

Baiada declares ‘moral and ethical’ responsibility to stamp out contractors’ unlawful practices at its worksites

26 October 2015

Baiada has publicly declared that it has a “moral and ethical responsibility” to join with the Fair Work Ombudsman to stamp out its contractors’ unlawful practices at its worksites.

The poultry processing company has agreed to a proactive compliance partnership with the Fair Work Ombudsman to make good past underpayments by contractors and to continue to implement changes to its practices on its work sites to ensure compliance with workplace laws in the future.

This comes in the wake of a report on the employment practices of contractors engaged at its processing sites in NSW.

In June, the Fair Work Ombudsman released the findings of an Inquiry it conducted into the exploitation of vulnerable overseas workers at Baiada worksites.

- [Statement of Findings - Baiada Group \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/june-2015/20150618-baiada-group-statement-of-findings\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2015-media-releases/june-2015/20150618-baiada-group-statement-of-findings)

The Inquiry found:

- Non-compliance with a range of Commonwealth workplace laws,
- Very poor, or no governance arrangements, by all parties in the various labour supply chains, and
- Exploitation of a labour pool comprised predominantly of overseas workers.

A large number of workers were 417 working holiday visa-holders recruited by these labour-hire contractors through Chinese newspapers, Facebook and Taiwanese backpacker websites.

Exploitation included significant underpayments, extremely long hours of work, high rents for overcrowded and unsafe worker accommodation, discrimination and misclassification of employees as contractors.

Prior to the release of the Baiada Report, Baiada had commenced instituting changes to the contracting and subcontracting arrangements it had previously used to engage its contracted labour force.

At the time, Fair Work Ombudsman Natalie James called on Baiada to step up and take responsibility for the conduct of its contractors.

The Fair Work Ombudsman is pleased that the Baiada Group – comprising Baiada Poultry Pty Ltd and Bartter Enterprises Pty Ltd – subsequently agreed, and has now signed a three-year Proactive Compliance Deed.

“Over the life of the Deed, Baiada has agreed to assume responsibility for the underpayment of workers engaged in its supply chain through contract labour arrangements, even though it is not their direct employer,” Ms James said today.

In addition, Baiada will set aside \$500,000 to reimburse any current, or former workers found to have been underpaid from January 1, 2015.

Any funds remaining after May 31, 2016 will be distributed to various nominated charities.

Baiada is Australia’s largest locally-owned poultry processing company, operating a complete poultry growing, processing and supply operation.

Following the public release of its Inquiry on Baiada’s labour supply chain, Fair Work Ombudsman officials have been working with company representatives on steps they can take to ensure compliance by contractors on its worksites.

The Proactive Compliance Deed, which details the terms of the compliance partnership, states: “Baiada believes it has a moral and ethical responsibility to require standards of conduct from all entities and individuals involved in the conduct of its enterprise, that comply with the law in relation to all workers at its sites, and meet Australian community and social expectations to provide equal, fair and safe work opportunities for all workers at all of its sites”.

Baiada says it has and will continue to implement fundamental, permanent and sustainable changes to its enterprise to ensure that

the company and the contractors supplying workers on its sites fully comply with all workplace relations laws.

As part of the compliance partnership, Baiada will ensure that:

- A dedicated hotline is established for employees to call and make a complaint if they believe they have been underpaid,
- Workers carry photo identification cards which record the name of their direct employer,
- An electronic time-keeping system that records all working hours of each employee,
- Employee wages can be verified by an independent third party, and are preferably paid via electronic funds transfer,
- Contractors must be independently audited to ensure their compliance with workplace laws, with audit results to be provided to the Fair Work Ombudsman and published,
- The company's own compliance with the Fair Work Act is independently assessed regularly over the next three years,
- A workplace relations training program is put in place to educate employees about their workplace rights, including language-specific induction documents,
- Qualified human resources staff are on-site at each processing plant to respond to inquiries, complaints and reports of potential non-compliance,
- Contact details of all labour-supply contractors are provided to the Fair Work Ombudsman, including copies of passports of company directors,
- Fair Work inspectors have access to any worksites and any documents at any time, and
- Arrangements with contractors are formalised in written contracts requiring contractors to comply with workplace relations laws.

Baiada Managing Director Simon Camilleri welcomed today's arrangement and said that many of the measures outlined in the Deed had already been implemented at Baiada's processing facilities in recent months.

