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Sent: Monday, February 26, 2024 10:03 AM

To: Awards <Awards@fwc.gov.au>

Subject: AM2023/21 - Modern Awards Review - Work and Care Stream - Survey suggestions

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Dear Awards team,

I write in relation to the above matter. I wish to provide suggestions regarding the survey of employers, pursuant to the Statement of 21 February 2024 from Deputy President O'Neill. I sincerely apologise for not sending this by 4pm Friday – I was attending to something urgent on Friday afternoon and was unable to send the email at that time. I respectfully request that the below feedback and suggestions are considered.

General feedback

Consistent with the submissions made by the ACTU at the Mention on 21 February, we make the following general points:

- Unions have some concerns that there is an imbalance in the approach being taken, as the survey is only of employers, and there is no equivalent process for workers or unions. Given that there may be very different views about what flexibility looks like, the survey of employers should be balanced by including relevant work by academics and researchers about workers' views around flexible work in the literature review, by considering the submissions of unions in response to the discussion paper, including any de-identified examples of real life industrial situations from members.
- The context for the survey is important – we note the Statement outlined that the survey will be conducted by the Commission with the objective of gathering information about variations to modern award provisions that may assist in offering greater flexibility to **employees** in respect of balancing work and care; and that it will include questions about working from home and other flexible workplace practices.
- The FWC indicated in its email correspondence to the ACTU that one of the survey topics will be “barriers to workplace flexibilities.” There should also be a focus on what the opportunities for flexible workplace practices are – beyond working from home. In addition, we note the Minister's view as stated in his correspondence to the FWC dated 12 September 2024 that “from the Government's perspective, there are 4 key priorities for a review of modern awards. These are set out below. Consistent with the Government's commitment to improving wages and conditions, it is the Government's view that outcomes should not result in any reduction in worker entitlements.” This is reflected in the President's Statement of 15 September 2024, which stated that “The Minister also notes the Government's view that the review should not result in any reduction in entitlements for award-covered employees.” These statements are clearly applicable to the whole Modern Awards Review, not just the ease of use stream. These parameters should be made clear in the design of the survey and to survey respondents when they are answering the survey questions.

- Unions are concerned that solely collecting qualitative data without quantitative data that contextualises those responses will be of little utility and may also be misleading. Questions that establish the industry, award coverage, and the relevant terms and conditions applicable are necessary to give context to and a proper understanding of qualitative responses that employers provide. For example, employers may say there are certain barriers, or that they require more flexibility, but without understanding their current practices not much weight could be placed on such a response.
- Therefore, the survey should include the collection of quantitative data – eg what types of employment they engage workers under, the breakdown of full time, part time and casual workers and a gender breakdown, the guaranteed hours they provide, how often part time hours change, how many requests for flexible work are received and the outcomes of those requests, how many workers have caring responsibilities (if known) what the expectations are in terms of employee availability.
- We note the literature referred to in the discussion paper highlighted that there are increased participation rates for shorter surveys – however this should not come at the expense of the utility of the data.
- We note also that the FWC’s small business reference group has been consulted in relation to this survey, but that workers and unions have not had an opportunity to be consulted beyond the Mention. We therefore think it appropriate that parties are provided with the proposed survey questions and content before they are finalised and distributed to survey respondents.

Proposed survey topics/questions

We suggest that questions in the survey include what the opportunities for flexible workplace practices are, beyond working from home. This could include questions about:

- Numbers of applications for flexible work received, and the proportion approved.
- Whether the employer has any industrial arrangements and/or policies providing for flexible work and/or working from home – and if so, what those arrangements are.
- Working from home – do they have a blanket policy that applies to all employees eg hybrid arrangement, or is WFH available only on application/ad hoc?
- What types of flexible work arrangements are available/have been approved by the employer – eg part time work, reduced hours or changes to hours of work, changes in patterns of work, changed start and finish times, flexibility with hours, job sharing, working from home/other changes in location of work, time off in lieu, additional personal/carer’s leave (paid or unpaid)
- Are flexible work arrangements available to all employees, or only for specific groups of employees?

Kind regards,

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We acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past, present and emerging.