

## Retail outlet discriminated against pregnant employee

12 February 2013

A Melbourne retail company which breached discrimination laws by reducing a worker's hours after she fell pregnant has agreed to apologise and pay compensation.

Shawna Pty Ltd, which trades as home wares retail outlet 'Good Housekeeping Australia - Cranbourne', has also agreed to revamp its workplace policies.

The company has agreed to the corrective actions under the terms of an Enforceable Undertaking it has entered into with the Fair Work Ombudsman.

The employee, a retail assistant in her early 20s, informed Shawna's owner-operator, Hui Zhou, that she was pregnant in 2011. Zhou then sent her a text message stating: "You have a baby now, and I can't let you too tires (sic)".

Zhou later told the employee - who was working 23-to-27 hours per week before becoming pregnant - that her work hours would be reduced to only seven per week and she could accept this or resign.

The employee subsequently resigned, in what the Fair Work Ombudsman found was a 'constructive dismissal' of the employee under workplace laws.

Following a complaint from the employee, Fair Work Inspectors investigated and the owner-operator admitted breaches after workplace laws were explained.

Under the Fair Work Act, it is unlawful to discriminate against employees on a range of grounds, including pregnancy, race, colour, sex, sexual preference, age, physical or mental disability, marital status and family or carer responsibilities.

Discriminatory behaviour can include dismissing or threatening to dismiss an employee, reducing an employee's hours, deny training and promotion opportunities or refusing to employ, promote or train an employee.

Zhou also admitted her company breached workplace laws by not having a proper written employment agreement with the staff member.

As part of an Enforceable Undertaking entered into with the Fair Work Ombudsman, Zhou, a Chinese immigrant, has agreed to place an advertisement detailing the breaches in The Daily Chinese Herald newspaper to raise awareness of pregnancy discrimination laws among the Chinese community in Australia.

Zhou has also agreed that her company will:

- Pay the employee \$2000 compensation for economic and non-economic loss suffered,
- Make a formal written apology to the employee,
- Develop processes for ensuring future compliance with workplace laws,
- Commission annual professional workplace relations training for all Shawna directors for the next three years, and
- Prominently display a public notice detailing its breaches of workplace laws at its business premises.

Copies of the Enforceable Undertaking are available below in both English and Mandarin.

Fair Work Ombudsman Nicholas Wilson says that in cases of significant non-compliance, Enforceable Undertakings can be an effective alternative to litigation because they avoid the expense and delay associated with litigation and provide opportunities for continued compliance that may not otherwise be available.

Mr Wilson said there are a number of ways the Fair Work Ombudsman can achieve compliance with workplace laws, and these Enforceable Undertakings are a key mechanism.

"Enforceable Undertakings are an alternative to litigation and result in strong outcomes without the need for civil court proceedings," Mr Wilson said.

"They work by companies signing up to undertakings that may include back-paying past and present workers, public apologies, donations to not-for-profit organisations and workplace training.

“They are an important part of our Agency’s commitment to drive future compliance and help us remain confident we are upholding the provisions of the Fair Work Act.”

The Fair Work Ombudsman has entered into more than 30 Enforceable Undertakings since July, 2009, recovering \$5.4 million for more than 6900 employees.

Employers or employees seeking assistance should contact the Fair Work Infoline on 13 13 94 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au).

A free interpreter service is available on 13 14 50 and information on the website is translated into 27 languages.

The Fair Work Ombudsman has also launched 14 Online videos ([www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2011-media-releases/july-2011/20110711-youtube-videos](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2011-media-releases/july-2011/20110711-youtube-videos)) to assist foreign workers to understand their workplace rights and entitlements.

[Enforceable Undertaking Shawna Pty Ltd - English version \(PDF 2.4MB\) \(www.fairwork.gov.au/ArticleDocuments/721/Redacted-Shawna-EU-English.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/721/Redacted-Shawna-EU-English.pdf.aspx)

[Enforceable Undertaking Shawna Pty Ltd - Mandarin version \(PDF 553.3KB\) \(www.fairwork.gov.au/ArticleDocuments/721/Redacted-Shawna-EU-Mandarin.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/721/Redacted-Shawna-EU-Mandarin.pdf.aspx)

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## Contact us

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Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.