employment Services face potential penalties of up to \$63,000 per contravention and Mr Chen and Ms Ho face potential penalties of up to \$12,600 per contravention.

The FWO is also seeking an order requiring the respondents to commission an independent audit of their compliance with workplace laws and provide the audit report to FWO. A date for the directions hearing in the Federal Court in Melbourne is still to be listed.

Call the Fair Work Infoline on 13 13 94 or a free interpreter service on 13 14 50. Know a workplace not doing the right thing but don't want to get involved? [Report it anonymously \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff) – in your language.

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Contact us

Fair Work Online: www.fairwork.gov.au

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