

Child care centres “on notice” after underpaying workers almost \$170,000

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The Fair Work Ombudsman has put a chain of child care centres in Perth on notice to comply with workplace laws after finding it had underpaid more than 160 staff.

The chain, which runs centres throughout the metropolitan area, short-changed its employees almost \$170,000 between July, 2012 and September last year.

Employed in child care, cleaning and kitchen positions, the workers were underpaid amounts ranging from less than \$10 to \$4900.

The underpayments were the result of the employer classifying the workers incorrectly under the Children's Services Award 2010 and making errors in calculating their base hourly rates.

Fair Work Ombudsman Natalie James says the employer has no history of non-compliance and co-operated fully with Fair Work inspectors to immediately reimburse employees all their outstanding entitlements.

“When we find employers who have made mistakes, our preference is always to educate them about their obligations and work with the business to resolve the issues without using formal enforcement mechanisms,” she said.

“This is an example of our fair, reasonable and proportionate response to employers who admit their mistakes, fix them immediately and put systems in place to ensure the errors are not repeated in future.”

The underpayments came to the Fair Work Ombudsman's attention during a pro-active education and compliance campaign involving audits of up to 350 child care centres nationally, including up to 30 in Western Australia.

The full results of this campaign will be released publicly later this year.

Ms James says the discovery of the underpayments should remind all employers how important it is for them to take the time to ensure they are aware of the minimum pay rates applicable to their staff.

“A small mistake left over time can easily result in a hefty bill for back-payment of wages – so it is important employers get it right in the first place,” she said.

Ms James gave as an example, the additional recovery of more than \$105,000 for dozens of other workers in and around Perth over the past few months.

In Morley, 13 workers at a cleaning business received a total of \$20,900 – an average \$1600 each – as a result of being underpaid over 14 months in 2012-2013.

The employees were paid flat hourly rates of \$20, which led to underpayment of their shift allowances and penalty rates for overtime, weekend work, afternoon shifts and early shifts.

Ms James says the underpayments occurred because the employer had been paying employees under the wrong Award.

Other recent recoveries include:

- \$20,300 for eight staff at a café in East Perth short-changed their casual loadings and weekend penalty rates in 2012-13.
- \$17,600 for an administration assistant at a Perth CBD mining services business not paid his long service leave entitlements upon termination of employment earlier this year.
- \$10,000 for 18 workers – including a young worker – at an East Perth accommodation business underpaid the minimum hourly rate and weekend penalty rates over a 10-month period in 2012-2013.
- \$7700 for four shop assistants – including three young workers – at a Joondalup retail business underpaid the minimum hourly rate between 2013 and earlier this year.
- \$6400 for a child care worker at Cannington not paid her annual leave entitlements upon termination of employment last year.
- \$6000 for an administrative assistant at an Osborne Park business not paid her annual leave entitlements upon termination of employment last year.
- \$5700 for an electrician at Clarkson not paid wages in lieu of notice, his final wages and leave loading entitlements on termination

of employment last year.

- \$5600 for six shop assistants – including a number of young workers – at a Darch business who had money unlawfully deducted from their pay for till shortages and were underpaid their casual hourly rates and weekend penalty rates between 2013 and earlier this year.
- \$5100 for an architect in the Fremantle area not paid for all hours worked between 2013 and earlier this year.

The employees were reimbursed all money owed without the need for further enforcement action after Fair Work inspectors contacted the businesses and explained their obligations.

Inspectors also assisted employers to put processes in place to ensure future compliance.

Ms James says the Fair Work Ombudsman can assist employers with accurate, reliable information and encouraged local businesses to access the Agency's free tools and resources.

Each year, Fair Work inspectors identify underpayments at thousands of businesses nationally and resolve the vast majority of cases by working co-operatively with employers and employees, guiding them through the back-payment process and assisting them to put systems in place to ensure they pay their staff correctly in future.

"We usually reserve litigation for cases where there has been a deliberate disregard for workplace laws or when an employer has refused to co-operate with Fair Work inspectors," Ms James said.

She says the Fair Work Ombudsman is making compliance easier for businesses by continually building on the information available on its website.

"Small businesses often don't have the benefit of in-house human resources and payroll staff, so we place a high priority on assisting them," she said.

"Equipping people with the information they need helps to create fair and productive workplaces, as well as ensuring a level playing field for all."

The Fair Work Ombudsman has a dedicated webpage for small business owners at www.fairwork.gov.au/smallbusiness

The webpage contains free template documentation for employers to use when hiring, managing and dismissing staff, including letters of engagement and probation, leave application forms and a self-audit check list.

"Small business is entitled to credible and reliable information about their obligations in a way that makes sense to them, and via channels that they can access quickly and easily," Ms James said.

Online tools include PayCheck Plus and an Award Finder for employers and employees to determine the correct award and minimum wages for their industry, templates for pay slips and time-and-wages records and a range of Best Practice Guides.

The website has attracted more than 650,000 visitors since it was revamped in June and the Online Learning Centre on the website has now attracted more than 12,000 users, mostly small business operators.

The Fair Work Ombudsman's small business helpline – which launched in December to provide tailored advice to small business people – has now responded to more than 100,000 calls.

Small businesses can sign up to a regular E-newsletter from the Fair Work Ombudsman with helpful workplace tips and information.

Employers can also call the Fair Work Infoline on 13 13 94. A free interpreter service is available on 13 14 50.

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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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

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