

## **Surge in NSW workers seeking legal help for wage theft**

Demand for legal advice from Legal Aid NSW about wages and entitlements is sharply up in the past year, with the number of people asking Legal Aid NSW's Employment Law Service about their wages and entitlements increasing 43 per cent between 2022 and 2023.<sup>1</sup>

We urge migrant workers, who are particularly vulnerable to exploitation, to seek advice if they have concerns.

Giles Fryer, solicitor in Legal Aid NSW's Employment Law Team, said common wage-related issues included breach of contract and wage theft, including underpayment or non-payment of entitlements.

"We often see employees who are paid below Award rates and not given payslips, despite this being a legal requirement. That makes it harder to identify if they are owed unpaid overtime and penalty rates, annual leave or superannuation," he said.

"We help them calculate what they are entitled to and we can help them to recover amounts they are owed from their employers."

Mr Fryer said wage theft and exploitation are particularly common among migrant workers, who hold 26 per cent of all jobs in Australia.<sup>2</sup>

He said migrant workers are often concentrated in industries such as retail, hospitality and agriculture; and are more likely to be casual and seasonal workers.

"Migrant workers such as fruit pickers in regional areas are particularly vulnerable to underpayment and exploitation so we want to ensure people know help is available," he said.

"Many migrant workers don't report exploitation because they are fearful they could lose their visa rights, however, we want people to know that there are new protections in place if they choose to take legal action," he said. "Migrant workers are now entitled to the same employment law rights and entitlements as other employees working in Australia. These changes are applicable regardless of migration status."

### **Case study**

Migrant worker Ali Syed\* was referred to Legal Aid NSW after being substantially underpaid \$19 an hour while working at a small business in Sydney. He consistently

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<sup>1</sup> Employment Law Service matter types (Wages and entitlements, Commonwealth) year to October 2022 compared to the year to October 2023.

<sup>2</sup> [New migrant jobs and income data release | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au/news/2023/02/new-migrant-jobs-and-income-data-release)



worked 12-hour night shifts without breaks, including on public holidays, and was not paid penalty rates or superannuation and did not receive payslips.

The underpayment meant he struggled to meet his daily expenses and fell into arrears on his university fees and was told his student visa may be cancelled.

“When I raised the underpayment with my boss, I was fired and left totally jobless with no savings and I had to borrow money from a friend. I was very helpless, it was stressful,” he said. “In Australia I noticed that if employers know you’re on a student visa they will use you and throw you in the dirt.”

Mr Syed received assistance from Legal Aid NSW, who have calculated that he was owed more than \$60,000. He is now seeking to recover these funds.

“By the grace of god I’m now I’m in strong position and can go to court. Legal Aid has been helpful. It is a ray of hope in the dark night,” he said.

Mr Fryer encouraged anyone who had concerns about everything from wages, underpayment, entitlements, dismissals, discrimination or sexual harassment to contact the service for free advice.

“We encourage people to check their wages and entitlements like leave and loading by using the Fair Work Ombudsman’s online [Pay and Conditions Tool](#) to make sure they’re above board and to reach out for help if there are any red flags or they are unsure. There is a 6-year time limit to commence a court claim, it is best to seek advice about your issues as soon as possible after they happen.”

Legal Aid NSW’s [Employment Law Service](#) advises workers on salaries of \$80,000 or less and can be contacted through LawAccess on 1300 888 529.

**Employment law solicitors are available to be interviewed.**

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