

Compliance Partnership boosts compliance at Baiada worksites

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In its compliance partnership with the Fair Work Ombudsman, Baiada Group, Australia's second largest poultry processor, has significantly improved its workplace practices and addressed the exploitation of vulnerable overseas workers by its contractors.

A report published (PDF 12.2MB) (www.fairwork.gov.au/ArticleDocuments/714/baiada-compliance-partnership-report.pdf.aspx) today details the progress Baiada has made in improving compliance with workplace laws at its sites as a result of entering into a Compliance Partnership with the Fair Work Ombudsman just over a year ago.

The Compliance Partnership involved Baiada last year publicly declaring it had a "moral and ethical" responsibility to join with the Fair Work Ombudsman to eliminate the exploitation of vulnerable workers by contractors at its sites.

The Compliance Partnership is underpinned by a three-year Proactive Compliance Deed that requires the Baiada Group – comprising Baiada Poultry Pty Ltd and Barter Enterprises Pty Ltd – to make good past underpayments by contractors and to continue to implement changes to its practices on its worksites to ensure compliance with workplace laws.

Baiada produces the Lilydale and Steggles chicken brands and its customers have included some of Australia's most recognised supermarket and restaurant chains.

Today's report notes the important systems reforms Baiada has undertaken to ensure it knows who is working on its sites, and that they have been paid correctly. Baiada has also ensured workers previously underpaid have been able to claim backpay and, where a contractor has not rectified an underpayment, Baiada has taken responsibility and paid-up.

The report states that: "Some contractors have sought to circumvent the new systems, for example, by demanding workers pay 'cash back' to their contractor or swipe off the electronic system and continue to work for below minimum rates. Baiada has detected and acted in response to such behaviour, including by terminating contractors.

"Throughout the partnership Baiada has taken action to address such behaviour, in some cases taking steps additional to what is required by the strict letter of the Proactive Compliance Deed, and reported the details of each step to the Fair Work Ombudsman."

Fair Work Ombudsman Natalie James says that while vigilance is required to ensure the compliance improvements are sustained over time, the early results show what can be achieved when a company decides to take responsibility for its labour supply chain through governance and systems.

The Compliance Partnership was entered into last year after the Fair Work Ombudsman conducted an Inquiry into the employment practices of contractors engaged at Baiada's processing sites in NSW.

The Inquiry findings included exploitation of overseas workers by contractors and very poor, or no governance arrangements, by Baiada relating to the various labour supply chains.

The measures incorporated in the Compliance Partnership were designed to build compliance throughout Baiada's sites.

The Report released today details that Fair Work Ombudsman has seen significant improvements in the past year by Baiada to develop an effective capability at all its sites to detect and respond to non-compliance.

In accordance with the Compliance Partnership, Baiada has:

- established and maintained a telephone hotline and email service that enables all current workers, former workers and members of the public to make enquiries, lodge complaints or report potential non-compliance with Commonwealth workplace laws,
- ensured all workers are issued with a photo identification card which includes their full name, the employing entity's name and the employing entity's Australian Business Number,
- implemented an electronic time keeping system and additional processes to monitor and maintain accurate records of the starting and finishing times worked at all of its processing sites,
- terminated the services of some contractors for breaching the terms of their written agreements by failing to comply with workplace relations or taxation laws,
- conducted a workplace relations training programs for all supervisors, managers, current and new workers at each of their

processing sites,

- investigated all underpayment claims primarily relating to the period between January 1 and October 23 last year, overseeing back-payment of more than \$218,000 to 91 workers, including directly paying workers a total of \$50,059 and procuring a total of \$168,709 in back-payments on behalf of the relevant contractors to workers,
- engaged Deloitte Australia to conduct the first self-audit under the Proactive Compliance Deed which found that there was no systematic risk of underpayment. The audit identified isolated underpayments totalling \$1669 of three workers during the four-week audit period earlier this year and Baiada has now back-paid the workers in full,
- overseen further back-payments totalling \$1460 to two workers who lodged underpayment complaints directly with Baiada after being underpaid by Baiada contractors since October 23 last year, and
- paid \$450,000 to various nominated charities.

The Report also states that in addition to the obligations under the Compliance Partnership, Baiada took additional steps during 2015 to improve its governance arrangements to address non-compliance with Commonwealth workplace laws, such as:

- establishing an integrated payroll system,
- requiring contractors to outsource all payroll services to a Baiada-approved entity specifically established for this purpose, thus ensuring that employees are correctly remunerated and wages are paid directly to employees' bank accounts, and
- significantly reducing the number of contractors engaged at its processing sites and prohibiting further sub-contracting by its contractors.

