

BEFORE THE FAIR WORK COMMISSION

***Social, Community, Home Care and Disability Services Industry Award 2010***  
**(MA0000100)**

Response to *Exposure Draft – Social, Community, Home Care and Disability Services Industry Award 2010*

**SUBMISSION BY**  
**AGED CARE EMPLOYERS**

**Reply on the technical and drafting issues related to  
exposure drafts**

**AM2014/285**

21 July 2016

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## **Parties to this Submission**

[1] Aged Care Employers.<sup>1</sup>

## **Overview**

[2] Aged Care Employers make this submission in accordance with the directions issued 15 July 2016 to make submissions in-reply on the technical and drafting issues related to the exposure drafts.

## **Australian Services Union Submissions (30 June 2016)**

[3] Aged Care Employers rely upon their submissions dated 30 June 2016 in respect of the matters raised by the ASU and join issue with the ASU submissions to the extent of any disagreement.

[4] In relation to clause 19.1 (ASU Submissions at [28]-[30]), Aged Care Employers submit that there is no basis for the Exposure Draft to be deleting the reference to “Disability Services”. That is not a technical/drafting issue but a substantive variation. If the ASU seeks to pursue such a variation, it should do so in the ordinary way.

[5] In relation to clause 21.2 (ASU Submissions at [32]-[38]), Aged Care Employers rely upon their submissions dated 30 June 2016 at [15], ie the period over which the 10 or more weekends is counted should be by reference to “each year of service” not simply “12 months”.

## **Health Services Union Submissions (30 June 2016)**

[6] Aged Care Employer’s do not oppose the submissions advanced by the HSU, other than in relation to:

(a) Clause 4.6 (HSU Submissions at [52]-[53]). Aged Care Employers oppose the variation sought by the HSU;

(b) Clause 14.3 Rosters (HSU Submissions at [27]-[30]). In this regard, Aged Care Employers submit that the HSU’s analysis is incorrect and ought not be otherwise considered;

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<sup>1</sup> Aged Care Employers: Aged and Community Services NSW & ACT, Leading Age Services Australia NSW- ACT, Aged and Community Services Australia, Leading Age Services Australia, Aged and Community Services Western Australia, Aged and Community Services SA & NT, Aged & Community Services Tasmania, Aged and Community Services Australia (Victoria), Aged and Community Services Australia (QLD)

- (c) Clause 14.3(e) (HSU Submissions at [41]). Aged Care Employers oppose the variation sought by the HSU and rely upon their submissions dated 30 June 2016 at [11];
- (d) Clause 14.4 (HSU Submissions at [42]-[44]). Aged Care Employers oppose the variation sought by the HSU and rely upon their submissions dated 30 June 2016 at [12];
- (e) Clause 20 Saturday and Sunday work (HSU Submissions at [34]-[35]). Aged Care Employers agree that the Exposure Draft wording changes the entitlement under the current award. It is submitted that the current award wording (at clause 26) ought be maintained. If there be any change, it should be to formatting, but not to wording; and
- (f) Clause 21.2 (HSU Submissions at [49]-[51]). Aged Care Employers oppose the HSU position and rely upon their submissions dated 30 June 2016 at [15]. Clarification would be very much beneficial.

#### **United Voice Submissions (30 June 2016)**

- [7] In respect of the United Voice Submissions at [47]-[52], Aged Care Employers support the use of the words “classification, grade and level” in any definitions of ordinary hourly rate and minimum hourly rate.
- [8] Clause 14.3(e) (UV Submissions at [58]-[59]). Aged Care Employers oppose the variation sought by United Voice and rely upon their submissions dated 30 June 2016 at [11].
- [9] Clause 14.4 (UV Submissions at [60]). Aged Care Employers oppose the variation sought by the United Voice and rely upon their submissions dated 30 June 2016 at [12].
- [10] Clause 14.6 (UV Submissions at [61]). Aged Care Employers oppose the variation sought by the United Voice. The proposed variation would be a substantial change.
- [11] Clause 21.2 (UV Submissions at [66]-[67]). Aged Care Employers oppose the United Voice position and rely upon their submissions dated 30 June 2016 at [15].

#### **Australian Business Industrial and the NSW Business Chamber Ltd Submissions (1 July 2016)**

- [12] Aged Care Employers support the submissions of Australian Business Industrial and the NSW Business Chamber Ltd (**ABI**), other than in respect of clause 21.2 (ABI Submissions at [7.5]). Aged Care Employers rely upon their submissions dated 30 June 2016 at [15], ie the period over which the 10 or more weekends is counted should be by reference to “each year of service” not simply “12 months”.

### **AWU Submissions (6 July 2016)**

- [13] The AWU Submissions at [7]-[13] are not clear. It is not apparent what the AWU is seeking in terms of outcome. On this basis, Aged Care Employers are opposed to the contentions made by the AWU in respect of these matters.
- [14] Clause 14.3(e) (AWU Submissions at [18]). Aged Care Employers oppose the variation sought by the AWU and rely upon their submissions dated 30 June 2016 at [11].
- [15] Clause 14.5 (AWU Submissions at [18]). Aged Care Employers oppose the variation sought by the AWU and rely upon their submissions dated 30 June 2016 at [13].
- [16] Clause 19.1 (AWU Submissions at [20]). Aged Care Employers submit that there is no basis for the Exposure Draft to be deleting the reference to “Disability Services”. That is not a technical/drafting issue but a substantive variation. If the AWU seeks to pursue such a variation, it should do so in the ordinary way.

### **Jobs Australia Submissions (1 July 2016)**

- [17] Aged Care Employers support the submissions of Jobs Australia.

### **Australian Industry Group Submissions (30 June 2016)**

- [18] Aged Care Employers support the submissions of the Australian Industry Group (**AIG**), other than in respect of the argument set out at [255]-[256]. In short, it does not appear to be an issue of substantive change.

### **AFEI Submissions (8 July 2016)**

- [19] Aged Care Employers support the submissions of AFEI.

### **Aged Care Employers**

21 July 2016