

# Wellways Australia signs Enforceable Undertaking

29 April 2021

Mental health, community care and disability services provider Wellways Australia Limited will back-pay staff more than \$1.5 million after entering into an Enforceable Undertaking (EU) with the Fair Work Ombudsman.

The not-for-profit organisation first self-reported underpayments to the workplace regulator in September 2020.

After being prompted by an external review of its payroll function and a pay query from an employee, Wellways discovered it had underpaid more than 500 current and former employees' entitlements under the *Social, Community, Home Care and Disability Services Industry Award 2010* between 2014 and 2020.

Underpaid employees were located across **Queensland, NSW, the ACT, Victoria and Tasmania**. They included full-time, part-time and casual employees.

Affected employees included workers in Wellways' Supported Independent Living Program, staff in its disability and specialist mental health programs, and other staff including coordinators, customer service officers and team leaders.

The underpayments were the result of Wellways not having adequate payment systems and processes in place and not fully understanding its obligations under the Award.

Staff were underpaid minimum entitlements as a result of Wellways incorrectly classifying them or failing to progress them, when eligible, from one pay-point to the next. Employees performing sleepover-shifts were underpaid overtime entitlements and night-shift penalties.

Wellways has commenced back-payments and the EU requires it to calculate and back-pay entitlements for all affected employees, plus pay superannuation and interest, by 30 June 2021. As at 21 April 2021, Wellways had back paid a total of \$537,551 to 335 staff.

Fair Work Ombudsman Sandra Parker said that an EU was appropriate as Wellways had demonstrated a strong commitment to rectifying all underpayments.

"Under the Enforceable Undertaking, Wellways has committed to implementing stringent measures to protect the rights of its workforce. These measures include engaging an independent auditor to check its compliance with workplace laws over the next two years."

"This matter demonstrates how important it is for employers to be aware of every lawful entitlement they must pay their employees. Companies need to perform regular payroll checks and ensure that they are correctly classifying their employees. Any employer who needs help meeting their workplace obligations should contact the FWO for free advice," Ms Parker said.

Under the EU, Wellways is also required to display workplace notices detailing its workplace law breaches, apologise to workers and provide the FWO with information about the new systems and processes it has implemented for ensuring compliance in future.

Employers and employees can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on **13 13 94** for free workplace advice. A free interpreter service is available on **13 14 50**.

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