

Melbourne real estate agent signs Enforceable Undertaking after age discrimination breach

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A Melbourne real estate agent discriminated against a female employee when it dismissed her because of her “overall young look”, the Fair Work Ombudsman has found.

Buxton (Sandringham) Pty Ltd, a franchise of the Buxton Group, has agreed to pay the woman \$1200 compensation and revamp its workplace policies following investigations by the Fair Work Ombudsman.

The woman was employed as a personal assistant on a casual basis in June, 2010, when she was 23 - but dismissed a month later, shortly after she had assisted at an auction by recording bids.

A male sales consultant told her that some of the company’s directors who had seen her at the auction were concerned she looked too young, was too short and would not have the presence to effectively negotiate at auctions.

He said he “needed someone he could turn into a sales person and that this was not possible for her because of her overall young look.”

The consultant terminated her employment, saying: “The reason I have done this now is because the training I would need to do would be a waste of time if I then have this concern six months later”.

The Fair Work Ombudsman investigated the matter after the employee lodged an official complaint.

Following the co-operation of Buxton (Sandringham), the Fair Work Ombudsman has entered into an Enforceable Undertaking with the company as an alternative to litigation.

As part of the Enforceable Undertaking, the company has agreed to apologise to the former employee and pay her \$1200 compensation for the six weeks following her dismissal in which she was not able to gain alternative employment.

The company has also agreed to develop new recruitment and termination policies, commission workplace relations compliance training for its directors and alert other Buxton Group franchisees to its breach.

Fair Work Ombudsman Nicholas Wilson says it is important for employers to treat their employees fairly and be aware of their obligations under workplace laws.

Under the Fair Work Act, it is unlawful to discriminate against employees on the grounds of pregnancy, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer responsibilities, religion, political opinion, national extraction or social origin.

Discriminatory behaviour can include dismissing an employee, threatening to dismiss an employee, denying training and promotion opportunities or refusing to employ, promote or train an employee.

The Fair Work Ombudsman has had the power to investigate discrimination in the workplace since the Fair Work Act commenced on July 1, 2009.

Mr Wilson says every employee has the right to work without fear of discrimination and information about what sort of behaviour constitutes unlawful discrimination is available on the Agency’s website.

“Employers who have fair and transparent selection processes for recruitment, promotion, training and other business systems will be well placed to cultivate fair workplaces free of discrimination,” he said.

Employers or employees seeking assistance should contact the Fair Work Infoline on 13 13 94 or visit www.fairwork.gov.au. A free interpreter service is available on 13 14 50.

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Copy of undertaking: [Buxton \(Sandringham\) Enforceable Undertaking \(PDF 404.6KB\) \(www.fairwork.gov.au/ArticleDocuments/720/Enforceable-Undertaking-Buxton-Sandringham.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/720/Enforceable-Undertaking-Buxton-Sandringham.pdf.aspx)

Media inquiries:

Ryan Pedler, Assistant Director, Media & Stakeholder Relations
0411 430 902
ryan.pedler@fwo.gov.au

Page reference No: 4226

Contact us

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