



Fair Work
OMBUDSMAN

ENFORCEABLE UNDERTAKING

This undertaking is **given** by Camp Australia Services Pty Ltd (hereafter "**Camp Australia**") and **accepted** by the Fair Work Ombudsman pursuant to s 715(2) of the *Fair Work Act 2009* in relation to the contraventions described in clause 6 of this undertaking.

ENFORCEABLE UNDERTAKING

PARTIES

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by Camp Australia (ABN 14 158 075 837), 207-213 Waverley Road, MALVERN EAST, VICTORIA 3145.

COMMENCEMENT

2. This Undertaking comes into effect when:
 - (a) the Undertaking is executed by Camp Australia; and
 - (b) the FWO accepts the Undertaking so executed (**Commencement Date**).

BACKGROUND

3. Camp Australia is an Australian private company that operates out of school hours care programs at more than 590 locations throughout Australia. Camp Australia has annual revenue of approximately \$140 million and employs more than 3,300 employees.
4. On 20 December 2019, Camp Australia notified the FWO that it had identified that:
 - (a) there had been non-compliance with the *Children's Services Award 2010* (**the Award**) dating back to 1 July 2013;
 - (b) the terms and conditions on which it employed some employees did not satisfy the minimum terms and conditions in the Award in relation to interrupted meal breaks, overtime arising due to changes in roster, overtime arising as a result of a parent or carer arriving late to pick up a child, payment of first aid allowance, payment of excess fare/vehicle allowance, meal allowance during overtime and accrual of annual leave entitlements for 'term employees', resulting in underpayments to 7,420 current and former employees (**the affected employees**) from 1 July 2013 to 31 October 2019 totalling \$1,745,092.93; and
 - (c) a process was already in place to rectify the underpayments.
5. Prior to the execution of this Undertaking, Camp Australia notified the FWO that it had:
 - (a) identified issues in early June 2019 with award compliance after a Holiday Club Manager raised concerns with employees not being correctly paid under the Award when their meal breaks were interrupted;
 - (b) engaged Colin Biggers Paisley in June 2019 to assist with a comprehensive review

of Camp Australia's compliance with the Award where a number of breaches were identified;

- (c) engaged PKF Australia in September 2019 to assist with the quantification of underpayments arising from Camp Australia's breaches of the Award;
- (d) engaged LegalVision in September 2019 to assist with the rectification and administration of back-payments to affected employees including by:
 - (i) writing to individual employees advising them of the issues Camp Australia had identified in relation to their employment; and
 - (ii) consulting with affected employees in relation to any queries they may have had in relation to the underpayments;
- (e) the letters referred to at clause 5(d)(i) above relevantly included:
 - (i) details of the provisions of the Award which were breached in relation to the particular employee;
 - (ii) details of the amounts underpaid;
 - (iii) an apology from Camp Australia; and
 - (iv) an avenue through which the employee could contact Camp Australia with any questions about the underpayment;
- (f) with the assistance of PKF Australia and LegalVision calculated and rectified the underpayments referred to in clause 4(b) above by paying each of the affected employees referred to in column A of the Schedule to this Undertaking (**Schedule Employees**) the amounts referred to in column J of the Schedule to this Undertaking (**Schedule**) such that those total repayments amounted to 99.8% of the total underpaid amount with \$3,446.42 outstanding as at April 2021;
- (g) rectified any associated superannuation underpayments as required by law to each of the Schedule Employees, by paying any such required superannuation contributions to the chosen superannuation fund of the employee, as referred to in column M of the Schedule; and
- (h) paid interest to each of the Schedule Employees on the amount referred to in column J of the Schedule, in the sum referred to in column K of the Schedule, calculated using interest rate of 2% per annum for the whole underpayment on the full amount owing to the employee from the date of the first underpayment.

