

## Aboriginal Corporation must host a community event to help heal after not paying entitlements

2 December 2016

An Aboriginal corporation based in Hervey Bay, Queensland, will stage a community event celebrating the diversity of the region as part of its undertaking to remedy the impact its underpayment of entitlements had on care workers.

Kal'ang Respite Care Centre Aboriginal Corporation underpaid 10 care workers a total of \$82,637 between January, 2010, and June, 2015, a Fair Work Ombudsman investigation found.

The workers, half of whom identify as Aboriginal or Torres Strait Islander, were employed to assist members of the local community. They made requests for assistance from the Fair Work Ombudsman when they were made redundant as a result of the loss of government contracts.

The investigation by the Fair Work Ombudsman's Customer Engagement Team found the Kal'ang - which operates a community care centre in Hervey Bay and provides in-house care of the elderly, disabled and those in need of social and community care - failed to pay in lieu of notice, failed to pay redundancy payments and failed to pay annual leave and annual leave loadings.

The highest amount owed to a single worker was \$15,026.

Kal'ang has already paid \$33,000 to the employees, equally, as it worked towards the execution of an Enforceable Undertaking.

Fair Work Ombudsman Natalie James said the undertaking, now in place, has the rather unique inclusion of a requirement of Kal'ang to host a community event.

"As an acknowledgement of respect to the Elders of this land; past, present and future and the significant contribution they have made in shaping the identity of the Fraser Coast, Kal'ang is required to organise a community event as an opportunity for bringing communities together, celebrating the region's diversity and fostering a shared sense of place for the region," Ms James said.

The Enforceable Undertaking also requires Kal'ang to fully rectify the underpayments, less taxation, over the course of 18 months.

The corporation must also provide a letter of apology to each of the employees; place a workplace notice in the Community Centre; register with the Fair Work Ombudsman My Account and engage an accredited workplace trainer to provide workplace relations training to all persons with managerial responsibility.

Working under the Social, Community, Home Care and Disability Services Industry Award 2010, the longest serving employee involved in the underpayments had worked for the organisation for 5.5 years.

The workers provided social and community services including social work, recreation and welfare activities, provision of personal care and domestic and lifestyle support to people in a residential setting and a respite centre.

Domestic assistance, personal care and home maintenance was also provided by some of the workers to aged persons and people with a disability in private residences.

Ms James said it is important that organisations that rely on Government funding are aware of the processes of terminating their staff if they lose that funding.

"It is important to ensure termination entitlements are paid at the time of termination. Employees should not be left waiting," she says.

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, accepted responsibility and agreed to co-operate and fix the problem," Ms James says.

In 2015-16, a total of \$3.85 million in underpaid wages and entitlements was returned to 2132 employees as a result of their employers entering into Enforceable Undertakings with the Fair Work Ombudsman, up slightly on the \$3.75 million recovered for 2507 workers the previous year.

Ms James says the Fair Work Ombudsman is committed to helping employers understand and comply with workplace laws, but operators need to make an effort to get the basics right in the first place.

“The Fair Work Ombudsman is striving to build a culture of compliance where businesses understand and comply with their lawful obligations,” Ms James says.

The Agency offers a range of free tools and resources for employers at [www.fairwork.gov.au](http://www.fairwork.gov.au) including template documentation to use when hiring, managing and dismissing staff, letters of engagement and probation, timesheet and pay-slip templates, leave application forms and a self-audit check list.

Employers can also call the Fair Work Infoline on 13 13 94 between 8 am and 5.30 pm weekdays to obtain free advice and assistance from a team of expert advisers.

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](http://twitter.com/fairwork_gov_au)) or find us on Facebook [www.facebook.com/fairwork.gov.au](http://www.facebook.com/fairwork.gov.au) (<http://www.facebook.com/fairwork.gov.au>).

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Download [Kal'ang Respite Care Centre Aboriginal Corporation Enforceable Undertaking \(DOCX 145.5KB\)](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-kalang-respite-care-centre-aboriginal-corporation-redacted.docx.aspx) ([www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-kalang-respite-care-centre-aboriginal-corporation-redacted.docx.aspx](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-kalang-respite-care-centre-aboriginal-corporation-redacted.docx.aspx)) (PDF 1.5MB) ([www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-kalang-respite-care-centre-aboriginal-corporation-redacted.pdf.aspx](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-kalang-respite-care-centre-aboriginal-corporation-redacted.pdf.aspx))

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