Ms James says it is significant the majority of back-pay recovered for underpaid workers at Baiada sites has been back-paid by contractors, rather than by Baiada directly, as a result of Baiada implementing a range of measures to ensure its contractors comply with their lawful obligations to workers.

"Compliance Partnerships are aimed at ensuring businesses have the right systems and governance processes in place to ensure that the direct employers of workers in their supply chains are providing those workers' minimum lawful wages and entitlements," she said.

In one case study highlighted in the Report, a contractor used 'cash-back' and 'cash-payment' schemes to try to circumvent the new electronic time keeping and payroll systems Baiada put in place but these new governance mechanisms helped Baiada determine that the schemes had led to the contractor underpaying workers almost \$40,000.

Baiada oversaw the contractor back-paying the workers in full and terminated the services of the contractor.

Ms James says it is also encouraging that the audit by Deloitte and complaints to the hotline established by Baiada have identified less than \$4000 in underpayments as having occurred at Baiada sites since October 23 last year.

"This is a significant improvement compared to the situation prior to the roll-out of the new systems," she said.

Ms James says that while good progress has been made, the real test is the sustainability of changes over the life of the Proactive Compliance Deed and whether the culture has shifted to one of compliance throughout Baiada's labour supply chain and across all its sites.

"The Fair Work Ombudsman will continue to work with Baiada and monitor compliance in this regard to ensure the progress continues to embed compliant practices throughout its labour supply chain and will once again report on progress in a year's time," she said.

"Embedding and sustaining a culture of compliance in a network or supply chain requires commitment and action from the top, with ongoing monitoring and persistent and active work on the part of the beneficiary of that labour. The Fair Work Ombudsman will continue to work with businesses looking to build sustainable compliance with workplace laws throughout their labour supply chain."

Ms James encouraged businesses to get ahead of any compliance issues in their supply chain or network.

"It is far better to implement systems to prevent non-compliance from arising in the first place than it is to arrest a culture of systemic abuse of worker entitlements after it has been entrenched for some years. We see here that taking remedial action after the fact is far more costly and risks damaging a business's reputation."

Baiada Managing Director Simon Camilleri said the Proactive Compliance Partnership is a core priority for the company and has changed the way Baiada manages and operates its contract labour providers.

We have implemented significant reforms across our business to ensure contractors' employees at our sites are being treated fairly and lawfully by their employer," Mr Camilleri said.

"Baiada now has a stringent contractor compliance system that is rigorously enforced across all its processing sites.

"This includes Baiada taking responsibility for paying all contractors' employees directly so they are protected from potential underpayment.

"We are pleased that in its latest report the Fair Work Ombudsman has seen that these measures have been effective and have made a positive impact at our sites.

“We look forward to continuing our transparent and collaborative partnership with the Fair Work Ombudsman into the future.”

Ms James notes the isolated instances of contractors at Baiada sites using ‘cash back’ arrangements to try to circumvent the systems and notes that the Fair Work Ombudsman has been concerned about the use of these arrangements in other matters, including in some 7-Eleven cases.

“It is hard to see a legitimate reason why an employer would require employees to be regularly paying back significant parts of their wage, and I am concerned that it is being utilised by unscrupulous operators in an attempt to get around record keeping laws and disguise serious underpayment of wages.

“The current laws prohibit an employer ‘requiring’ an employee to pay money back to their employer unless it is with the worker’s agreement and for their benefit. Employee co-operation or other independently verifiable material is necessary to prove this. We welcome the Government’s commitment to introduce new laws directly prohibiting ‘cash-back’ arrangements.”

Ms James says workers who find themselves in this situation should document what is going on by making their own records and contact the Fair Work Ombudsman for free advice and assistance.

“Any employer who tells an employee that they have to pay part of their wages back, or spend their wages in particular ways, is breaching work laws,” she said.

“This is exploitative behaviour that needs to be stamped out and we welcome any information from workers and members of the public about such conduct.”

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service on 13 14 50 and the website contains materials translated into 27 different languages.

The Fair Work Ombudsman’s Anonymous Report function enables members of the community to alert the Fair Work Ombudsman to potential workplace issues.

Intelligence can be provided at www.fairwork.gov.au/tipoff (<http://www.fairwork.gov.au/tipoff>)

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- View the [Report on our compliance partnership with the Baiada Group \(PDF 12.2MB\)](http://www.fairwork.gov.au/ArticleDocuments/714/baiada-compliance-partnership-report.pdf.aspx) (www.fairwork.gov.au/ArticleDocuments/714/baiada-compliance-partnership-report.pdf.aspx)

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