ADMISSIONS

6. The FWO has a reasonable belief, and Camp Australia admits, that Camp Australia contravened section 45 of the FW Act between 1 July 2013 and 31 October 2019 **(Relevant Period)** by failing to pay each of the Schedule Employees the amount or amounts to which that employee was entitled under the Award **(the Underpayments)** in respect of each provision of the Award which is identified in the Schedule to this Undertaking in relation to that employee:
- (a) clause 15.3 which requires an employer to pay an excess fare allowance per day if an employee is directed to work away from their normal place of work on any day, unless the employer provides or offers to provide suitable transport free of charge to the employee;
 - (b) clause 15.4(a) which requires an employer to pay a first aid allowance where an employee below Level 3 is required to administer first aid to children within the employee's care and holds a recognised qualification to do so;
 - (c) clause 15.5 which requires an employer to pay an overtime meal allowance where an employee is required to work at least 2 hours of overtime and had not been notified that they will be so required on the previous day or earlier – this is unless the employer supplies a meal to the employee or the employee could reasonably return home for a meal within the period allowed;
 - (d) clause 15.7 which requires an employer to pay a use of vehicle allowance where the employer requires an employee to use their own motor vehicle in the performance of their duties;
 - (e) clause 21.7(b)(i) which requires an employer to pay overtime where changes to a roster are made without giving 7 days' notice, except where an emergency beyond the employer's control causes the employer to make the change;
 - (f) clause 21.7(b)(iii) which requires an employer to pay overtime where an employee is required to stay beyond their rostered hours because a parent fails to arrive on time to collect a child;
 - (g) clause 22.1(b) which requires an employer to pay overtime for hours worked after a meal break is interrupted (if the interruption is due to the employer) until an employee is able to take an uninterrupted break; and
 - (h) clause 21.9(c) which has the effect of requiring an employer to include non-engaged periods as service for 'term-time' employees for the purposes of accruing paid annual and personal/carer's leave.

7. The contraventions identified in clause 6 of this Undertaking do not include:
- (a) any contraventions which relate to or arise as a consequence of Camp Australia failing to correctly apply the Award to any employee not listed in the Schedule to this Undertaking (Non-schedule Employees) or Camp Australia failing to correctly apply the Award to the Schedule Employees in any way but as set out in clause 6 above and the Schedule. For the avoidance of doubt this Undertaking is not given in respect of any Non-schedule Employees who were underpaid as a result of Camp Australia failing to correctly apply the Award and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any contravention because of any such underpayment; or
 - (b) any contraventions which have not yet occurred at the date that this Undertaking is offered by Camp Australia (whether or not those contraventions are identified in the Independent Audits described at clause 21 below). For the avoidance of doubt this Undertaking is not given in respect of any contravention which has not occurred on the date which it is offered by Camp Australia and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any such contravention.

UNDERTAKINGS

8. Camp Australia will take the actions set out at clauses 9 to 57 below.

Review and rectification of underpayments to employees that cannot be located

9. If any of the current or former employees to whom amounts (as set out in the Schedule) are owed cannot be located by 1 June 2021, Camp Australia will pay any amounts owing to those employees to the Commonwealth of Australia in accordance with section 559 of the FW Act. Camp Australia will complete the required documents supplied by the FWO for this purpose.
10. In the event that the FWO is able to locate and contact any current or former Camp Australia employees to whom amounts (as set out in the Schedule) are owed, the FWO will (in addition to its obligations under s 559 of the FW Act) notify Camp Australia in writing of the name and contact details of the current or former employee. Within 14 days of receiving any such notice Camp Australia will pay the current or former employee interest on the amount already paid by Camp Australia to the Commonwealth of Australia in respect of that employee, calculated for each financial year from the date that the employee first became entitled to that amount until the date on which that

amount is paid, using an interest rate that is 5.25% above the cash rate published by the RBA at the end of the last financial year.

Independent Assessment

11. By 15 July 2021, Camp Australia must, at its cost, engage an appropriately qualified, experienced, external and independent expert, approved in writing by the FWO under clause 12, (**Independent Expert**), to conduct an independent assessment of the outcomes of Camp Australia's rectification of the contraventions described at clause 6 (a) to (h) above (**Independent Assessment**).
12. Camp Australia must notify the FWO of its proposed Independent Expert and ensure that they are an:
 - (a) accounting professional (Certified Practising Accountant, Chartered Accountant);
 - (b) auditor (Registered Company Auditor within an Authorised Audit Company); or
 - (c) lawyer (admitted, practising lawyer and employment law specialist),by no later than 1 July 2021. The FWO may in its sole discretion approve the Independent Expert or otherwise require Camp Australia to propose other Independent Experts until the FWO has approved in writing an Independent Expert. The Independent Expert must be approved by the FWO in writing prior to being engaged by Camp Australia.
13. Camp Australia must ensure the Independent Assessment commences by no later than 1 August 2021 and that the Independent Expert assesses whether:
 - (a) the Award applies, or previously applied, to a sample of the Schedule Employees, that sample being of at least 5% of the Schedule Employees including a range of classifications and employment types (full time, part time and casual employees) (**Sampled Schedule Employees**);
 - (b) the Sampled Schedule Employees were correctly classified by Camp Australia under the Award;
 - (c) the Underpayments were correctly calculated by Camp Australia, including identifying any incorrect calculations and correctly calculating those entitlements, any issues with the methodology used and whether the calculations include any unlawful set-offs, deductions or reconciling of overpayments; and
 - (d) Camp Australia has now paid each of the Schedule Employees to whom amounts are payable to them under clause 6 (a) to (h) above.
14. Camp Australia must ensure that the Independent Expert provides a report (**Expert**

