

## Child care centre faces legal action over alleged failure to back-pay employees

23 July 2014

The Fair Work Ombudsman has commenced legal proceedings against the operators of a child-care centre in the Illawarra region of NSW.

Facing Court is Stepping Stones Child Care Centre (NSW) Pty Ltd, which operates the Stepping Stones Child Care Centre at Oak Flats.

Also facing Court is the company's sole director and owner Alisa Tavendale.

Documents lodged with the Federal Circuit Court allege Ms Tavendale and her company have breached workplace laws by failing to reimburse two child care employees found to have been underpaid more than \$3000.

The two employees were allegedly not paid anything for short periods of work they performed last year. They were entitled to be paid amounts of \$2551 and \$790 respectively.

Fair Work inspectors discovered the alleged underpayments when they investigated requests for assistance from the employees.

The Fair Work Ombudsman issued two Compliance Notices to Ms Tavendale and her company in January this year requiring the underpayments to be rectified within 21 days.

Neither Ms Tavendale nor her company responded and the underpayments remain outstanding, it is alleged.

Under the Fair Work Act, business operators must comply with Compliance Notices issued by Fair Work inspectors or make a court application for a review if they are seeking to challenge a Notice.

"It is important for employers to understand that when a Compliance Notice is issued, the Fair Work Ombudsman is simply seeking to recover wages that should have been paid in the first instance - we are not seeking to be punitive," Fair Work Ombudsman Natalie James says.

However, the Fair Work Ombudsman is willing to initiate legal proceedings where Compliance Notices are subsequently ignored and the Agency believes it is in the public interest to do so.

"Enforcing Compliance Notices is fundamental for maintaining the integrity of Australia's workplace laws," Ms James said.

Fair Work inspectors are increasingly issuing Compliance Notices in cases where employers with contravention issues refuse to co-operate.

Ms James says inspectors made extensive efforts to engage with Ms Tavendale to try to resolve the underpayments, and described the lack of co-operation as concerning.

In the past 12 months, the Fair Work Ombudsman has received four previous requests for assistance from Stepping Stones employees alleging underpayment.

Ms Tavendale faces maximum penalties of \$5100 per breach and her company faces maximum penalties of \$25,500 per breach.

The Fair Work Ombudsman is also seeking a Court Order for Stepping Stones to pay the two workers the amounts owed in full, plus interest, as well as a Court Order requiring Ms Tavendale to undertake formal training on employer obligations under the Fair Work Act.

A directions hearing is listed for August 8.

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

"However, if employers refuse to co-operate, Fair Work inspectors will consider enforcement measures," she said.

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

interpreter service is available by calling 13 14 50.

Helpful online tools include PayCheck Plus and an Award Finder to assist business owners and employees determine the correct award and minimum wages for their industry, templates for pay slips and time-and-wages records and a range of fact sheets on workplace entitlements.

The website provides extra, specialised information for employers and employees in a range of industries, including retail, horticulture, road transport, accommodation and hospitality, cleaning, clerical, vehicle, electrical, fast food, building and construction, hair and beauty, joinery, metal manufacturing, social and community services, plumbing and security.

Dedicated website resources for small businesses include a Fair Work Handbook and tips for new employers about hiring staff.

Follow Fair Work Ombudsman Natalie James on Twitter @NatJamesFWO, the Fair Work Ombudsman @fairwork\_gov\_au or find us on Facebook at [www.facebook.com/fairwork.gov.au](http://www.facebook.com/fairwork.gov.au) (<http://www.facebook.com/fairwork.gov.au>) .

Media inquiries:

Ryan Pedler, Assistant Media Director

Mobile: 0411 430 902

[ryan.pedler@fwo.gov.au](mailto:ryan.pedler@fwo.gov.au) (<mailto:ryan.pedler@fwo.gov.au>)

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Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

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