

Only About Children signs Enforceable Undertaking

30 March 2021

Childcare company Only About Children Pty Ltd is back-paying employees more than \$1.5 million and has entered into an Enforceable Undertaking (EU) with the Fair Work Ombudsman.

The company operates more than 70 childcare outlets in NSW, Victoria and Queensland.

Only About Children self-reported underpayments to the regulator in December 2019. When implementing a new payroll system, the company became aware that it had underpaid casual and part-time employees' overtime entitlements under the Children's Services Award 2010 and the Educational Services (Teachers) Award 2010.

The company mistakenly calculated overtime entitlements on only a weekly basis, which resulted in it failing to pay part-time and casual employees who worked more than 8 hours in a single day the overtime rates they were entitled to.

The underpaid workers were primarily early childhood educators. Most were located at centres throughout Sydney, Melbourne and Brisbane.

In total, Only About Children is back-paying 2144 current and former employees a total of over \$1.59 million (including interest and superannuation) after underpaying them between 2013 and 2019. Individual back-payments range from \$5 to over \$13,000.

As at 1 March 2021, the company had back-paid more than 1700 employees, with a total of less than \$82,000 still owing to former employees the company is still trying to locate.

Fair Work Ombudsman Sandra Parker said an EU was appropriate as Only About Children had cooperated with the FWO and demonstrated a strong commitment to rectifying all underpayments.

"Under the Enforceable Undertaking, the company has committed to implementing stringent measures to protect its workforce. This includes engaging, at the company's own cost, an expert auditing firm to check its compliance with workplace laws for the next two years and provide evidence that it has developed systems and processes for ensuring compliance in future."

"This matter demonstrates how important it is for employers to place a high priority on ensuring they are aware of every lawful entitlement they must pay their employees. The underpayment of just a single entitlement over time, can result in a large-scale back-payment bill. Any employers who need help meeting their workplace obligations should contact the FWO for free advice and assistance."

Under the EU, Only About Children must make a \$45,000 contrition payment to the Commonwealth's Consolidated Revenue Fund. The company's co-operation in rectifying the breaches was a relevant factor in determining the contrition payment.

Only About Children is also required to display a notice at each of its worksites, on its website, and on social media detailing its breaches. It is also required to publish a notice in The Australian, apologise to workers and commission an independent organisation to operate a Hotline for six months for employees.

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

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Page reference No: 10122

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