Report) of its Independent Assessment directly to the FWO, and for the benefit of the FWO, setting out its findings, and the facts and circumstances supporting its findings by 1 November 2021. Camp Australia must ensure the Independent Expert does not provide the Expert Report, or a copy of the same, to Camp Australia without the FWO's approval.

15. Camp Australia must ensure that the Expert Report contains the following declarations from the Independent Expert:
 - (a) the Independent Expert has no actual, potential or perceived conflict of interest in providing the Expert Report on Camp Australia to the FWO;
 - (b) notwithstanding that the Independent Expert is retained by Camp Australia, the Independent Expert undertakes that it has acted independently, impartially, objectively and without influence from Camp Australia in preparing the Expert Report;
 - (c) the Expert Report is provided in accordance with applicable professional standards (which will be listed in the Expert Report); and
 - (d) the Expert Report is provided to the FWO for its benefit and the FWO can rely on the Expert Report.
16. If the Independent Assessment identifies that any Schedule Employees are owed amounts additional to those calculated and paid by Camp Australia, Camp Australia will pay those additional amounts to the current and former employees, and provide evidence of such payment to the FWO within six weeks of being notified of the additional amounts owing by the FWO.
17. If any of the Schedule Employees identified in the Expert Report as being owed amounts additional to the Underpayments calculated by Camp Australia as cannot be located and paid within six weeks of being notified of the additional amounts owing by the FWO, Camp Australia will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. Camp Australia will complete the required documents supplied by the FWO for this purpose.

Systems and Processes

18. By 1 July 2021, Camp Australia will provide to the FWO information about the new systems and processes that it has put in place to ensure compliance with its obligations under the clauses of the Award it has breached, as referred to in the Schedule.
19. If the information provided by Camp Australia is determined by the FWO to be insufficient

to satisfy the FWO that the new systems and process are compliant with these obligations under the Award, Camp Australia must, in response to a request by the FWO, provide further information in relation to those new systems and process as requested by the FWO within a period of 14 days.

Letter of Assurance

20. By 1 June 2021, Camp Australia will provide the FWO a Letter of Assurance signed by a Director of Camp Australia in the terms as set out at Attachment A.

Independent Audits

21. Camp Australia must, at its own cost, engage an appropriately qualified, experienced, external and independent accounting professional or an employment law specialist (**Independent Auditor**) to conduct two audits of Camp Australia's compliance with the FW Act, in relation to the Award, and any future instruments that replace the Award (**Audits**).
22. Camp Australia will notify the FWO of its proposed Independent Auditor by no later than 15 July 2021. The FWO may in its sole discretion approve the Independent Auditor in writing or otherwise require Camp Australia to propose other Independent Auditors until the FWO has approved in writing an Independent Auditor. The Independent Auditor must be approved by the FWO in writing prior to being engaged by Camp Australia.
23. Camp Australia must ensure that each of the Audits conducted by the Independent Auditor includes
 - (a) an assessment of whether the Award (or replacement instrument) applies to a sample of employees of Camp Australia, that sample being of at least 5% employees including a range of classifications and employment types (full time, part time and casual employees), employed during the relevant pre-audit period (**Sampled Employees**);
 - (b) an assessment of whether the Sampled Employees to whom the Award (or replacement instrument) applies have been correctly classified by Camp Australia;
 - (c) an assessment of whether the pay and conditions of the Sampled Employees to whom the Award (or replacement instrument) applies during the relevant audit period is in compliance with the FW Act and the Award (or replacement instrument);
 - (d) direct contact with Sampled Employees to whom the Award (or replacement instrument) applies by way of site visits, or some other method agreed to by the

