

Businessman to face Court over claims young child-care workers paid as little as \$2.15 an hour

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A Sydney businessman is to face court over allegations he paid some workers at his former child-care centre less than \$4 an hour. The Fair Work Ombudsman alleges one employee was paid just \$2.15 an hour.

Others were allegedly paid as little as \$3.31, \$3.37 and \$3.98 an hour whilst working at the former Bollygum Childcare Centre in western Sydney.

The business went into liquidation last year, preventing legal action against the company.

However, the Fair Work Ombudsman has initiated legal proceedings against the former owner-operator, Mark Edward Myles, in the Federal Circuit Court.

A Statement of Claim filed with the Court alleges Mr Myles was involved in underpaying 16 child-care workers almost \$362,000.

One employee in her early 20s was allegedly underpaid \$49,533 over four years.

Seven of the former staff were under 21 at the time of the alleged underpayments – over five years from 2008 to 2013 – and some were trainees.

The Bollygum Childcare Centre was based at South Penrith and then Lethbridge Park during that time.

The Fair Work Ombudsman says the alleged underpayments are primarily the result of the employees being paid flat hourly rates of pay.

The flat rate allegedly did not cover minimum hourly rates, casual loadings, overtime rates, annual leave entitlements or a laundry allowance.

However, the Fair Work Ombudsman has acknowledged that pay rates varied significantly between employees - with some being paid substantially above their lawful minimum entitlements for some work.

Fair Work inspectors discovered the alleged breaches when they investigated complaints from employees.

Mr Myles was also allegedly involved in contravening the adverse action provisions of the Fair Work Act.

He allegedly reduced the rostered work of one employee, aged in her early 20s, in response to her complaint to the Fair Work Ombudsman.

Breaches of record-keeping and pay slip laws are also alleged.

Fair Work Ombudsman Natalie James says the litigation is a response to a number of factors surrounding the case.

These include the large amount allegedly owing, the involvement of young, vulnerable young workers and the seriousness of the alleged adverse action conduct.

Ms James says it will be alleged in Court that Mr Myles was well informed of his obligations as an employer, but failed to ensure his business was compliant.

Mr Myles faces maximum penalties of between \$3300 and \$10,200 per breach.

The Fair Work Ombudsman will seek a Court Order for any penalty to be paid to the employees to partially rectify the alleged underpayments.

Employers and employees seeking assistance can visit 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.

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

Ms James 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’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.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (http://twitter.com/NatJamesFWO), the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (http://www.facebook.com/fairwork.gov.au).

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Fair Work Online: www.fairwork.gov.au

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

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