

IN THE FAIR WORK COMMISSION

Matter No: AM2018/27

Section 158 – Application to vary or revoke a modern award --*Security Services Industry Award 2010*

SUBMISSION OF UNITED VOICE

1. We make this submission in reply to the submission of Australian Industry Group (AiG) dated 26 September 2019, in accordance with the directions of the Commission made during the hearing on 19 September 2019.
2. AiG contends that any definition of uniform in the *Security Services Industry Award 2010* ('the Award') should exclude '*personal protective equipment*' and their recent submission expands upon this position.
3. We oppose the AiG's submission that any definition of '*uniform*' should specifically exclude '*personal protective equipment*'.
4. Personal protective equipment is defined in the Work Health and Safety Regulations 2017 (NSW) in regulation 5 (definitions) as '*anything used or worn by a person to minimise risk to the person's health and safety, including air supplied respiratory equipment.*' Similar definitions are used in the other instruments referred to in AiG's submissions. We acknowledge that regulation 44(2) requires '*the person conducting a business or undertaking who directs the carrying out of work must provide the personal protective equipment to workers at the workplace, unless the personal protective equipment has been provided by another person conducting a business or undertaking.*'
5. We do not view this obligation as being inconsistent with a modern award requiring an employer to provide or reimburse for the cost of uniforms which may include some protective clothing.
6. Some modern awards do provide that protective clothing must be provided for or reimbursed within the uniform allowance. For example, the *Gardening and Landscaping Services Award 2010* states in clause 15.4(a) that '*where an employee is required to wear protective clothing (e.g. oilskins, gumboots, overalls, goggles, safety boots, bowling shoes etc.), the employer must reimburse the employee for the cost of purchasing such special clothing and equipment. The provisions of this paragraph do not apply where the clothing and equipment is paid for by the employer.*' Similarly, the *Airport Employees Award 2010* in clause 21.3 states: '*where an employer requires an employee to wear any special clothing such as uniforms, protective*

clothing, footwear, safety glasses or other equipment, the employer must reimburse the employee for the cost of purchasing such special clothing. This clause will not apply where the special clothing is paid for by the employer. Where special clothing is supplied by the employer without cost to the employee, such clothing will remain the property of the employer.’ As another example, the *Children’s Services Award 2010* in clause 15.2(c) states: *‘where an employee is required to wear protective clothing or equipment such as goggles, aprons or gloves, the employer will either supply such clothing or equipment or reimburse the employee for the cost of their purchase.’*

7. It should also be noted that Mr Gavin, in his application to vary this Award, is not seeking to specifically *include* personal protective clothing in this Award. Mr Gavin is rather seeking to specify the items that may be included in the definition of uniform.
8. Paragraph [23] of the United Voice submission dated 30 July 2019 refers to the potential safety issues that arise with regards to footwear, and to that extent, we acknowledge that there may be recourse in respect of the provision of safety items under Work Health and Safety regulations. However, our position still stands that where an employer directs an employee to wear particular items as part of a uniform, these items should be provided for or reimbursed under the terms of the Award.
9. A uniform may or may not contain particular items of personal protective equipment. An employer may direct an employee to wear a uniform for various reasons including but not limited to safety. The employer may request an employee wear a uniform for brand promotion, aesthetic reasons or professional recognition. One item of clothing may have more than one function. For example, an employer may direct that an employee wear a particular type and colour of shoe for both safety reasons and to ensure that the company aesthetic is maintained. Ultimately, the employer determines the uniform, and it is appropriate that any items that the employer requires the employee to wear as part of a uniform are either provided or reimbursed.
10. We say there is no legitimate reason to specifically exclude *‘personal protective equipment’* from clause 15.11 of the Award and that AiG have not made out a sufficient case to do so.

**UNITED VOICE
3 October 2019**