FWO, to at least five different sites, to ensure accuracy of hours worked;

- (e) the production of a written report on each of the Audits setting out the Independent Auditor's findings, and the facts and circumstances surrounding them, to the FWO; and
- (f) that each of the written reports referred to in (e) above contains the following declarations from the Independent Auditor:
 - (i) the Independent Auditor has no actual, potential or perceived conflict of interest in providing the report to the FWO;
 - (ii) notwithstanding that the Independent Auditor is retained by Camp Australia, the Independent Auditor undertakes that it has acted independently, impartially, objectively and without influence from Camp Australia in preparing the report;
 - (iii) the report is provided in accordance with applicable professional standards (which will be listed in the report); and
 - (iv) the report is provided to the FWO for its benefit and the FWO can rely on the report.

The First Audit

- 24. Camp Australia must ensure the Independent Auditor commences the first of the Audits by no later than 1 September 2021 (**First Audit**).
- 25. For the First Audit, the relevant pre-audit period to assess Sampled Employees is 12 months.
- 26. The relevant audit period for the First Audit must be at least two consecutive full pay periods falling within the period July 2021 – August 2021.
- 27. By 15 August 2021, Camp Australia will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the First Audit.
- 28. Camp Australia will use its best endeavours to ensure the Independent Auditor provides a draft written report of the First Audit directly to the FWO by 1 December 2021, setting out the draft First Audit findings, and the facts and circumstances supporting the First Audit findings. Camp Australia will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Camp Australia without the FWO's approval.
- 29. Camp Australia will use its best endeavours to ensure the Independent Auditor finalises

the First Audit and provides a written report of the First Audit (**First Audit Report**) directly to the FWO within one month of FWO providing any comments on the draft report to the Independent Auditor. Camp Australia will ensure the Independent Auditor does not provide the First Audit Report, or a copy of the same, to Camp Australia without the FWO's approval.

The Second Audit

30. Camp Australia must ensure the Independent Auditor commences the second of the Audits by no later than 1 August 2022 (**Second Audit**).
31. For the Second Audit, the relevant pre-audit period to assess Sampled Employees is 12 months.
32. The relevant audit period for the Second Audit must be at least two full consecutive pay periods falling within the period July 2022 - August 2022.
33. By 1 July 2022, Camp Australia will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the Second Audit.
34. Camp Australia will use its best endeavours to ensure the Independent Auditor provides a draft written report of the Second Audit directly to the FWO by 1 December 2022, setting out the draft Second Audit findings, and the facts and circumstances supporting the Second Audit findings. Camp Australia will ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to Camp Australia without the FWO's approval.
35. Camp Australia will use its best endeavours to ensure the Independent Auditor finalises the Second Audit and provides a written report of the Second Audit (**Second Audit Report**) directly to the FWO within one month of FWO providing any comments on the draft report to the Independent Auditor. Camp Australia will ensure the Independent Auditor does not provide the written report, or a copy of the same, to Camp Australia without the FWO's approval.

Outcome of Audits

36. If any of the Audits identify underpayments to any current or former employees, Camp Australia will conduct a reconciliation of the amounts paid to those employees during the relevant pre-audit period and rectify any underpayments that are identified. The reconciliation period for each identified employee will be from the start of the relevant pre-audit period to the end of the relevant audit period.

37. Camp Australia will provide to the FWO evidence of such rectification within 28 days of being informed by the FWO of the requirement to undertake the reconciliation.
38. If any employees identified in the Audits as having underpayments owing to them cannot be located within 60 days of the conclusion of the Second Audit, Camp Australia will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. Camp Australia will complete the required documents supplied by the FWO for this purpose.
39. If any of the Audits identify an underpayment of minimum entitlements to one or more employees, and the FWO reasonably believes that employees not included in the Audits are also likely to have been underpaid, Camp Australia will engage an accounting professional or an employment law specialist approved by the FWO to conduct a further audit of all its employees to whom the Award (or replacement instrument) applies (or a particular cohort of employees within this group), as determined by the FWO (**Additional Audit**). Any Additional Audit must be paid for by Camp Australia.
40. If requested by the FWO, Camp Australia will provide the FWO with all records and documents used to conduct any or all of the Audits (including any Additional Audit), within 7 days of such a request.