"We are pleased to enter into a proactive compliance partnership with the Fair Work Ombudsman," Mr Camilleri said.

"Our ongoing priority is to ensure that contractors' workers are being paid correctly and treated fairly and that contractors are acting lawfully."

Mr Camilleri said that his company was committed to the compliance partnership and would take responsibility for the Deed's implementation.

"We will closely monitor the effectiveness of these measures and will act to terminate agreements with contractors who do not comply," Mr Camilleri said.

"We look forward to working collaboratively with the Fair Work Ombudsman to ensure transparency and accountability at our processing facilities."

Ms James welcomed the arrangement, which will ensure not only that Baiada takes responsibility for conduct on its sites, but also means that the company will work collaboratively with the Fair Work Ombudsman, providing access to its worksites and reporting information about the outcomes of audits of its operations.

"We are determined to build a culture of compliance with workplace laws across Australian workplaces by ensuring businesses take responsibility for workplace relations practices in their networks and supply chains," she said.

"Our Compliance Partnership with Baiada is transparent and ensures the company is accountable for the actions of its contractors.

"While many Australian employers want to do the right thing, there are some who seek to gain competitive advantage by exploiting vulnerable workers, such as visa-holders.

"Sustainable changes require businesses at the top of supply chains to partner with us to stamp out dodgy operators who deliberately set out to use exploitative labour practices. We are pleased that Baiada has partnered with us to take action.

"We already have a number of Inquiries underway to identify and address the structural and behavioural drivers of non-compliance in various industry networks and supply chains, in which overseas workers are heavily represented."

These include a review of the wages and conditions of workers in Australia on the 417 working holiday visa, an Inquiry into allegations of systemic non-compliance within the 7-Eleven franchise network, an Inquiry into the workplace arrangements of workers cleaning 4 and 5 star hotels and a Harvest Trail inquiry into the horticulture and viticulture sectors nationally.

The Fair Work Ombudsman will continue to work with Taskforce Cadena, the Phoenix Taskforce and other relevant state and federal agencies to share intelligence in relation to overseas workers' rights.

Last financial year, the Fair Work Ombudsman recouped \$1.6 million in underpaid wages and entitlements for visa-holders, up from \$1.1 million the previous financial year.

Eleven per cent of requests for assistance to the Fair Work Ombudsman in 2014-15 came from visa-holders and 21 of 50 matters put before the Courts involved underpayment of visa-holders.

In a keynote address last year titled "Risk, Reputation and Responsibility", Ms James signalled to major employers that she would hold them accountable for business practices which undermined compliance.

Ms James flagged an increasing use of Section 550 of the Fair Work Act to go up and down the supply chain to scrutinise sub-contracting arrangements, warning that companies found to be profiting from underpaying their employees faced a "very real risk to reputation and impact on their bottom line".

Baiada is the second major company to declare it has a moral and ethical responsibility to ensure its workforce is treated with dignity, and follows a similar commitment made last year from supermarket giant Coles in relation to its on-site trolley collectors.

It is commendable that following concerns expressed by the Fair Work Ombudsman about ongoing exploitation of trolley collectors by labour-hire contractors, Coles signed an Enforceable Undertaking, conceding there was a lack of visibility and transparency surrounding its former contract arrangements for trolley collection services and that the model it was using was vulnerable to the exploitation and underpayment of employees of trolley collection contractors and sub-contractors. It subsequently announced it would move its trolley collection services in-house.

Any worker who is concerned they have been underpaid or treated unfairly at work can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94 for free advice and assistance.

A free interpreter service for those from non-English speaking backgrounds is available by calling 13 14 50 and information about workplace laws is translated into 27 different languages at www.fairwork.gov.au/languages (<http://www.fairwork.gov.au/languages>)

The Fair Work Ombudsman has also produced videos in 14 different languages to help people from non-English speaking understand their workplace rights at [youtube.com/user/FairWorkGovAu/videos](https://www.youtube.com/user/FairWorkGovAu/videos) (<https://www.youtube.com/user/FairWorkGovAu/videos>)

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Download

- [Baiada Proactive Compliance Deed \(DOCX 67.8KB\)](http://www.fairwork.gov.au/ArticleDocuments/762/baiada-proactive-compliance-deed.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/762/baiada-proactive-compliance-deed.docx.aspx) (PDF 8.8MB) (www.fairwork.gov.au/ArticleDocuments/762/baiada-proactive-compliance-deed.pdf.aspx)

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