

Fear of retribution blamed for low wages

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A Korean restaurant says it advertised for staff for as little as \$12 an hour because it feared retribution from competitors if it offered Award wages.

Owner Chris Guon claimed that flat hourly rates of \$12 to \$16 were “normal” for casual employees at Korean restaurants throughout Sydney.

Mr Guon told the Fair Work Ombudsman of pressure from the Korean business community to recruit workers at below-Award wages.

He claimed businesses which did not conform were fearful of payback, such as having false claims made to local councils about food hygiene standards.

Mr Guon runs a franchise of the 678 Korean BBQ chain in Pitt Street, Sydney.

His company, KPG Au Group Pty Ltd, came to the Fair Work Ombudsman’s attention after two Korean nationals claimed the restaurant had underpaid them.

Fair Work inspectors subsequently identified that the two, who were in Australia on the 417 working holiday visa, had been short-changed over \$1300 in penalty rates.

The two workers, who spoke little English, alleged they had been paid a flat rate of \$11 to \$13 an hour for all hours worked.

Mr Guon initially disputed their claim, telling the Fair Work Ombudsman he paid them \$23 an hour.

But he was unable to verify this, as the company had poor record-keeping practices and failed to issue employees with payslips.

Under the Restaurant Industry Award 2010, they two employees were entitled to a normal hourly rate of \$21.59 and up to \$39 overtime, weekend, evening and public holiday shifts.

However, Fair Work inspectors found that KPG had advertised pay rates of \$12 to \$16 an hour in language-of-origin on Korean websites.

When questioned, Mr Guon explained that he was unable to advertise his actual wage rate for fear of retribution from the Korean business community in Sydney.

Lack of proper records hampered the Fair Work Ombudsman’s ability to accurately determine what the employees were paid or the hours they worked.

However, it has identified that the two were underpaid penalty rates of \$661 and \$642 respectively between December, 2013 and June last year.

Mr Guon and his company have agreed to reimburse the former employees, who have returned to Korea, as part of an Enforceable Undertaking (EU) with the Fair Work Ombudsman.

He has also paid a \$1700 on-the-spot fine for failing to issue payslips.

Fair Work Ombudsman Natalie James says the EU was considered the most appropriate enforcement outcome to focus on behavioural change.

KPG will implement a workplace relations training program for its manager and company director.

Further, an external professional will be engaged to audit the company’s workplace relations compliance, and it will sign up to the Fair Work Ombudsman’s Online tool My Account.

Workplace notices in English and Korean will be displayed at the restaurant detailing the breaches a letter of apology will be sent to the two former employees.

KPG has also agreed to resolve all future workplace disputes promptly and report details to the Fair Work Ombudsman.

Ms James says the Fair Work Ombudsman’s Overseas Workers’ Team has recently identified a number of Korean businesses recruiting and underpaying Korean nationals.

In response, the Agency recently conducted an awareness campaign on a number of Korean websites to raise awareness of workplace rights in Australia.

The Fair Work Ombudsman has also appointed Community Engagement Officers as part of a pilot program aimed at developing relationships with multicultural communities.

The purpose is to ensure migrant workers, temporary overseas workers and international students are aware of their rights and responsibilities under Australian workplace laws.

“The use of Community Engagement Officers is in addition to our Overseas Worker’s Team established in July, 2012 and they have been selected for their ability to work sensitively with multi-cultural groups and have been trained in techniques that will assist them to establish meaningful ongoing relationships,” Ms James said.

“Through consultation with community legal and migrant resource centres, ethnic community networks and international student organisations, the Fair Work Ombudsman can determine how to best assist migrant and international student groups.

“By delivering presentations, workshops and webinars and through discussion groups, meetings and our participation in community events we gain a better understanding of the needs of these communities and can then tailor resources and programs accordingly. Through this process we’ll also be educating people on the role of the Fair Work Ombudsman.

“Our message to these groups is that whether you’re a business owner or an employee, workers that have come from overseas have the same rights as local workers and should be treated with dignity and respect.”

Ms James says businesses have nothing to fear from the Fair Work Ombudsman unless they are deliberately exploiting employees and taking advantage of those who are vulnerable.

“We take a dim view of any employer who seeks to profit by underpaying their staff, particularly vulnerable overseas workers,” she said.

“Underpaying vulnerable visa-holders who may have little or no English and limited understanding of their workplace rights is not acceptable.

The Fair Work Ombudsman has confirmed that one in 10 requests for assistance from employees now come from visa-holders.

Ms James encouraged employers who had any uncertainty about whether their workplace practices were appropriate to visit www.fairwork.gov.au or call the Small Business Helpline on 13 13 94 for advice.

Online tools include pay rate calculators to help employers determine the correct Award and minimum wages for employees and free templates for pay slips and time-and-wages records.

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

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- [KPG Au Pty Ltd Enforceable Undertaking \(DOCX 112.1KB\) \(www.fairwork.gov.au/ArticleDocuments/837/enforceable-undertaking-kpg-au-group-pty-ltd.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/enforceable-undertaking-kpg-au-group-pty-ltd.docx.aspx) ([PDF 1.4MB\) \(www.fairwork.gov.au/ArticleDocuments/837/enforceable-undertaking-kpg-au-group-pty-ltd.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/837/enforceable-undertaking-kpg-au-group-pty-ltd.pdf.aspx)

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Fair Work Online: www.fairwork.gov.au

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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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