Employee Hotline

41. By 14 May 2021 at its own expense, Camp Australia will engage an independent organisation to operate a dedicated telephone number and email address for all current and former employees to whom the Award applies, or had applied, to make enquiries in relation to their entitlements, underpayments or related employment concerns (**Employee Hotline**). Employees will have the option of making enquiries on a confidential basis.
42. The independent organisation must be approved by the FWO prior to being engaged by Camp Australia to operate the Employee Hotline.
43. Camp Australia will:
 - (a) ensure the Employee Hotline remains operational for a period of 6 months;
 - (b) ensure that the telephone number and email address are included on a communication to employees to whom the Award applies, the public notice (see clauses 45 to 47) and the social media notice (see clauses 51 to 53);
 - (c) communicate the existence and purpose of the Employee Hotline by way of correspondence to the last known address of all current employees and former

employees to whom the Award applies, or had applied, known as at the Commencement Date, or identified during the Independent Assessment (**Potentially Affected Employees**), and dating back to 1 July 2013. Camp Australia will:

- (i) ensure the correspondence is in the form of Attachment B to this Undertaking; and
 - (ii) provide evidence to the FWO that the correspondence has been emailed to all Potentially Affected Employees by 1 July 2021;
- (d) take steps to respond to each telephone and email enquiry and seek to resolve any issues within 30 days and notify the FWO of any issues that are not resolved within 60 days; and
- (e) provide a de-identified list of enquiries received by the Employee Hotline to the FWO every three months from the establishment of the Employee Hotline.

Notices – Internal and External

Media Release

44. Upon acceptance of the Undertaking, the FWO will publish a media release on its website in respect of this Undertaking.

Public Notice

45. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking, Camp Australia will place a notice in the *Weekend Australian Financial Review* (**Public Notice**).
46. The Public Notice must:
- (a) bear the name and logo of Camp Australia;
 - (b) appear within the first eight pages of the *Weekend Australian Financial Review*;
 - (c) be at least 10 cm x 8 cm; and
 - (d) contain wording in the form of Attachment C.
47. Camp Australia will inform the FWO when the Public Notice will be published and provide a copy to the FWO within seven days of its publication.

Website Notice

48. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking, Camp Australia will place a notice on its website,

<https://www.campaustralia.com.au/> (**Website Notice**).

49. The Website Notice must:
- (a) be in the form of the Website Notice set out at Attachment C;
 - (b) be displayed in at least size 10 font; and
 - (c) remain on the website for a period of 28 days.
50. Within 7 days of placing the Website Notice on its website, Camp Australia will provide to the FWO evidence of its placement.

Social Media Notice

51. Within 28 days of, but not prior to, the FWO publishing a media release on its website in respect of the Undertaking, Camp Australia will place a post on its Facebook page (**Social Media Notice**).
52. The Social Media Notice must:
- (a) be posted to Camp Australia's timeline, pinned to the top of the Facebook page in public view;
 - (b) remain on Facebook for a continuous period of at least 28 days; and
 - (c) be in the form of the Social Media Notice set out at Attachment C.
53. Within 7 days of posting the Social Media Notice to its Facebook page, Camp Australia will provide to the FWO evidence of the post.

Contribution Payment

54. By 1 July 2021, Camp Australia will make a contribution payment of \$122,167.56, being an amount equivalent to 7% of the underpayments, to the Consolidated Revenue Fund.
55. Camp Australia will provide evidence to the FWO of any contribution payment within 14 days of making payment to the Consolidated Revenue Fund.

Workplace Relations Training

56. By 1 November 2021, Camp Australia must organise and ensure training is provided to all persons responsible for management of Award employees, human resources, recruitment or payroll functions (**Training**). Camp Australia must:
- a. ensure the Training relates to compliance with applicable Commonwealth workplace laws and instruments, including but not limited to the rights and responsibilities of employers under the FW Act and the relevant instruments

- b. ensure the Training is conducted by a workplace trainer, such person or organisation to be approved by the FWO and paid for by Camp Australia;
- c. provide the training materials to be used in the Training to the FWO no later than 14 days before the Training is to be conducted;
- d. provide evidence of attendance at the Training to the FWO within 7 days of the Training being provided (including the name and position of all attendees and the date on which the training was attended);
- e. ensure that all persons responsible for management of Award employees, payroll and human resources functions complete the educational activities on the FWO website, as set out in Attachment D;
- f. for each person required to complete the education activities, enter all of the required information in Attachment D and provide copies of the completed attachment to the FWO by 1 October 2021;
- g. for a period of 3 years from the execution of this Undertaking, ensure that the educational activities are completed by any new or existing employees or contractors who, after the commencement of this Undertaking, acquire managerial, payroll and human resources functions responsibilities; and
- h. provide evidence of the completion of the education activities to the FWO on a quarterly basis in respect of those activities being completed by relevant persons (including the name and position of all persons and the date(s) on which the activities were undertaken and completed) during that previous quarter.

