

From: Sunil Kemppi <skemppi@actu.org.au>

Sent: Friday, 9 December 2022 4:58 PM

To: AMOD <AMOD@fwc.gov.au>; Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>

Cc: 'Mary Walsh' <marywalsh6@bigpond.com>; AED Legal <aedlegal@aed.org.au>; 'Peter Cummins' <peter.cummins@catholiccare.org>; 'illy.rogers@catholiccare.org' <illy.rogers@catholiccare.org>; Ben Redford <ben.redford@unitedworkers.org.au>; 'Nigel.ward@ablawyers.com.au' <Nigel.ward@ablawyers.com.au>; Kyle Scott <Kyle.Scott@ablawyers.com.au>; 'Claudia.Simmons@Ablawyers.com.au' <Claudia.Simmons@Ablawyers.com.au>; 'Kirrily Boulton' <Kirrily.Boulton@endeavour.com.au>; 'Kerrie Langford' <Kerrie.Langford@nds.org.au>; 'Chris Christodoulou' <chris@greenacres.net.au>; Emma Gruschka <Emma.Gruschka@sparke.com.au>; Ashley Sherr <Ashley.Sherr@sparke.com.au>

Subject: RE: AM2014/286 - 4 yearly review of Supported Employment

Dear Associate and AMOD team,

We refer to matter AM2014/286.

During the hearing on 7 December, the Vice President gave the AEDLC, the ACTU and the UWU leave to submit a response to the classification review process proposed by the Department of Social Services and the ABI by today.

We attached, for filing, our response in marked up form.

The AEDLC, the ACTU and the UWU agree that there ought to be a process of the kind proposed by the Department and agree with the ABI that it should be located within clause 32 of the award. To the extent we differ from the ABI proposal, those differences reflect a preference for the provision of more information to an employee as to the outcome of their application. In this respect, our proposal substantially reflects suggestions made by the Department, albeit in shortened form.

In the case of dispute resolution, provision for this has been made in a separate clause. Since the step provided for in our clause 32.5 would result in the employer having discussions with an employee about their application and conveying its decision to the employee with reasons, we suggest that dispute resolution commence with an ability to refer the matter to the FWC at the step described by clause 31.4 of the procedure.

Regards,

Sunil Kemppi

Sunil Kemppi

Senior Legal & Industrial Officer

Australian Council of Trade Unions
Level 4/365 Queen Street, Melbourne, Victoria 3000
t (03) 9664-7388 m 0475 300 120
e skemppi@actu.org.au w actu.org.au
w australianunions.org.au
Facebook [/AustralianUnions](https://www.facebook.com/AustralianUnions)
Twitter [@UnionsAustralia](https://twitter.com/UnionsAustralia)
Instagram [@AusUnions](https://www.instagram.com/AusUnions)

We acknowledge Aboriginal and Torres Strait Islander peoples as the Traditional Custodians of the land, and we pay our respect to their Elders, past and present. The ACTU supports the call of First Nations peoples for a Voice to Parliament to be enshrined in the Constitution.

32 Rights at work for supported employees

- 32.1 When dealing with employment matters affecting supported employees the employer shall take all reasonable steps to provide such employees with the information they require to exercise their employment rights.
- 32.2 Such reasonable steps will include, but are not limited to, the following:
- (a) providing information to supported employees of their right to be a member of the union and be represented in the workplace by a union representative;
 - (b) providing information in relation to seeking information and or assistance from the Fair Work Ombudsman;
 - (c) providing information to a supported employee about their right to have their nominee, guardian, carer, parent or other family member, advocate or union assist them in making decisions about employment matters.
- 32.3 In addition to those matters listed in clause 32.2 the employer shall take reasonable steps to provide the opportunity to the supported employee to have their nominee, guardian, carer, parent or other family member, advocate or union involved in or consulted or act as the employee's representative in employment matters that affect or may affect the supported employee's interests.
- 32.4 Such matters shall include but not be limited to the following:
- (a) consultation about significant workplace change under clause **Error! Reference source not found.—Error! Reference source not found.;**
 - (b) consultation about changes to rosters or hours of work under clause **Error! Reference source not found.—Error! Reference source not found.;**
 - (c) any dispute under clause **Error! Reference source not found.—Error! Reference source not found.** or other grievance;
 - (d) the grade into which an employee is classified in Schedule A - Classifications
 - (e) wage assessments under clause **Error! Reference source not found.** and Schedule D**Error! Reference source not found.;**
 - (f) any disciplinary matter; and
 - (g) performance appraisals
- 32.5 An employee (or their nominee) has the right to request a review of the grade into which the employee has been classified by their employer. Where such a request is made, the employer shall:
- (a) meet with the employee (and any nominee) to discuss the review request as soon as practicable after the request is made; and

(b) provide the employee (and any nominee) with a written response to the review request that informs the employee of the employer's decision and its reasons no later than 21 days after the request was made.

32.6 If the employee is not satisfied with the employer's decision, the employee (or their nominee) may utilise the dispute resolution procedures in clause 31 and may commence the dispute at the step referred to in clause 31.4.