

It was food fit for a President, but if their English was poor, so was their pay packet

12 June 2015

A restaurant which catered for the Chinese President's travelling party to Hobart late last year has admitted underpaying a female worker because her English was not good enough.

Written on Tea owner Rebecca Lin Cong revealed paying overseas workers with limited English just \$11 an hour - and those with no experience, just \$1 an hour more.

Ms Cong felt she was giving the employees an opportunity to work and earn an income, and did not believe she should have to pay them full Award wages.

However, the Fair Work Ombudsman has taken a dim view of the explanation, given Ms Cong was previously apprised of her workplace obligations in 2013.

It has announced enforcement measures against Ms Cong in order to encourage behavioural change and future compliance with workplace laws.

Ms Cong operates a Written on Tea restaurant in Bathurst Street, Hobart, and another on Sandy Bay Road, Sandy Bay.

Written on Tea prepared hundreds of take-away Chinese meals for staff and consular officials when President Xi Jinping and his wife were in Tasmania in November.

After receiving a request for help from a former employee, the Fair Work Ombudsman found Ms Cong was paying well below lawful minimum entitlements.

A 30-year-old Chinese national in Australia on a 417 working holiday visa was short-changed \$3500 in just five weeks in February and March this year.

Fair Work Ombudsman Natalie James says employers cannot undercut minimum wages because they don't think an employee is worth the money.

"And those who think they can exploit vulnerable overseas workers in order to reduce business costs need to think again," she said today.

Ms Cong has back-paid her former employee all outstanding entitlements and signed an Enforceable Undertaking (EU) with the Fair Work Ombudsman.

As part of the EU, Written on Tea and Ms Cong have agreed to employ an external professional to audit workplace practices over the coming 12 months and report on the outcomes.

Further, Ms Cong has committed to using the Fair Work Ombudsman's Online tool My Account and signing up to receive general information alerts and newsletters.

She has also agreed to develop systems to ensure ongoing compliance with workplace laws and to resolve all future workplace disputes promptly - and report details to the Fair Work Ombudsman.

Workplace notices detailing the company's breaches have been displayed in English and Mandarin at both restaurants.

Enforceable Undertakings were introduced by legislation in 2009 and the Fair Work Ombudsman has been using them to achieve strong outcomes against companies that breach workplace laws without the need for civil court proceedings.

"We use Enforceable Undertakings where we have formed a view that a breach of the law has occurred, but where the employer has acknowledged this and accepted responsibility and agreed to co-operate and fix the problem," Ms James said.

This case comes as the Fair Work Ombudsman noted the growing number of requests for assistance coming from visa holders working in Australia.

The Fair Work Ombudsman established an Overseas Workers' Team in 2012 in recognition that overseas workers can be vulnerable to exploitation or require specialist assistance.

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 for advice.

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

“We know workplace laws can seem complicated for the uninitiated, but we ask small business to use the tools and resources that we provide for them and inform themselves,” Ms James said.

The Fair Work Ombudsman can assist employers with accurate, reliable information that is easy to access, understand and apply.

Employers and employees seeking assistance can consult the range of free tools and resources available on the website, or call the Fair Work Infoline on 13 13 94.

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

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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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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