No Inconsistent Statements

57. Camp Australia must not, and must use its best endeavours to ensure that its officers, employees or agents do not, make any statement or otherwise imply, either orally or in writing, anything that is inconsistent with admissions or acknowledgements contained in this Undertaking.

ACKNOWLEDGEMENTS

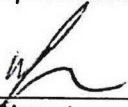
58. Camp Australia acknowledges that:

- (a) the FWO may;
 - (i) make this Undertaking (including any of the Attachments) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;

- (ii) release a copy of this Undertaking (including any of the Attachments) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - (iii) issue a media release in relation to this Undertaking;
 - (iv) from time to time, publicly refer to the Undertaking (including any of the Attachments hereto) and its terms; and
 - (v) rely upon the admissions made by Camp Australia set out in paragraph 6 above in respect of decisions taken regarding enforcement action in the event that Camp Australia is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by Camp Australia to comply with its obligations under this Undertaking;
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, Camp Australia may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- (d) if Camp Australia contravenes any of the terms of this Undertaking:
 - (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - (ii) this Undertaking may be provided to the Court as evidence of the admissions made by Camp Australia in clause 6 above, and also in respect of the question of costs.

Executed as an undertaking


EXECUTED by Camp Australia in accordance with section 127(1) of the Corporations Act 2001:


(Signature of director)

WARREN JACOBSON
(Name of director)

06 - 05 - 2021
(Date)

in the presence of:


(Signature of witness)

NEVAL FERMAN
(Name of witness)


(Signature of director/company secretary)

IGOR MERKIN
(Name of director/company secretary)


06 - 05 - 2021
(Date)

in the presence of:


(Signature of witness)


NEVAL FERMAN
(Name of witness)

ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the Fair Work Act 2009 on:


Mark Scully, Deputy Fair Work
Ombudsman – Compliance and
Enforcement

Delegate for the FAIR WORK
OMBUDSMAN

in the presence of:


(Signature of witness)

14 MAY 2021
(Date)

Antonia Pakes
(Name of Witness)

SCHEDULE – Schedule of Underpaid Employees

Attachment A – Letter of Assurance

Sandra Parker
The Fair Work Ombudsman
Fair Work Ombudsman
GPO Box 9987
MELBOURNE VIC 3001

Dear Sandra

I am writing on behalf of the Board of Camp Australia. This letter follows a process where Camp Australia self-reported that a number of underpayments had occurred following a failure by Camp Australia to comply with provisions of the *Children's Services Award 2010 (the Award)*. As you are aware, Camp Australia entered into an Enforceable Undertaking (**Undertaking**) with the Fair Work Ombudsman (FWO) in respect of these underpayments.

I write to provide the FWO with my assurance that the Board is satisfied:

- a. the process by which Camp Australia, as assisted by its professional advisors, calculated and rectified the underpayments was correctly undertaken;
- b. as of the date of signing, all former and current employees impacted by the underpayments and set out in the Schedule of the Undertaking, apart from those who have not been able to be located by Camp Australia, have been paid their entitlements (plus interest) under the Award by Camp Australia.

Camp Australia has remediated all issues as a matter of priority. Camp Australia is committed to minimising the risk of future non-compliance.

Sincerely

Director, on behalf of the Camp Australia Board of Directors

Attachment B – Correspondence to employees

Dear <insert name >

As you may be aware, Camp Australia advised the Fair Work Ombudsman (FWO) in December 2019 that it contravened the *Fair Work Act 2009* (Cth) (FW Act) by failing to pay some employees in accordance with the provisions of the *Children's Services Award 2010* (the Award). As a result of the contraventions identified to the FWO a number of employees were underpaid. However, Camp Australia has carried out a comprehensive review process to identify those affected and has since paid back 99.8% of amounts it identified as owing. At the time, we wrote to affected employees to notify them of the underpayment owed to them, Payment of outstanding amounts is only contingent on up to date account details in respect of the 0.2% that remains outstanding.

It subsequently entered into an Enforceable Undertaking with the FWO and we are writing to you as part of that process.

Camp Australia is also engaging external auditors to ensure its past and ongoing compliance with the FW Act and the Award.

Camp Australia understands that you may have questions relating to this or other employment matters. Should you wish to discuss this directly with Camp Australia you can contact us directly on <insert telephone number/ email address>. We will make every attempt to resolve your enquiry within 30 days of receiving it and commit to maintaining open communication with you about the progress of your enquiry.

Otherwise, if it is your preference, a hotline has been established for all employees to attend to any questions you may have. The hotline is being operated by <insert entity name>, an independent party that can assist you with your enquiries. <Insert name > can be contacted on <insert contact number> or at <insert email address> and, if required, on a confidential basis.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.

Camp Australia expresses its sincere regret and apologises to any affected employees for failing to comply with our lawful obligations.

Yours sincerely

<Employer name>

Attachment C – Form of Public, Website and Social Media Notice

In 2019 Camp Australia undertook a review of its payroll systems and processes and determined that it contravened the *Fair Work Act 2009* (Cth) by failing to pay some employees in accordance with the provisions of the *Children's Services Award 2010* (the Award).

On 20 December 2019, Camp Australia self-reported to the Fair Work Ombudsman (FWO) that contraventions of the Award had occurred and:

- (a) consequently a number of employees had been underpaid; and
- (b) Camp Australia has back-paid and apologised to affected employees.

Camp Australia has now entered into an Enforceable Undertaking with the FWO to ensure its ongoing compliance with Commonwealth workplace laws.

Camp Australia will, as a result of the Enforceable Undertaking, commit to undertake a number of activities to ensure its ongoing compliance such as conducting two independent audits, maintaining a hotline whereby employees can make enquiries about their entitlements and ensuring relevant training is provided to relevant employees.

Camp Australia expresses its sincerest regrets and apologises for these contraventions.

If you worked for Camp Australia and have queries or questions relating to your employment, please contact either:

- the hotline being operated by independent third party <insert entity name> on <contact number>. This hotline can be contacted on a confidential basis or at <insert email address>; or
- Camp Australia directly through our non-confidential enquiry line on <insert contact number or email address>.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.

Attachment D – Training resources utilised from the Fair Work Ombudsman Website

I, _____ (Enter name and position in the organisation)

have undertaken the following tools:

Completed online courses* including:

- Difficult conversations in the workplace – manager course date completed:

- Hiring employees date completed:

- Managing employees date completed:

- Managing performance date completed:

- Diversity and discrimination date completed:

- Workplace flexibility date completed:

- Record-keeping and pay slips date completed:

** Please provide printout of the Statement/Certificate of Attainment for each course completed*

Viewed Videos including:

- Welcome to fairwork.gov.au date completed: _____
- Finding information for your industry date completed: _____
- My account date completed: _____
- Introduction to the Pay and Conditions Tool date completed: _____

- PACT – Award classifications date completed: _____
- PACT – Pay summary date completed: _____
- PACT – Penalty rates date completed: _____
- PACT – Allowances date completed: _____
- PACT – Award Coverage date completed: _____

Read Factsheets including:

- Role of the Fair Work Ombudsman date completed: _____
 - Contractors and employees – what's the difference?
- Date completed: _____

Read information on the following:

- ***Pay Overview***

- Minimum wages Page Ref No. _____ date completed:

- Penalty rates & allowances Page Ref No. _____ date completed:

- ***Leave Overview***

- Annual leave Page Ref No. _____ date completed:

- Sick & carer's leave Page Ref No. _____ date completed:

- ***Ending Employment Overview***

- Notice & final pay Page Ref No. _____ date completed:

○ Unfair dismissal Page Ref No. _____ date _____ completed: _____

• ***Employee Entitlements Overview***

○ Types of employees Page Ref No. _____ date _____ completed: _____

○ National Employment Standards Page Ref No. _____ date _____ completed: _____

• ***Awards & Agreements Overview***

○ Awards Page Ref No. _____ date _____ completed: _____

• Date and signature: _____